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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

11 VERISIGN, INC., a Delaware corporation,)

12 Plaintiff,)

13 v.)

14 INTERNET CORPORATION FOR)
15 ASSIGNED NAMES AND NUMBERS, a)
16 California corporation; DOES 1-50,)

17 Defendants.)
18)
19)
20)
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Case No.

BC 320763

COMPLAINT FOR:

- (1) BREACH OF CONTRACT; AND
- (2) DECLARATORY AND INJUNCTIVE RELIEF

1 Plaintiff VERISIGN, INC. ("VeriSign"), for its Complaint herein, alleges as follows:

2 **PARTIES**

3 1. Plaintiff VeriSign is a corporation, duly organized and existing under the laws of the
4 State of Delaware, with its principal office and place of business located in Mountain View,
5 California. Since 1992, VeriSign or its predecessor, Network Solutions, Inc. ("NSI"), has acted as
6 the exclusive registry for the ".com" top-level domain, among others.

7 2. Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") is a
8 nonprofit corporation, organized and existing under the laws of the State of California, with its
9 principal office and place of business located in Marina del Rey, California.

10 3. Defendants Does 1-50 are persons who instigated, encouraged, facilitated, acted in
11 concert or conspiracy with, aided and abetted, or are otherwise responsible in some manner or
12 degree for the breaches of ICANN averred herein. VeriSign is presently ignorant of the true names
13 and capacities of Does 1-50, and will amend this Complaint accordingly once they are known.

14 **VENUE**

15 4. Venue is proper in this Court pursuant to the Code of Civil Procedure, including,
16 without limitation, Section 395.5.

17 **THE INTERNET DOMAIN NAME SYSTEM**

18 5. The Internet is a network of interconnected computers and computer networks.
19 Every computer connected directly to the Internet has a unique address. These addresses, which are
20 known as Internet Protocol ("IP") numbers, are necessary for computers to "communicate" with
21 each other over the Internet. An example of an IP number might be: 98.27.241.30.

22 6. Because IP numbers can be cumbersome and difficult for Internet users to remember
23 or to use, the IP number system has been overlaid with a more "user-friendly" system of domain
24 names: the Internet domain name system ("DNS"). This overlay associates a unique alpha-numeric
25 character string – or domain name – with a specific IP number.

26 7. Internet domain names consist of a string of "domains" separated by periods. "Top-
27 level" domains, or "TLDs," are found to the right of the period and include (among others) ".com,"
28 ".gov," ".net," and ".biz," which are sometimes referred to as "generic" TLDs (also known as

1 “gTLDs”). Other top-level domains are referred to as country code TLDs (also known as
2 “ccTLDs”), and are represented by two-letter abbreviations for each country, such as “.uk” (United
3 Kingdom) and “.ca” (Canada). For relevant purposes herein, gTLDs are functionally equivalent to
4 ccTLDs. There are approximately 250 top-level domains, which are administered and operated by
5 numerous entities, both in and outside of the United States.

6 8. “Second-level” domains (“SLDs”) are those domains immediately to the left of the
7 top-level domains, such as “uscourts” in the domain name “uscourts.gov.” There are over 50
8 million second-level domains currently registered within the various TLDs.

9 9. Because domain names are essentially “addresses” that allow computers connected
10 to the Internet to communicate with each other, each domain name must be unique, even if it differs
11 from another domain name by only one character (*e.g.*, “uscourts.com” is different from
12 “uscourt.com” or “us-courts.com”). A given domain name, therefore, can be registered to only one
13 entity.

14 10. VeriSign acts as the “registry” for domain names registered in the .com gTLD in
15 accordance with a written agreement with ICANN. As the “registry” for the .com gTLD, VeriSign
16 maintains the definitive directory that associates registered domain names in this gTLD with the
17 corresponding IP numbers of their respective domain name servers. The domain name servers, in
18 turn, direct Internet queries to resources such as websites and email systems.

19 11. A domain name is created by an individual or organization that registers the domain
20 name and thereby includes it in the registry’s master database. The individual or organization that
21 registers a specific domain name is a “registrant.” Registrants do not have direct access to the
22 VeriSign registry. Instead, prospective registrants must register domain names through any one of
23 approximately 175 operational private companies located in the United States and throughout the
24 world that act as domain name “registrars” for the second-level domain names in the .com gTLD.

25 **BACKGROUND TO THE REGISTRY AGREEMENT**

26 12. From 1993 until November 1999, in accordance with Cooperative Agreement NCR
27 92-18742 (“Cooperative Agreement”) entered into between NSI and the National Science
28 Foundation (“NSF”), NSI performed domain name registration and registry functions for the .com

1 and .net gTLDs, among others, in exchange for financial and other support from the United States
2 Government. The National Telecommunications and Information Administration of the United
3 States Department of Commerce ("DOC") assumed responsibility from NSF for administering the
4 Cooperative Agreement on or about October 1, 1998, pursuant to Amendment 10 of the
5 Cooperative Agreement. For a period of time subsequent to November 1999, NSI continued to
6 serve as a registrar of domain names, and VeriSign operated the registries for the .com and .net
7 (among other) gTLDs, as more specifically described below.

8 13. ICANN is a private corporation that was created in 1998 in response to a plan by the
9 DOC to introduce competition into the field of domain name registration, among other objectives.
10 ICANN is governed by and acts through an international Board of Directors that is elected by
11 members of various constituencies within the Internet community. ICANN's sole role is to provide
12 technical coordination of the Internet's domain name system by encouraging coordination among
13 various constituent groups, as limited by its agreement with VeriSign.

14 14. In November 1998, the DOC entered into a Memorandum of Understanding
15 ("MOU") with ICANN. In accordance with the MOU, ICANN was to perform certain technical
16 coordination functions in connection with the domain name system. Among other things, ICANN
17 was to study and develop procedures for the transition from a system of one domain name registrar
18 to a system of multiple registrars of second-level domain names in the ".com," ".net," and ".org"
19 gTLDs, and for the creation of new gTLDs. The MOU established the promotion of competition in
20 the domain name system as one of its central principles. Furthermore, the MOU explicitly prohibits
21 ICANN from acting arbitrarily or unjustifiably to injure any person or entity, or from "singl[ing] out
22 any particular party for disparate treatment unless justified by substantial and reasonable cause."

23 15. Following execution of the MOU, ICANN entered into registry agreements with
24 VeriSign for the ".com" and ".net" (among other) gTLDs. In addition to these registry agreements,
25 ICANN entered into forms of registry agreements with the registries of certain other gTLDs, such
26 as ".biz" and ".info," that have come into existence since the MOU was executed, and with the
27 registries of certain ccTLDs. These other registries compete with the .com and .net gTLD registries.
28 In addition to the registries with which ICANN has entered into agreements, there are numerous

1 TLD registries, including the vast majority of the more than 240 ccTLD registries, that compete
2 with the .com gTLD registry operated by VeriSign and that have not entered into any form of
3 registry agreement with ICANN.

