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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 VERISIGN, INC., a Delaware
corporation,

18 Plaintiff,

19 v.

20 INTERNET CORPORATION FOR
21 ASSIGNED NAMES AND
NUMBERS, a California corporation,

22 Defendant.

Case No. CV 04-1292 AHM (CTx)

**PLAINTIFF VERISIGN, INC.'S
RENEWED OPPOSITION TO
DEFENDANT ICANN'S RENEWED
SPECIAL MOTION TO STRIKE
VERISIGN'S SECOND, THIRD,
FOURTH, FIFTH, AND SIXTH
CLAIMS**

23 Date: August 23, 2004
Time: 10:00 a.m.
Courtroom: 14 – Spring Street Bldg.
Hon. A. Howard Matz

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26 Plaintiff VERISIGN, INC. (“VeriSign”) submits this Opposition to the
27 Renewed Special Motion to Strike of Defendant Internet Corporation for Assigned
28 Names and Numbers (“ICANN”).

1 ICANN has renewed its Special Motion to Strike certain claims for relief in the
2 complaint pursuant to California Code of Civil Procedure section 425.16 (the
3 “Renewed Motion”), based entirely upon the papers and arguments ICANN
4 previously filed with the Court in connection with its original Special Motion to
5 Strike.¹ VeriSign fully and completely refuted the contentions underlying that motion
6 in its opposition to the original motion.² Since ICANN has proffered no new support
7 for its Special Motion to Strike, VeriSign has no need to alter or to supplement the
8 already extensive law and evidence it marshaled in opposition to the original motion.
9 Accordingly, VeriSign now incorporates its prior opposition papers and relies upon
10 them in opposition to the Renewed Motion.

11 Specifically, VeriSign incorporates into this Opposition to the Renewed
12 Motion all of the pleadings, arguments, facts, and evidence that comprised VeriSign’s
13 opposition to the original Special Motion to Strike. For the Court’s reference,
14 VeriSign’s opposition consisted, and now consists, of the following documents and
15 materials previously filed with the Court:

- 16 • VeriSign, Inc.’s Memorandum in Opposition to Defendant ICANN’s
17 Special Motion to Strike VeriSign’s Second, Third, Fourth, Fifth, and Sixth
18 Claims (filed April 29, 2004)
- 19 • VeriSign, Inc.’s Evidentiary Objections to Declaration filed by Defendant
20 ICANN in Support of Special Motion to Strike VeriSign’s Second, Third,
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22 ¹ The Special Motion to Strike had been set for hearing on May 18, 2004,
23 concurrently with ICANN’s Motion to Dismiss under Rule 12(b)(6). However, in
24 light of its ruling on the latter motion, the Court ordered that the Special Motion to
25 Strike “be withdrawn from the active calendar, without prejudice to its being
26 renewed.” The Court further stated: “If the Court eventually rules on a dismissal
27 motion directed at counts two through six, it will also rule on the motion to strike.”
(See Order filed May 18, 2004, at 13-14.) In light of that order, VeriSign is presently
28 uncertain whether the Court intends to defer hearing on the Renewed Motion until
after it rules upon ICANN’s renewed Motion to Dismiss or to hear both motions
concurrently on the presently noticed date of August 23, 2004.

² VeriSign’s opposition includes a request for discovery.

1 Fourth, Fifth, and Sixth Claims as Strategic Lawsuits Against Public
2 Participation (filed April 29, 2004)

- 3 • Declaration of Charles A. Gomes in Opposition to Special Motion to Strike
4 of Defendant ICANN (filed April 29, 2004)
- 5 • Declaration of Scott A. Hollenbeck in Opposition to Special Motion to
6 Strike of Defendant ICANN (filed April 29, 2004)
- 7 • Declaration of Mark Mandolia in Opposition to Special Motion to Strike of
8 Defendant ICANN (filed April 29, 2004)
- 9 • Declaration of Philip L. Sbarbaro in Opposition to Special Motion to Strike
10 of Defendant ICANN (filed April 29, 2004)
- 11 • Declaration of Thaddeus M. Pope in Support of Plaintiff VeriSign, Inc's
12 Opposition to Defendant ICANN's Motion to Strike
- 13 • Declaration of Benjamin Desjardins in Opposition to Special Motion to
14 Strike of Defendant ICANN (filed April 29, 2004)
- 15 • Declaration of Benjamin R. Turner in Opposition to Special Motion to
16 Strike of Defendant ICANN (filed April 29, 2004)
- 17 • VeriSign, Inc's Appendix of Evidence in Support of Its Opposition to
18 Defendant's Special Motion to Strike (filed April 29, 2004)
- 19 • VeriSign, Inc.'s Appendix of Evidence in Support of Its Opposition to
20 Defendant's Special Motion to Strike Volume I – Exhs. 1-25 (filed April
21 29, 2004)
- 22 • VeriSign, Inc.'s Appendix of Evidence in Support of Its Opposition to
23 Defendant's Special Motion to Strike Volume II – Exhs. 26-67 (filed April
24 29, 2004)
- 25 • VeriSign, Inc.'s Response to Defendant ICANN's Evidentiary Objections to
26 Exhibits and Declarations Filed by VeriSign in Opposition to ICANN's
27 Special Motion to Strike (filed May 13, 2004)

- 1 • Plaintiff VeriSign, Inc.'s Evidentiary Objections to Supplemental
2 Declaration Filed by Defendant ICANN in Support of Special Motion to
3 Strike VeriSign's Second, Third, Fourth, Fifth, and Sixth Claims as
4 Strategic Lawsuits Against Public Participation (filed May 13, 2004)

5 VeriSign also incorporates by reference its concurrently filed Opposition to ICANN's
6 Motion to Dismiss the First Amended Complaint.

7 VeriSign's opposition demonstrates that ICANN's attempt to invoke
8 California's anti-SLAPP statute in the context of the parties' long-standing business
9 dispute constitutes an improper use of the statute. As VeriSign's opposition papers
10 already make clear, ICANN has not met *its* threshold burden of showing that any of
11 VeriSign's claims for relief (a) *arise from* (b) protected free speech or petitioning
12 activities and, therefore, that VeriSign's claims are subject to the anti-SLAPP statute
13 in the first instance.

14 At root, the dispute between the parties is based on a series of past breaches of
15 contract and tortious activity committed by ICANN during years of dealings between
16 the parties. ICANN's attempt to characterize VeriSign's claims as being premised
17 upon ICANN's October 3, 2003 letter (Renewed Mot. at 3:1-4), ignores this long
18 history between the parties. More importantly, ICANN fails to acknowledge that the
19 letter is not the *basis* of VeriSign's claims but, rather, is *evidence* clearly supporting
20 VeriSign's claims, and that it merely constitutes one of the triggering events to the
21 filing of the instant litigation. As such, under the established case law, ICANN's
22 attempt specially to strike VeriSign's claims based solely upon the mention of a letter
23 in the complaint should be rejected.

24 Furthermore, VeriSign has more than met its burden of showing that the
25 elements of its claims are supported by *prima facie* evidence. This is sufficient to
26 compel denial of the Renewed Motion.

1 For all of the foregoing reasons, VeriSign respectfully requests that ICANN's
2 Renewed Special Motion to Strike be denied in its entirety.

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4 DATED: July 28, 2004.

ARNOLD & PORTER LLP

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6 By: 
7 LAURENCE J. HUTT
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9 VERISIGN, INC.

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