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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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COALITION FOR ICANN
TRANSPARENCY INC., a Delaware
corporation,

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Plaintiff,

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v.

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VERISIGN, INC., a Delaware corporation;
INTERNET CORPORATION FOR
21 ASSIGNED NAMES AND NUMBERS, a
California corporation,

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23

Defendants.

24

) Case No. 5:05-CV-04826 RMW

)
) DECLARATION OF RAYNOR
) DAHLQUIST IN SUPPORT OF
) OPPOSITION BY DEFENDANT
) VERISIGN, INC. TO *EX PARTE*
) APPLICATION FOR TEMPORARY
) RESTRAINING ORDER FILED BY
) COALITION FOR ICANN
) TRANSPARENCY INC.

)
) Action Filed: November 28, 2005
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1 DECLARATION OF RAYNOR DAHLQUIST

2 I, Raynor Dahlquist, declare:

3 1. I am the Vice President for the VeriSign ComNet Registry of VeriSign, Inc.
4 (“VeriSign”). As such, I have personal knowledge of the matters stated herein. Where I indicate
5 that a matter is based on information and belief, I state the source of my information and believe it
6 to be true.

7 2. In my position as the Vice President for the VeriSign ComNet Registry, I am
8 familiar with the operation of the VeriSign registry for .com and the history, development and
9 contemplated operation of the Central Listing Service (“CLS”) as well as the proposed Wait List
10 Service (“WLS”) that preceded it.

11 The Internet Domain Name System

12 3. To understand the purpose and function of WLS and CLS, it is first necessary to
13 understand the manner in which the Internet’s domain name system works. The Internet is a vast
14 network of interconnected computers and computer networks. Every computer connected directly
15 to the Internet has a unique address. These addresses, which are known as Internet Protocol (“IP”)
16 numbers, are necessary for computers to “communicate” with each other over the Internet. An
17 example of an IP number might be: 98.27.241.30.

18 4. Because IP numbers can be cumbersome and difficult for Internet users to remember
19 or to use, the IP number system has been overlaid with a more “user-friendly” system of domain
20 names. This overlay associates a unique alpha-numeric character string – or “domain name” – with
21 a specific IP number.

22 5. Internet domain names consist of a string of “domains” separated by periods. “Top
23 level” domains, or “TLDs”, are found to the right of the period and include (among others) the
24 domains “.com,” “.gov,” “.net” and “.biz,” which are sometimes referred to as “generic” TLDs
25 (known as “gTLDs”). “Second level” domains (“SLDs”) are those immediately to the left of the top
26 level domains, such as “uscourts” in “uscourts.gov.”

27 6. There are approximately 250 different top level domains, which are administered and
28 operated by numerous different entities, both inside and outside of the United States. Some of these

1 top level domains are referred to as country code TLDs (known as “ccTLDs”), including, for
2 example, “.jp” (Japan) and “.ca” (Canada). There are over 50 million second-level domains within
3 the various TLDs.

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

9 8. As the “registry” for the SLDs in .com and .net TLDs, VeriSign maintains the
10 definitive directory that associates registered domain names in these TLDs with the corresponding
11 IP numbers of the respective domain name servers. These domain name servers are independent of
12 the registry and, accordingly, beyond its control. The domain name servers, in turn, associate the
13 domain names with resources such as websites and email systems on the Internet.

14 9. A domain name does not exist until it is created and registered in the registry’s
15 master database. The individual or organization that creates and registers a specific domain name is
16 a “registrant.” Registrants do not have direct access to the VeriSign registry. Instead, prospective
17 registrants must register domain names they have created through any one of over 400 private and
18 public companies located throughout the United States and the world that act as domain name
19 “registrars” for the .com and .net TLDs. Registrars provide direct services to registrants and
20 prospective registrants, such as processing domain name registrations. The VeriSign registry has no
21 contractual or other relationship with a registrant, and in fact has no information on or knowledge of
22 who is the registrant of a domain name. Registrars have a contractual relationship with registrants
23 and keep all information as to the registrant.

24 10. Registering, transferring, and deleting a domain name requires interaction between
25 a registrar and the registry. This interaction is highly structured and automated, and takes place
26 through a Registry-Registrar Protocol (“RRP/EPP”). Registry-registrar communications occur over
27 a secure electronic connection. The registry’s role is entirely passive and automated – namely to
28 process registrars’ domain name registration requests on behalf of registrants, comparing those

1 requests against the registry tables of registered domain names to prevent duplicate registrations of
2 the same domain name and registering the domain name in the registry database if it is not already
3 registered.