4 **THE 2001 .COM REGISTRY AGREEMENT**

5 16. On or about November 10, 1999, NSI and ICANN entered into a written Registry
6 Agreement (the "1999 Registry Agreement") with respect to NSI's operation of the registry for the
7 .com gTLD.

8 17. On or about May 25, 2001, VeriSign, which succeeded to the registry business of
9 NSI, entered into a new written .com Registry Agreement (the "2001 .com Registry Agreement")
10 with ICANN, which superseded the 1999 Registry Agreement with NSI. Subject to certain
11 extension rights provided for therein, the 2001 .com Registry Agreement expires on November 10,
12 2007.

13 18. In accordance with the 2001 .com Registry Agreement, VeriSign undertook to
14 operate the .com gTLD registry and to pay certain registry-level fees to ICANN. Since a registry
15 maintains the authoritative database of second-level domain names and IP addresses within a TLD,
16 there necessarily can be only one registry for each TLD. VeriSign is that sole registry for the .com
17 gTLD.

18 19. Under the 2001 .com Registry Agreement, VeriSign is required to provide "Registry
19 Services" to ICANN-accredited registrars in a manner meeting the performance and functional
20 specifications referenced and described in the agreement. "Registry Services" generally are defined
21 in the agreement as follows:

22 "Registry Services" means services provided as an integral part of the
23 Registry TLD, including all subdomains. These services include
24 receipt of data concerning registrations of domain names and name
25 servers from registrars, provision to registrars of status information
26 relating to the Registry TLD zone servers, dissemination of contact
27 and other information concerning domain name and name server
28 registrations in the Registry TLD, and such other services required by

1 ICANN through the establishment of Consensus Policies as set forth
2 in Definition 1 of this Agreement.

3 20. The 2001 .com Registry Agreement defines “Consensus Policies” as consisting of
4 those specifications and policies established on the basis of a consensus among Internet
5 stakeholders represented in the ICANN process, as demonstrated by compliance with specific,
6 detailed procedures prescribed in the agreement.

7 21. VeriSign generally is obligated to comply with Consensus Policies if, among other
8 requirements, they are properly adopted by ICANN and consistent with ICANN’s other contractual
9 obligations, and: (A) they “do not unreasonably restrain competition”; and (B) relate to: “(1) issues
10 for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability,
11 technical reliability and/or stable operation of the Internet or DNS, (2) registry policies reasonably
12 necessary to implement Consensus Policies relating to registrars, or (3) resolution of disputes
13 regarding the registration of domain names (as opposed to the use of such domain names).”

14 22. Recognizing the potential for harm to VeriSign from ICANN’s subsequent adoption
15 of specifications or policies, the parties included in the 2001 .com Registry Agreement a provision
16 entitled “Protection from Burdens of Compliance With ICANN Policies.” That provision expressly
17 provides: “ICANN shall indemnify, defend, and hold harmless Registry Operator [VeriSign] . . .
18 from and against any and all claims, damages, liabilities, costs, and expenses, including reasonable
19 legal fees and expenses, arising solely from Registry Operator’s compliance as required by this
20 Agreement with an ICANN specification or policy (including a Consensus Policy) established after
21 the Effective Date”

22 23. The 2001 .com Registry Agreement further sets forth the following “General
23 Obligations of ICANN.” “With respect to all matters that impact the rights, obligations, or role of
24 Registry Operator,” the agreement explicitly provides that ICANN shall, among other obligations:
25 (i) “exercise its responsibilities in an open and transparent manner,” (ii) “not unreasonably restrain
26 competition and, to the extent feasible, promote and encourage robust competition,” and (iii) “not
27 apply standards, policies, procedures and practices arbitrarily, unjustifiably or inequitably and not
28 single out Registry Operator for disparate treatment unless justified by substantial and reasonable

1 cause.” These and other obligations of ICANN to VeriSign under the 2001 .com Registry
2 Agreement are not limited to VeriSign’s provision of “Registry Services,” but are owed by ICANN
3 to VeriSign in connection with any conduct of ICANN that impacts VeriSign’s “rights, obligations,
4 or role of Registry Operator.”

5 24. The 2001 .com Registry Agreement establishes affirmative obligations of ICANN:
6 (i) to establish and maintain “independent review policies” and “adequate appeal procedures” to be
7 available to VeriSign to the extent it “is adversely affected by ICANN standards, policies,
8 procedures or practices,” and (ii) to take all reasonable steps, and make substantial progress,
9 towards entering into agreements, similar to the 2001 .com Registry Agreement, with registries
10 competing with the .com gTLD registry operated by VeriSign.

11 25. In addition to such express obligations not unreasonably or inequitably to interfere
12 with VeriSign’s registry business, ICANN is subject to an implied covenant of good faith and fair
13 dealing not to take actions unfairly or in bad faith to deprive VeriSign of the intended benefits of the
14 2001 .com Registry Agreement. Further, at all times relevant hereto, it was understood and agreed
15 between the parties that, in connection with performance and effectuation of the 2001 .com Registry
16 Agreement, ICANN would not unreasonably withhold or delay consent to reasonable updates,
17 upgrades, or other changes in the operation of or specifications for the registry.

18 26. Nothing in the 2001 .com Registry Agreement authorizes ICANN to do any of the
19 following: (i) prohibit, regulate, or restrict VeriSign’s provision of services that are not defined
20 Registry Services governed by the agreement; (ii) regulate or fix the prices at which VeriSign may
21 offer such services; or (iii) regulate, restrict, or prohibit the marketing methods or promotions
22 VeriSign uses to promote its services.

23 **ICANN’S WRONGFUL CONDUCT IN VIOLATION**
24 **OF THE 2001 .COM REGISTRY AGREEMENT**

25 27. As the operator of the registry for the .com gTLD, VeriSign competes with the
26 operators of registries for other gTLDs and ccTLDs. VeriSign’s commercial and competitive
27 success in operating the .com registry depends in substantial part on its ability to offer services that
28 are attractive to its customers, which include the registrars of second-level domain names and the

1 domain name registrants who are customers of those registrars. In order to serve its customers and
2 preserve its competitive position, VeriSign has attempted to provide a variety of new innovative
3 value-added services to its customers to enhance the value and attractiveness of second-level
4 domain names registered in the .com gTLD. These services have been blocked, delayed, and/or
5 restricted by ICANN's breaches of the 2001 .com Registry Agreement.

6 Site Finder

7 28. VeriSign created and, on or about September 15, 2003, implemented a new service
8 known as Site Finder. Site Finder provides an Internet user who makes an error in typing a web
9 address, such that the second-level domain name of the address does not appear in the .com gTLD's
10 zone files, with a list of alternative web addresses to which the user may choose to navigate. For
11 example, if a user typed www.bokkstore.com into his Internet browser and no such web address
12 existed, Site Finder would respond with a message that the address entered could not be found and
13 asking whether the user meant www.bookstore.com or www.bookstores.com.

14 29. Prior to the introduction of Site Finder, when a user mistyped a web address, the user
15 typically would receive an error message that simply told the user that the web page he or she is
16 seeking is "not found," without any other assistance. With the Site Finder service, however, the
17 user received a user-friendly help screen that included not only a clear message that the web address
18 entered could not be found but also such information as: (i) alternative web addresses the user may
19 have been seeking, (ii) a search engine, and (iii) links to popular categories of websites the user
20 could search.

21 30. Site Finder thus provided the user with helpful information and options beyond a
22 simple error message; enabled VeriSign to compete more effectively with operators of competitive
23 gTLD and ccTLD registries that are offering or intend to offer a similar service; made the
24 registration of domain names within the .com gTLD more desirable and attractive; and generated
25 additional revenues for VeriSign.

26 31. The Site Finder service was not integral to the operation of the .com gTLD registry
27 nor a Registry Service within the meaning of the 2001 .com Registry Agreement. All actions by
28

1 VeriSign, including services provided by VeriSign in connection with Site Finder, were fully
2 compliant with all specifications provided in the 2001 .com Registry Agreement.

3 32. Other gTLD and ccTLD registries that compete with the .com gTLD registry,
4 including the .museum gTLD registry, with which ICANN has a registry agreement, and various
5 ccTLD registries, many of which have no agreements with ICANN, are currently offering services
6 similar to Site Finder for domain names within their TLDs, and the operators of other gTLD and
7 ccTLD registries have stated that they intend to launch similar services. ICANN never objected to
8 the offering of such services by these other gTLD and ccTLD registries; ICANN never demanded
9 the cessation of such services; and ICANN never threatened the operators of these other gTLD and
10 ccTLD registries with sanctions or consequences based upon their offering such services. ICANN
11 even facilitated the offering of a service similar to Site Finder by the .museum gTLD.

12 33. Nonetheless, ICANN forced VeriSign to suspend its Site Finder service on the
13 wrongful grounds, *inter alia*, that Site Finder is a Registry Service within the meaning of the 2001
14 .com Registry Agreement and that ICANN had the right to restrict or prohibit the offering of Site
15 Finder and/or to establish the terms and conditions upon which the service may be offered, and
16 therefore, that operation of Site Finder constituted a breach of VeriSign's obligations under the
17 .com Registry Agreement. ICANN's further performance under the 2001 .com Registry Agreement
18 was conditioned upon VeriSign's cessation of Site Finder.

19 34. At the time ICANN took these actions, it had not established independent review or
20 adequate appeal policies and procedures, contrary to its express obligations under the 2001 .com
21 Registry Agreement, had refused to meet with VeriSign representatives to discuss Site Finder, and
22 had rejected VeriSign's offers to provide information and data regarding Site Finder. As a direct
23 result of ICANN's actions and conduct, VeriSign reasonably believed that it had no reasonable,
24 present, and existing choice under the circumstances but to suspend Site Finder to the detriment of
25 VeriSign and millions of Internet users.

26 35. No proper basis existed for the actions taken by ICANN to force VeriSign to suspend
27 Site Finder. ICANN acted to shut down Site Finder despite the facts that: (i) Site Finder was fully
28 compliant with all applicable specifications and standards; (ii) Site Finder did not destabilize the

1 operation of the .com gTLD registry, the DNS, or the Internet; and (iii) other competing gTLD and
2 ccTLD registries were offering, and continue to offer, services similar to Site Finder. In taking
3 these actions, ICANN singled VeriSign out for arbitrary and disparate treatment, failed to act in an
4 open and transparent manner, and acted without having in place a functional mechanism for
5 independent review of its action, all as required by the 2001 .com Registry Agreement.

6 Furthermore, ICANN's wrongful conduct was undertaken without ICANN's compliance with the
7 procedural and substantive safeguards necessary to adopt a valid Consensus Policy.

8 36. Since ICANN's wrongful conduct with respect to Site Finder was not authorized by,
9 and was taken in violation of, the 2001 .com Registry Agreement, it had the effect of a new ICANN
10 policy or specification adopted subsequent to the effective date of said agreement. As such, in
11 addition to VeriSign's other rights under the agreement, VeriSign is entitled to indemnity from
12 ICANN for the costs and injury to VeriSign resulting from ICANN's conduct.

13 37. ICANN's conduct regarding Site Finder prior to the commencement of this action
14 constituted present and existing breaches of the 2001 .com Registry Agreement in the following
15 respects, among others:

- 16 • ICANN acted to regulate and control Site Finder, even though Site Finder was not a
17 "registry service" and was not subject to ICANN regulation or control;
- 18 • ICANN treated VeriSign in an unequal and disparate manner compared to other gTLD
19 and ccTLD registries offering services similar to Site Finder as to which ICANN never
20 forced cessation and never sought to impose regulation or control;
- 21 • ICANN did not act openly and transparently regarding Site Finder, instead refusing
22 meetings with and evidence from VeriSign in the course of the events leading to
23 ICANN's forcing the cessation of Site Finder;
- 24 • ICANN did not have independent review policies and procedures in effect when it
25 forced VeriSign to suspend its Site Finder service or at any time prior to VeriSign's
26 filing of this action;

- 1 • ICANN unreasonably restrained competition, and did not promote and encourage
2 competition, by regulating and controlling Site Finder and by forcing the suspension of
3 Site Finder; and
- 4 • ICANN conditioned further performance of its obligations under the 2001 .com Registry
5 Agreement upon VeriSign's cessation of its Site Finder service and acceptance of
6 ICANN's control over non-registry services, such as Site Finder.

7 These breaches have deprived VeriSign of revenues and profits it would generate from and in
8 connection with Site Finder. In addition, by unjustifiably imposing improper conditions on the Site
9 Finder service, ICANN has deprived VeriSign of the ability to formulate and offer a service in the
10 manner best designed to meet the needs of customers and the competitive and financial goals of
11 VeriSign.

12 Wait Listing Service

13 38. In or about December 2001, VeriSign informed ICANN of the details of a proposed
14 Wait Listing Service ("WLS") that VeriSign intended to begin offering. VeriSign designed WLS to
15 meet a market demand for an orderly and reliable, open and transparent, way for domain name
16 registrants, through their selected, participating registrars, to submit a subscription to register a
17 currently registered domain name in the event the current registration is deleted.