4 11. Registrars initiate all changes to the registry database with respect to a particular
5 domain name record by issuing electronic commands to the registry, such as “add,” “check,”
6 “delete,” “transfer,” and “renew,” all as more fully described in the Registry-Registrar Protocol.
7 VeriSign can only register domain names in its database in response to requests from registrars.

8 12. Registrars submit their customers’ (“registrants”) registration requests to the
9 applicable TLD registry to determine if a requested domain name is available for registration, *i.e.*,
10 that the domain name is not already registered to someone else. In connection with VeriSign’s
11 operation of the registry for the .com and .net TLDs, if a requested domain name is not already in
12 the registry’s database, the registry’s computer will record the new domain name, the corresponding
13 IP number(s) of associated domain name servers, and the name of the registrar effectuating the
14 registration for the customer-registrant, in its master database. The registration process is then
15 complete.

16 **Procedure For Deletion of Domain Names**

17 13. Domain names in the .com top-level domain are registered for periods of one year or
18 more. Upon expiration of a registration period, and pursuant to its agreements with ICANN and
19 with accredited registrars, VeriSign does not delete a domain name until it receives a specific
20 “delete” command from the registrant’s sponsoring registrar directing it to do so. Even then,
21 VeriSign follows an established procedure and timetable in effectuating the delete command in the
22 registry’s database. In the absence of a delete command from the sponsoring registrar, when the
23 expiration date for a registered domain name has been reached, the registry automatically renews
24 the registration of the domain name. Specifically, after an automatic renewal, the registrar has 45
25 days within which to cancel the registration. Following a registrar’s submission of a delete
26 command to the registry, the deleting registrar still has the 30-day Redemption Grace Period within
27 which to renew the domain name before the deletion command is actually effectuated in the
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1 registry. Thereafter, there is a five-day “pending delete period” before the deletion is complete in
2 the registry’s database.

3 The WLS Proposal

4 14. The Wait List Service (“WLS”) was conceived by VeriSign to fulfill a demand for
5 an orderly and reliable means for domain name registrants, through their selected, participating
6 registrars, to become the “next in line” to register a currently registered domain name within the
7 .com TLD, in the event the current registration of that domain name were to be deleted. Also, WLS
8 was conceived to protect the .com registry TLD, and registrar access to the .com registry TLD, that
9 was being jeopardized by the efforts of some registrars to be the first to register deleted domain
10 names, as more fully described below.

11 15. In the .com gTLD more than 600,000 domain names are deleted each month and
12 become available for creation and registration by registrants through any of the over 400 ICANN-
13 accredited registrars. A few of these are re-registered within milliseconds of when they become
14 available, often by a minority of individuals and entities who operate as domain name speculators,
15 “stockpiling” domain names, or who register a recently deleted domain name to capture prior
16 “traffic” associated with that domain name. As explained below, this number is disproportionate to
17 the “add” transactions submitted to register these domain names.

18 16. Those registrars seeking to register a recently deleted domain name through one of
19 their “back order” programs have done so by programming their systems to transmit literally
20 continuous automated “add” domain name commands to the registry for a particular domain name
21 in an effort to be the first registrar to request the domain name. Since this tactic is followed
22 simultaneously by multiple registrars seeking multiple domain names, and often the same domain
23 names, either individually or in concert with each other, the cumulative effect of these “add storms”
24 has been to overwhelm the registry, threatening or delaying the registry’s receipt and performance
25 of other registrar commands, such as to register new domain names, jeopardizing the stability and
26 operation of the registry and negatively impacting registrars who do not participate in such activity.

27 17. VeriSign conceived WLS in 2001 as a means of facilitating an orderly, competitive
28 marketplace for placing reservations on currently registered domain names that would allow the

1 holder of the reservation to register that domain name if it expired. It would have relieved the load
2 on the registry while creating competition among registrars for the sale of WLS subscriptions.

3 18. ICANN delayed the introduction of WLS for several years and placed conditions on
4 its offering that, in VeriSign's judgment, made it uneconomic to offer.

5 Background of CLS

6 19. VeriSign then sought to develop a service that would satisfy the needs of the Internet
7 community and the registry and that would win the support of registrars. This resulted in a
8 proposed Central Listing Service ("CLS"). A version of CLS was first vetted informally with
9 registrars and others in the fall of 2004.

10 20. After extensive consultation with registrars and other Internet participants, VeriSign
11 proposed CLS to ICANN in April 2005. A copy of VeriSign's letter to ICANN describing this
12 industry-backed solution is attached as Exhibit A.

13 21. CLS would provide all domain name registrars with a platform for the auction of
14 "expiring" domain names. CLS would pertain to expiring domain names that had entered the
15 "pending delete" period, the final stage prior to the actual deletion of the names from the .com
16 registry TLD.