18 39. Using WLS, a prospective domain name registrant, through any of the approximately
19 ~~175 operational ICANN-accredited registrars, could submit a subscription on a first-come, first-~~
20 ~~served basis for a domain name currently registered in the .com gTLD registry. In the event that a~~
21 ~~registered domain name in the .com gTLD registry, on which a WLS subscription is placed, is~~
22 ~~thereafter deleted from the registry, and thereby becomes available for creation and registration –~~
23 ~~and more than 25,000 domain names are deleted each day – the holder of the WLS subscription~~
24 ~~would become the registrant of the domain name.~~

25 40. If there is no WLS subscription for a domain name in the .com gTLD registry, upon
26 the deletion of the domain name registration by the sponsoring registrar, the domain name is deleted
27 from the VeriSign registry's database and becomes available for creation and registration through
28 any ICANN-accredited registrar, on a first-come, first-served basis.

1 41. As proposed by VeriSign, WLS is not integral to the operation of the .com TLD
2 registry and is not a Registry Service within the meaning of the 2001 .com Registry Agreement.

3 42. Nevertheless, ICANN has taken the position that WLS is a Registry Service within
4 the meaning of the 2001 .com Registry Agreement, and has acted to: (i) prevent the offering of
5 WLS, (ii) set the price at which it may be offered, (iii) establish the terms and conditions of the
6 service, and (iv) restrict when WLS can be introduced.

7 43. VeriSign would have been ready and able to begin offering WLS to registrars and
8 their customers in or before August 2002, and would have done so, but for ICANN's conduct
9 alleged herein. As a condition purportedly to approving WLS, ICANN insisted that VeriSign must,
10 among other things: (i) introduce new procedures not required by the 2001 .com Registry
11 Agreement; (ii) delay offering WLS at least until approximately October 2003, and now
12 indefinitely; (iii) reduce the price at which VeriSign intended to offer WLS; and (iv) accept other
13 "conditions" of ICANN to the detriment of VeriSign, competition, and the proposed service. While
14 VeriSign's offering of WLS has been delayed by ICANN's conduct, members of ICANN's registrar
15 constituency who have objected to WLS, and others, are free, without these impediments by
16 ICANN, to offer similar services that are competitive with WLS, and numerous registrars have
17 offered and are offering such services.

18 44. Furthermore, ICANN has imposed conditions on VeriSign, changed conditions, and
19 imposed new conditions for offering WLS arbitrarily, unjustifiably, and inequitably, delaying and
20 preventing introduction of WLS, and ICANN has done so in a manner that is not open or
21 transparent. The effect of these conditions has been to render WLS infeasible, impractical, and/or
22 less economical and profitable for VeriSign.

23 45. ICANN's conduct regarding WLS prior to the commencement of this action
24 constituted present and existing breaches of the 2001 .com Registry Agreement in the following
25 respects, among others:

- 26 • ICANN acted to regulate and control WLS, even though WLS was not a "registry
27 service" and was not subject to ICANN regulation or control;

- 1 • ICANN did not act openly and transparently in its consideration of WLS and in the
2 imposition of numerous and changing conditions on WLS;
- 3 • ICANN did not have independent review policies and procedures in effect when ICANN
4 imposed conditions on VeriSign's offering of WLS or at any time prior to VeriSign's
5 filing of this action;
- 6 • ICANN unreasonably restrained competition and did not promote and encourage
7 competition, by regulating and delaying VeriSign's offering of WLS, which would
8 compete with inferior unguaranteed "backorder" services offered by registrars;
- 9 • ICANN treated VeriSign in an unequal and disparate manner compared to registrars
10 offering competitive "backorder" services as to which ICANN has never sought to
11 exercise any regulation or control and has never imposed conditions similar to those
12 imposed on WLS; and
- 13 • ICANN conditioned further performance of its obligations under the 2001 .com Registry
14 Agreement upon VeriSign's acceptance of ICANN's control over non-registry services
15 such as WLS.

16 These breaches by ICANN have deprived consumers of a beneficial new service and have deprived
17 VeriSign of the revenues and profits it would have generated from and in connection with WLS. In
18 addition, by unjustifiably imposing other conditions on the service and purporting to restrict its
19 price, ICANN has deprived VeriSign of the ability to formulate and offer a service in the manner
20 best designed to meet the needs of customers and the competitive and financial goals of VeriSign.
21 At the same time, the delay in offering WLS has benefited other businesses that offer similar or
22 competitive services, including businesses that caused ICANN to delay and obstruct VeriSign's
23 offering of WLS.

24 ConsoliDate

25 46. In or about January 2003, VeriSign began offering a new domain name registration
26 expiration date ("anniversary date") synchronization service known as "ConsoliDate." ConsoliDate
27 was designed to make it easier for domain name registrants, through any of the approximately 175
28 operational ICANN-accredited registrars, to manage the registration and renewal of multiple

1 domain names, by adjusting and synchronizing the anniversary dates of their various domain name
2 registrations.

3 47. The average domain name registrant maintains from 10 to 15 domain names in the
4 .com gTLD registry. Large corporations maintain hundreds or even thousands of domain name
5 registrations. Different domain name registrations usually have different anniversary dates for
6 purposes of renewal of the registrations. Registrants therefore receive multiple renewal notices;
7 must keep track of multiple renewal dates; and pay renewal fees on multiple dates throughout the
8 year.

9 48. ConsoliDate allows domain name registrants in the .com gTLD to add from 1 to 364
10 days to an existing domain name registration term. For example, a registrant with one domain name
11 registration with an anniversary date of June 13, 2005, and another with an anniversary date of
12 October 4, 2005, could use ConsoliDate to synchronize these expiration dates by adding 113 days to
13 the term of the first domain name registration, so that it will also have an anniversary date of
14 October 4, 2005. ConsoliDate thereby allows domain name registrants to create a single
15 anniversary date for their entire domain name registration portfolio in the .com gTLD, reducing
16 registrant errors and permitting registrants to streamline their payment processes.

17 49. ConsoliDate is not integral to the operation of the .com gTLD registry and is not a
18 Registry Service within the meaning of the 2001 .com Registry Agreement.

19 50. While ICANN provisionally supported the introduction of ConsoliDate, it took the
20 position that ConsoliDate is a Registry Service and purported to condition permanent approval of
21 ConsoliDate on VeriSign's entering into certain amendments to the 2001 .com Registry Agreement.
22 In the course of doing so, ICANN acted to: (i) restrict the offering of ConsoliDate, (ii) set the price
23 at which it may be offered, and (iii) establish the terms and conditions of the service. ICANN's
24 actions threaten, among other adverse effects, a future interruption in the offering of ConsoliDate.

25 51. Further, ICANN imposed conditions for ConsoliDate arbitrarily, unjustifiably, and
26 inequitably, and ICANN did so in a manner that is not open and transparent.

27 52. By improperly purporting to impose conditions on ConsoliDate and control its price
28 and other terms, ICANN has deprived VeriSign of the ability to formulate and offer a service in the

1 manner best designed to meet the needs of customers and the competitive and financial goals of
2 VeriSign, and has deprived VeriSign of revenues and profits it would have generated from and in
3 connection with ConsoliDate.

4 Internationalized Domain Names

5 53. In or about November 2000, VeriSign began an internationalized domain name
6 service (“IDN”) in a third-level domain testbed environment. IDN allows Internet users to use non-
7 ASCII (that is, non-English) character sets to register and use domain names in the .com TLD. In
8 other words, a speaker of Mandarin Chinese, for example, could type a web address including a
9 registered second-level domain name within the .com gTLD, using the non-ASCII character set of
10 her native language. IDN would permit a translation of that address to the appropriate registered
11 domain name within the .com gTLD. VeriSign intended thereafter to offer IDN on a permanent
12 basis with respect to second-level domain names within the .com gTLD.

13 54. In the early days of the Internet, the vast majority of users and domain name
14 registrants spoke English as their native language and used ASCII (English) character sets on their
15 computers. However, there are Internet users worldwide whose native languages are represented in
16 non-ASCII character sets. Currently or in the near future this group will comprise the majority of
17 Internet users.

18 55. Languages represented in non-ASCII character sets are not widely supported in the
19 global domain name system. IDN meets the important need for a global multilingual DNS solution,
20 supporting the billions of people who require or want Internet access in their native languages. IDN
21 would significantly increase Internet availability and e-commerce opportunities for this group and
22 for those who do business with them, and it would increase the value and attractiveness of second-
23 level domain names in the .com gTLD.

24 56. IDN is not integral to the operation of the .com registry and is not a “Registry
25 Service” within the meaning of the 2001 .com Registry Agreement.

26 57. While IDN makes possible the use of non-ASCII character sets in users’ native
27 languages, the registered second-level domain name within the .com gTLD must be in ASCII
28 characters. To trigger the translation of the domain name from ASCII characters to the

1 corresponding non-ASCII characters, these domain names included the prefix "bq--" in the testbed,
2 and now include the prefix "xn--".

3 58. An appendix to the 2001 .com Registry Agreement purports to "reserve" to ICANN
4 all "tagged domain names" with "hyphens in the third and fourth characters." VeriSign therefore
5 sought ICANN's authorization to use domain names with an "xn--" prefix to enable the .com gTLD
6 registry to provide the IDN service, as other competing ccTLD registries that are not under contract
7 with ICANN are already doing or have publicly announced they intend to do. ICANN had an
8 obligation under the 2001 .com Registry Agreement not to withhold its consent to such request
9 unreasonably or in bad faith.

10 59. Contrary to that obligation, ICANN unreasonably and in bad faith conditioned its
11 approval of the release of domain names with hyphens in the third and fourth characters from
12 reserved status on VeriSign's formal agreement to abide by certain "Guidelines for the
13 Implementation of Internationalized Domain Names," among other conditions. These "Guidelines"
14 and other conditions ICANN sought to impose would require costly and burdensome procedures not
15 within the contemplation of the 2001 .com Registry Agreement. Even though VeriSign operated
16 the IDN testbed for nearly three years and maintained IDN registrations for nearly one million
17 names in that testbed, ICANN arbitrarily and unreasonably withheld its consent to the new service.
18 These conditions were imposed by ICANN in conjunction with and at the behest of various
19 constituent groups within ICANN and other businesses that compete with VeriSign's .com gTLD
20 registry but, in many instances, are not themselves bound by the same conditions.

21 60. ICANN's conditions for giving consent are not consistent with the requirements of
22 the 2001 .com Registry Agreement or covenants of good faith and fair dealing therein, and they
23 impose arbitrary, long-term, fixed obligations on VeriSign with respect to a rapidly emerging
24 technology. ICANN's conditions imposed on VeriSign are also not consistent with the conditions
25 ICANN imposed on other gTLD and ccTLDs under contract with ICANN that sought approval to
26 offer IDN. Despite repeated attempts, ICANN refused to disclose to VeriSign the criteria upon
27 which ICANN was purporting to grant or to withhold approval for registry operators to offer IDN.
28

1 61. ICANN's actions have caused, among other adverse affects on competition, a delay
2 in VeriSign's offering of IDN, with consequent loss of volume and market share of, and loss of
3 revenues from, IDN registrations in the .com gTLD compared to what they would have been absent
4 ICANN's wrongful conduct alleged herein.

5 62. ICANN's conduct regarding IDN prior to the commencement of this action
6 constituted present and existing breaches of the 2001 .com Registry Agreement in the following
7 respects, among others:

- 8 • ICANN acted to regulate and control IDN, even though IDN was not a "registry service"
9 and was not subject to ICANN regulation or control;
- 10 • ICANN did not act openly and transparently in its consideration of IDN, including in the
11 imposition of numerous conditions on VeriSign's offering of IDN and in the evaluation
12 of VeriSign's satisfaction of those conditions;
- 13 • ICANN treated VeriSign in an unequal and disparate manner compared to other gTLD
14 and ccTLD registries seeking to offer IDN, by approving other registries' offering of
15 IDN and not approving, or delaying approval, of VeriSign's offering of IDN, even
16 though VeriSign and such other registries were similarly situated with respect to their
17 support for and implementation of the substance of ICANN's IDN "guidelines";
- 18 • ICANN did not have independent review policies and procedures in effect when ICANN
19 imposed conditions on VeriSign's offering of IDN;
- 20 • ICANN unreasonably restrained competition (in collaboration with VeriSign's
21 competitors), and did not promote and encourage competition, by authorizing other
22 similarly situated registries to commence offering IDN while prohibiting or delaying
23 VeriSign's offering of IDN; and
- 24 • ICANN conditioned further performance of its obligations under the 2001 .com Registry
25 Agreement upon VeriSign's acceptance of ICANN's control over non-registry services
26 such as IDN.

27 These breaches by ICANN deprived consumers of a beneficial new service and have deprived
28 VeriSign of the revenues and profits it would have generated from and in connection with IDN. In

1 addition, by unjustifiably imposing other conditions on the service, ICANN has attempted to
2 deprive VeriSign of the ability to formulate and offer a service in the manner best designed to meet
3 the needs of customers and the competitive and financial goals of VeriSign. At the same time, the
4 delay of VeriSign's IDN has benefited other businesses that offer similar or competitive services.

5 VERISIGN'S INCENTIVE MARKETING PROGRAM

6 63. In or about November 2001, VeriSign launched an incentive promotion program that
7 encouraged domain name registrars to promote the registration of second-level domain names in the
8 .com gTLD on their web sites. Under the promotion, participating webmasters were offered
9 incentives on non-discriminatory terms to display an advertisement for .com domain names on their
10 site. The promotion required participants to display a VeriSign advertisement prominently on every
11 web page on which a participating registrar offered domain names for registration. In exchange for
12 such advertisements, VeriSign would pay placement fees and provide other consideration to
13 participants in the promotional program. The impetus for and purpose of this marketing program
14 was to enable VeriSign to meet the increased competition for domain name registrations from new
15 and rapidly growing ccTLDs and from newly established gTLDs.