17 22. Some registrars today provide in their contracts with registrants that if a domain
18 name registration expires and is not renewed, the registrar may auction that domain name to a new
19 registrant or may otherwise transfer the domain name to another registrant or to itself. If such
20 registrars take one of those actions, the domain name will never enter the "pending delete" period
21 and thus will not be subject to CLS. As a result, registrars who wish to continue to engage in that
22 type of activity after the introduction of CLS will continue to have the ability to do so, unaffected
23 by CLS.

24 23. If CLS is approved by ICANN and offered to registrars, it will be an *additional*
25 means for registrars to register domain names for the benefit of their customers. Those domain
26 name registrations that are not renewed during either the 45-day period following "expiration" or
27 the subsequent Redemption Grace Period, as the result of a renewal by the existing registrant,
28 transfer to a new registrant, or private auction by the existing registrar that results in a new

1 registration , will be included in the Central Listing Service, for auction by registrars during the
2 “pending delete” period.

3 24. All registrars accredited by ICANN -- currently over 400 -- will be able to participate
4 in CLS, although they are not required to do so. Registrars will be able to submit bids on behalf of
5 registrants, and the registrar that previously held the registration for the auctioned domain name
6 registration will receive 90 percent of the auction proceeds for that domain name (assuming the
7 registrar is participating in CLS; otherwise, that portion of the auction proceeds will be placed in a
8 marketing fund, and not retained by VeriSign). Consequently, registrars can not only participate
9 freely in CLS, but they can derive revenue from the operation of CLS even if they are not
10 participating on behalf of registrants in the auction, and they can continue to conduct “upstream”
11 domain name registration activity such as transferring domain names to a new registrant, conduct
12 private auctions that results in a new registration, and participate in “back order” services (for
13 example, such as those offered by Pool.com).

14 25. Those domain names that are not purchased at the CLS auction will be deleted, as
15 they are today, and such domain names will then become available for registration through any
16 ICANN accredited registrar for a new registration, again as they are today. The CLS does not
17 impact or eliminate the pending delete period, the regular and routine deletion of domain names, or
18 the procedure for deletion of domain names. In short, CLS adds another level at which “expiring”
19 domain names can be obtained through competition by any registrar. CLS will facilitate a more
20 robust and evenly competitive market for “expiring” domain names.

21 Support for CLS

22 26. VeriSign has worked with registrars and others to develop the CLS concept. The
23 subject was discussed publicly at several ICANN meetings beginning in the fall of 2004. Many
24 registrars have expressed support for the CLS proposal.

25 27. As noted, CLS will facilitate additional competition in what is already a vigorous
26 secondary market for domain names. The use of a widely available, easily accessible exchange will
27 enable registrars to acquire “expired” registrations relatively inexpensively, promote the fair and
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1 efficient acquisition of “expired” registrations, while minimizing strains on the domain name
2 registration infrastructure that may result from the “add storms” described above.

3 Status of CLS

4 28. VeriSign intends to launch CLS only after CLS is approved by ICANN. Presently,
5 VeriSign has not submitted a formal request to ICANN for approval of CLS, and consequently CLS
6 is not on the ICANN’s agenda for consideration or approval at the upcoming ICANN meetings in
7 Vancouver or otherwise. Indeed, under the procedures for approval applicable to a new service
8 such as CLS, if ICANN determines that the CLS raises security and stability issues, the advisory
9 body that would be tasked with considering CLS is not currently in place.

10 29. Although VeriSign had taken steps in preparation for a *possible* launch of CLS in
11 December of this year, that was done based upon ICANN’s stated belief months ago that CLS might
12 be approved before year-end. Accordingly, at the request of various registrars that wanted to be
13 trained on, and test, CLS so that they could use the system promptly upon its launch, VeriSign
14 issued test protocols and conducted training classes for registrars. However, for the reasons
15 mentioned above, among others, that timetable is no longer operative.

16 30. All ICANN-accredited registrars will be given an equal opportunity to participate in
17 CLS. At the same time, registrars have the option of not participating. CLS is an entirely optional
18 service. Even if registrars elect not to participate in CLS, they, on behalf of their clients, may still
19 register, delete, transfer or otherwise make registered domain names available in the secondary
20 market (e.g., auctions, person-to-person transactions, etc.), or offer all the deleted domain services
21 offered currently, as they have done before CLS, including “upstream” private auctions and
22 “downstream” registration of newly deleted domain names. In addition, a registrar choosing not to
23 auction domain names for which it was registrar of record or choosing not to bid on domain names
24 being auctioned can still derive revenues from CLS when domain names for which it was registrar
25 of record are obtained through auction by another registrar.