16 64. Nonetheless, within days of the launch of VeriSign's marketing program, ICANN
17 improperly demanded that VeriSign cease the program on the ground that it had not been approved
18 by ICANN, even though nothing in the 2001 .com Registry Agreement or elsewhere required
19 ICANN's approval therefor. ICANN took the position that VeriSign would be in formal breach of
20 the 2001 .com Registry Agreement unless the program was suspended. VeriSign had no reasonable,
21 present and existing choice under the circumstances but to commit to modifying its marketing
22 program to conform to ICANN's arbitrary and improper dictates.

23 65. ICANN has no right to approve, or control over, VeriSign's marketing practices. By
24 unjustifiably imposing improper conditions on VeriSign's marketing practices, ICANN has
25 deprived VeriSign of the ability to promote and market its services in the manner best designed to
26 enhance its business. Moreover, the ccTLD registries with which VeriSign competes can
27 implement similar or other promotional programs freely, without ICANN's approval or
28 involvement. ICANN's actions have damaged VeriSign's ability to compete for domain name

1 registrations and deprived it of revenues and profits it would generate from, and as a result of, its
2 intended marketing program. ICANN's actions also have restricted VeriSign's ability to promote
3 registrations in the .com gTLD.

4 **ICANN'S BREACHES OF THE REGISTRY AGREEMENT**

5 66. ICANN has breached its express and implied obligations under the 2001 .com
6 Registry Agreement, including, without limitation, its obligations under the implied covenant of
7 good faith and fair dealing thereunder, by engaging in the acts and conduct alleged in paragraphs
8 35-37, 45, 52, 62, and 65, and in the following respects, among others.

9 **Improperly Purporting to Broaden the Definition of Registry Services**

10 67. ICANN's unjustified and overreaching efforts over a three year period to regulate
11 services that VeriSign offers to registrars and to domain name registrants, in breach of the parties'
12 registry agreement, has delayed and otherwise impeded the introduction of new services by
13 VeriSign. ICANN has also improperly taken steps to regulate and to fix the prices at which those
14 services may be offered by VeriSign. As a result, ICANN's conduct has caused injury to VeriSign,
15 and threatens to continue to cause such harm and injury to VeriSign in the future.

16 68. ICANN has acted to "regulate" as Registry Services governed by the agreement, new
17 services of VeriSign that, in fact, do not fall within the definition of "Registry Services" and are not
18 properly the subject of the 2001 .com Registry Agreement or any proper restriction by ICANN.
19 Furthermore, ICANN has undertaken to fix the prices at which such services may be offered.

20 69. The effect of ICANN's improper broadening of the definition of Registry Services
21 governed by the agreement has been: (i) to prohibit, delay, and impede the introduction of beneficial
22 new services by VeriSign, (ii) to impose conditions on the offering of these services,
23 (iii) improperly to set or regulate the prices of those services, (iv) unreasonably to restrain
24 competition for such services and interfere with VeriSign's business, and (v) unfairly to prevent
25 VeriSign from securing the benefits contemplated by the Registry Agreement.

26 70. ICANN further has acted to "regulate" VeriSign's marketing practices, even though
27 they do not fall within the definition of "Registry Services" and are not properly the subject of the
28 2001 .com Registry Agreement or any proper restriction by ICANN. As a result, ICANN's conduct

1 has caused injury to VeriSign, and threatens to continue to cause such harm and injury to VeriSign
2 in the future.

3 **Failing to Promote Competition and**
4 **Unreasonably Restraining Competition**

5 71. The foregoing course of conduct by ICANN has placed VeriSign at a competitive
6 disadvantage in comparison to other gTLDs and ccTLDs under contract with ICANN that have
7 been allowed to offer and market similar, competitive services without the same restrictions, delays,
8 and impediments that ICANN has placed on VeriSign. This conduct is a breach of ICANN's
9 obligations under the 2001 .com Registry Agreement "not [to] apply standards, policies, procedures
10 and practices arbitrarily, unjustifiably or inequitably and not single out Registry Operator for
11 disparate treatment," as well as a breach of ICANN's affirmative obligation in the 2001 .com
12 Registry Agreement "not unreasonably to restrain competition and, to the extent feasible, promote
13 and encourage robust competition."

14 72. In addition, the foregoing course of conduct by ICANN has placed VeriSign at a
15 competitive disadvantage in comparison to registries for the ccTLDs as to which ICANN has no
16 agreements and claims no power to regulate. The latter registries are free to offer, and are offering,
17 new and improved services to registrars and registrants, and to market their services to the public,
18 while VeriSign's offering and marketing of similar and other services for the .com gTLD is being
19 unreasonably and arbitrarily prevented, delayed, regulated, and impeded by ICANN.

20 **Failure to Reach Agreements with Other Registry Operators**

21 73. At the time VeriSign and ICANN entered into the 2001 .com Registry Agreement,
22 the parties understood and intended, and ICANN committed to VeriSign, that ICANN would use all
23 reasonable efforts, and make substantial progress, toward signing agreements similar to the 2001
24 .com Registry Agreement with registries, particularly the over 240 ccTLD registries, that compete
25 with the .com gTLD registry operated by VeriSign. The mutually understood purpose of this
26 commitment was to assure that, to the maximum extent feasible, competitive registries would be
27 competing on an equal footing with the .com gTLD registry. This obligation on the part of ICANN
28 was carried over from the 1999 Registry Agreement with NSI.

1 79. All of the terms of the 2001 .com Registry Agreement are just and reasonable to
2 ICANN, and the consideration for ICANN's obligations under the agreement, to the extent relevant
3 to this action, is fair and adequate to ICANN.

4 80. VeriSign has duly and properly performed, and is continuing duly and properly to
5 perform, all of its obligations under the 2001 .com Registry Agreement, except those obligations it
6 has been prevented or excused from performing as a result of ICANN's breaches and other conduct
7 alleged in this Complaint.

8 81. ICANN has materially breached its obligations to VeriSign under and in connection
9 with the 2001 .com Registry Agreement, including covenants of good faith and fair dealing therein,
10 in that, among other conduct:

11 • Commencing in or about 2002, and continuing to the present time, ICANN
12 has repudiated the restrictions on the scope of Registry Services through its conduct under
13 the 2001 .com Registry Agreement and, without any contractual right or other legal basis
14 therefor, has acted in such a manner as to delay and impede the introduction of beneficial
15 new value-added services by VeriSign, to impose conditions on the introduction of such new
16 services, and to restrict and regulate the prices of those services, including, without
17 limitation, the services alleged above. Among its other wrongful conduct, ICANN has
18 conditioned performance of its obligations to VeriSign under the 2001 .com Registry
19 Agreement upon VeriSign's acquiescence in ICANN's regulation of and control over non-
20 registry services.

21 • Commencing in or about 2002, and continuing to the present time, ICANN
22 has applied its standards, policies, procedures, and practices in an arbitrary, unjustifiable,
23 and inequitable fashion with respect to VeriSign, and has singled out VeriSign for disparate
24 treatment, not justified by any substantial and reasonable cause, in violation of the 2001
25 .com Registry Agreement, in that ICANN has, among other conduct: (i) delayed and
26 impeded the introduction of beneficial new services by VeriSign; (ii) placed conditions on
27 the offering of such services; (iii) restricted and regulated the prices of those services; and
28 (iv) otherwise interfered with VeriSign's business, while allowing other registries for

1 competitive TLDs, as well as members of ICANN's various constituent groups which are
2 competitors of VeriSign, to offer similar services to consumers without any interference,
3 restriction, or attempted regulation by ICANN.

4 • Commencing in or about 2002, and continuing to the present time, ICANN
5 has ignored its obligation under the 2001 .com Registry Agreement to promote and
6 encourage robust competition and, instead, has unreasonably restrained competition, in
7 violation of the agreement, in that ICANN has, among other conduct: (i) delayed and
8 impeded the introduction of beneficial new value-added services by VeriSign; (ii) placed
9 conditions on the introduction of such new services; (iii) restricted and regulated the prices
10 of those services; and (iv) otherwise interfered with VeriSign's business, while allowing
11 other registries for competitive TLDs, as well as other members of ICANN's various
12 constituent groups which are competitors of VeriSign, to offer similar services without any
13 interference, restriction, or attempted regulation by ICANN.

14 • Commencing in or about 2001, and continuing to the present time, ICANN
15 has regulated, and attempted to regulate, VeriSign's marketing practices and other facets of
16 its business operations that are not governed by the 2001 .com Registry Agreement and that
17 ICANN is without any contractual right or other legal basis to control, and has expressly or
18 impliedly conditioned its performance under the .com Registry Agreement on VeriSign's
19 acquiescence to such regulation.

20 • Despite its obligation in the 2001 .com Registry Agreement, ICANN has
21 failed to enter into registry agreements similar to the 2001 .com Registry Agreement, and
22 even to make a serious or good faith effort to enter into such registry agreements, with more
23 than a small handful of competing ccTLD registries. Even as to those few ccTLD registries
24 that do have agreements with ICANN, their agreements are not similar and do not contain
25 the same provisions under which ICANN claims a purported right to prohibit or restrict
26 services offered by VeriSign. These competing ccTLD registries are consequently able to
27 offer similar services to those VeriSign wants to offer, and others, without any interference,
28 prohibition, restriction, or attempted regulation by ICANN.

1 • Throughout the term of the 2001 .com Registry Agreement, and contrary to
2 the express provisions thereof, ICANN has failed to act with respect to VeriSign and the
3 .com gTLD registry in an open and transparent manner; has failed to establish any
4 meaningful, adequate, and independent review policies and appeal procedures; and has
5 applied its standards, policies, procedures, and practices arbitrarily, inequitably, and in bad
6 faith, and repeatedly and unjustifiably singled VeriSign out for disparate treatment.

7 82. ICANN threatens to persist, throughout the remaining term of the 2001 .com
8 Registry Agreement, in the foregoing or similar conduct constituting breaches of the agreement,
9 thereby increasing and exacerbating VeriSign's injuries and losses.

10 83. VeriSign has suffered, and will continue to suffer, substantial injuries and losses as a
11 proximate result of the breaches and other conduct of ICANN alleged herein, including, without
12 limitation, losses of amounts expended in furtherance of new services that ICANN has delayed or
13 prevented, losses of revenues from third parties, profits, market share, reputation, and good will.
14 Accordingly, VeriSign is entitled to an award of monetary damages from ICANN, according to
15 proof at trial.

16 84. However, VeriSign may have no adequate legal remedy against ICANN to obtain
17 full compensation or other monetary redress for all of its injuries and losses in that, among other
18 things: (i) ICANN is interfering with the business of VeriSign and injuring its reputation;
19 (ii) ICANN has insufficient assets to compensate VeriSign for its losses; (iii) some of VeriSign's
20 injuries and losses may be difficult to calculate precisely in dollar terms; and (iv) the 2001 .com
21 Registry Agreement purports to limit ICANN's liability for damages in the event of a breach of the
22 agreement to only a fraction of VeriSign's actual injuries and losses, which limitation may be
23 applicable to certain of the injuries alleged herein.

24 85. The 2001 .com Registry Agreement provides and contemplates that VeriSign can
25 obtain a decree of specific performance and other equitable relief for a breach of the agreement.

26 86. Accordingly, VeriSign is entitled to a judicial decree of specific performance
27 commanding and compelling ICANN to perform fully the terms and conditions of the 2001 .com
28 Registry Agreement, including, without limitation: (i) to abide by the definition of Registry

1 Services in the agreement; (ii) to comply with and adhere to the limits on its exercise of authority
2 provided by the agreement; (iii) to apply its standards, policies, procedures, and practices in a fair,
3 non-arbitrary, reasonable, and equitable fashion with respect to VeriSign; (iv) to promote and
4 encourage robust competition in the operation of TLD registries and other services associated with
5 domain name registration; (v) to exercise its responsibilities with respect to VeriSign and the .com
6 gTLD registry in an open and transparent manner; (vi) to establish meaningful, adequate, and
7 independent review policies and appeal procedures; and (vii) to take all reasonable steps to enter
8 into registry agreements similar to the 2001 .com Registry with competing ccTLD registries.

9 87. VeriSign is also entitled to preliminary and permanent injunctive relief prohibiting
10 ICANN, its officers, directors, employees, agents, and others acting in concert or in association with
11 it, from directly or indirectly taking any action, or engaging in any conduct: (i) to restrict, regulate,
12 interfere with, or exercise control over the offering, introduction, or performance of any services by
13 VeriSign (or its affiliates) to consumers that are not Registry Services within the meaning of the
14 2001 .com Registry Agreement; (ii) to delay or impede the introduction of any new services by
15 VeriSign (or its affiliates) that are not Registry Services within the meaning of the 2001 .com
16 Registry Agreement, to impose conditions on the introduction of such services, or to restrict or
17 regulate the prices VeriSign may charge consumers for any services that are not Registry Services
18 within the meaning of the 2001 .com Registry Agreement; (iii) to control, regulate, or limit, or
19 attempt to control, regulate, or limit, VeriSign's marketing practices and other business conduct that
20 is not governed by the 2001 .com Registry Agreement or otherwise subject to ICANN's authority;
21 (iv) to apply its standards, policies, procedures, and practices in an arbitrary, unjustifiable, and
22 inequitable fashion with respect to VeriSign, or to single out VeriSign for disparate treatment, not
23 justified by any substantial and reasonable cause; and (v) to unreasonably restrain competition for
24 the operation of TLD registries and for services that may be offered by VeriSign.

25 SECOND CAUSE OF ACTION

26 (For Declaratory Judgment)

27 88. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 87
28 above as though fully set forth herein.

1 89. An actual and justiciable controversy has arisen, and now exists, between VeriSign
2 and ICANN with respect to the interpretation of essential terms of the 2001 .com Registry
3 Agreement and the application of those terms, if any, to a continuing series of new value-added
4 services VeriSign desires, now or in the future, to offer to consumers during the remaining term of
5 the agreement, including, without limitation, Site Finder, ConsoliDate, WLS, and IDN.

6 90. More particularly, VeriSign contends:

7 • Registry Services as used in the 2001 .com Registry Agreement means and is
8 limited to (i) those services expressly identified in paragraph I(9) of the 2001 .com Registry
9 Agreement and subject to the specifications and functionality set forth in Exhibits "C" and
10 "D" to the agreement; and (ii) those services required by Consensus Policies duly and
11 formally adopted pursuant to paragraph I(1) of the Registry Agreement.

12 • Site Finder, ConsoliDate, WLS, and IDN are not Registry Services and,
13 therefore, are not subject to the terms or restrictions of the 2001 .com Registry Agreement.

14 • ICANN has no legal or contractual right, directly or indirectly, to interfere
15 with, restrict, regulate, or control, the introduction, offering, or performance by VeriSign
16 now or in the future of any services that are not Registry Services, including, without
17 limitation, Site Finder, ConsoliDate, WLS, and IDN, or to impose conditions on the
18 introduction of such services, or to set or limit the prices VeriSign may charge or the
19 conditions under which it may offer such services to consumers, or to regulate VeriSign's
20 marketing practices.

21 • As a result of ICANN's failure to enter into registry agreements similar to the
22 2001 .com Registry Agreement with any competing ccTLD registries (and, in any event, has
23 entered into agreements with only approximately eleven of the 240 competing ccTLD
24 registries), VeriSign has a right under the 2001 .com Registry Agreement to terminate the
25 agreement with the approval of the Department of Commerce.

26 • ICANN has failed to exercise its responsibilities with respect to VeriSign and
27 the .com gTLD registry in an open and transparent manner.

28

1 • ICANN has failed to establish meaningful, adequate, and independent review
2 policies and appeal procedures.

3 • ICANN's actions to force VeriSign to suspend Site Finder were baseless and
4 wrongful.

5 91. ICANN has expressly and openly denied, or does deny, each of these contentions by
6 VeriSign and contends the opposite.

7 92. VeriSign and ICANN are bound to perform under the 2001 .com Registry
8 Agreement for at least another 3 years.

9 93. If VeriSign relies on its interpretation of the 2001 .com Registry Agreement and
10 proceeds to offer new services to consumers without ICANN's approval, over its asserted
11 objections, or in a manner inconsistent with pricing and other conditions and limitations ICANN has
12 imposed or purports to impose, as VeriSign believes it has an absolute legal and contractual right to
13 do, VeriSign risks ICANN's declaring it to be in breach of the 2001 .com Registry Agreement
14 and/or attempting to terminate the agreement prematurely, with resulting losses of revenue from
15 third parties, profits, extension rights, reputation, and good will.

16 94. Alternatively, were VeriSign to defer offering such services to the public during the
17 effective period of the 2001 .com Registry Agreement, or to modify such services due to ICANN's
18 conduct and threats, VeriSign will suffer irreparable losses of revenue from third parties, profits,
19 market share, competitive position, reputation, and good will. Furthermore, millions of Internet
20 users will be deprived of the improved functionality and quality of VeriSign's services.

21 95. In either event, VeriSign has and will have no adequate legal remedy against ICANN
22 for any of these losses. VeriSign is therefore in need of immediate declaratory relief from the Court
23 consistent with its contentions set forth above.

24 WHEREFORE Plaintiff prays for entry of judgment against Defendant as follows:

25 A. On the First Cause of Action:

26 1. For entry of a judicial decree of specific performance commanding and
27 compelling ICANN to perform fully the terms and conditions of the 2001 .com Registry
28 Agreement, including, without limitation: (i) to abide by the definition of Registry Services in the

1 agreement; (ii) to comply with and adhere to the limits on its exercise of authority provided by the
2 agreement; (iii) to apply its standards, policies, procedures, and practices in a fair, reasonable, and
3 equitable fashion with respect to VeriSign; (iv) to promote and encourage robust competition in the
4 operation of TLD registries and other services associated with domain name registration; (v) to
5 exercise its responsibilities with respect to VeriSign and the .com gTLD registry in an open and
6 transparent manner; (vi) to establish meaningful, adequate, and independent review policies and
7 appeal procedures; and (vii) to take all reasonable steps to enter into registry agreements similar to
8 the 2001 .com Registry with competing ccTLD registries.

9 2. For entry of a preliminary and permanent injunction prohibiting ICANN, its
10 officers, directors, employees, agents, and others acting in concert or in association with it, from
11 directly or indirectly taking any action, or engaging in any conduct: (i) to restrict, regulate, interfere
12 with, or exercise control over the offering, introduction, or performance of any services by VeriSign
13 (or its affiliates) to consumers that are not Registry Services within the meaning of the 2001 .com
14 Registry Agreement; (ii) to delay or impede the introduction of any new services by VeriSign (or its
15 affiliates) that are not Registry Services within the meaning of the 2001 .com Registry Agreement,
16 to impose conditions on the introduction of such services, or to restrict or regulate the prices
17 VeriSign may charge consumers for any services that are not Registry Services within the meaning
18 of the 2001 .com Registry Agreement; (iii) to control, regulate, or limit, or attempt to control,
19 regulate, or limit, VeriSign's marketing practices and other business conduct that is not governed by
20 the 2001 .com Registry Agreement or otherwise subject to ICANN's authority; (iv) to apply its
21 standards, policies, procedures, and practices in an arbitrary, unjustifiable, and inequitable fashion
22 with respect to VeriSign, or to single out VeriSign for disparate treatment, not justified by any
23 substantial and reasonable cause; and (v) to unreasonably restrain competition for the operation of
24 TLD registries and for services that may be offered by VeriSign.

25 3. For an award of monetary damages, according to proof.

26 4. For its reasonable attorneys' fees pursuant to contract.

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B. On the Second Cause of Action:

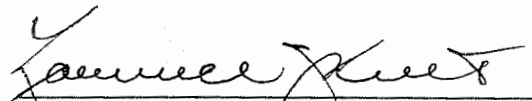
1. For entry of a final and binding judicial declaration determining and adjudicating each and all of VeriSign's contentions as set forth in paragraph 90 above.

C. On All Causes of Action:

1. For its costs of suit incurred herein.
2. For such further relief as is just and proper.

DATED: August 27, 2004

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