26 31. Accordingly, registrars participating in CLS will still be in brisk competition with
27 each other with respect to bidding at CLS auctions and in operating or participating in other pre-
28 existing “back-order” services. In fact, services by registrars can still be differentiated through

1 customer service, marketing, registrar value-added services, or other creative actions, and through
2 "retail" price, just as they have been, notwithstanding CLS.

3 I declare under penalty of perjury pursuant to the laws of the United States of America that
4 the foregoing is true and correct, and that this declaration was executed on November 29, 2005, in
5 Dulles, Virginia.

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8 RAYNOR DAHLQUIST
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EXHIBIT

A

Kurt Pritz
Vice President, Business Operations
Internet Corporation for Assigned Names and Numbers
4676 Admiralty Way #330
Marina del Rey, CA 90292

April 19, 2005

Re: Industry-Backed Solution for the Contention for Deleting .com & .net Domain
Names

Dear Kurt:

I write to report on progress we have made in working with the domain name community to develop a more fair, orderly, and efficient means of satisfying demand for deleting domain name registrations.

As you may know, for the past 12 months, the domain name industry has been examining ways of improving the process by which domain names are made available for registration upon their deletion from the registry database. The topic was addressed at the ICANN meetings held in Cape Town, South Africa in December 2004, and more recently at its meetings in Mar del Plata, Argentina.

Based on the input received during these proceedings, we have prepared the attached document, which describes a program ("Program") that has garnered broad support from the community. A core element of the Program would consist of a shared exchange platform that would enable all ICANN-accredited registrars to acquire deleting registrations through an online, auction-style process. The shared exchange would enable registrars to acquire deleting registrations relatively inexpensively. The use of a widely available, easily accessible exchange would also promote the fair and efficient acquisition of deleting registrations, while at the same time minimizing strains on the domain name registration infrastructure.

Exhibit A Page 1

We have copied all registrars on this submittal to ensure that our customers are fully informed of our plans in this area. We would be interested in any comments or questions you may have about the Program. We would appreciate your views on how to best move forward in implementing the Program.

I look forward to your response.

Sincerely,

Mark McLaughlin
Senior Vice President
VeriSign Naming and Directory Services

cc: Kevin Golden, Esq.
Raynor Dahlquist
David Stewart
Chuck Gomes
Paul Twomey
Tina Dam
ICANN com/net Accredited Registrars

Description of Deleting Domain Names Program

Overview

Under the Program, all deleting .com and .net domain name registrations, including IDNs, would be automatically included in the Central Listing Service at the beginning of the pending delete period for an auction-style sale of the domain name registrations. After completion of the auction-style sale and a grace period of up to 10 days, a one-year registration for the relevant domain name would be created for the registrar representing the customer with the winning bid.

Using the Central Listing Service, all registrars would be able to submit bids on behalf of customers and receive payment for the sale of domain name registrations for which they were the previous registrar of record. As existing agreements do not cover these activities, participating registrars would need to enter into an appropriate agreement in order to access, use and receive payment from sales through the Central Listing Service.

Registrar Participation

Registrars wishing to offer their customers the ability to register a deleting domain name would submit bids via an API / EPP Interface to the Central Listing Service. The Central Listing Service would receive and manage all bids on listed domain names.

Registrars would have the option of integrating bidding on deleting domain names into their purchase flows through use of the Central Listing Service API / EPP Interface.

Registrars could outsource their front-end development and/or their operations of the Central Listing Service to a third party, provided, however, that the Central Listing Service will only accept bids from and provide payment to participating registrars.

Revenue Share

The .COM / .NET registry would receive 10% of the winning price for deleting domain name registrations sold through the Central Listing Service. The balance would be credited to the previous registrar of record's registrar account if they are a participant in the Central Listing Service. If the previous registrar of record is not participating in the Central Listing Service, the funds would be held for a use to be determined by the registrars and agreed to by the .COM / .NET registry.

Registrars submitting bids on behalf of their customers would have the ability to charge their customers a service fee at their discretion.

Ascending Proxy Model

The Central Listing Service would operate an Ascending Proxy Model under which the bidder submits the highest price they are prepared to pay and the service acts as a proxy for them increasing their submitted bid by an increment above the next highest bid. The first bid would be accepted at zero dollars (\$0) and increments would vary by active price.

The bidding would conclude after 5 consecutive minutes absent of any bid activity following the published final bid time. The published final bid time will be designated by the .COM/.NET registry at the start of bidding for each domain name included in the Central Listing Service. At the end of bidding, the bidder with the highest submitted bid would win and, at the end of a grace period of up to 10 days, a one-year registration for the relevant domain name would be created for the registrar representing the customer with the winning bid.

Payment Clearing – Grace Period

At the conclusion of bidding, the registrar representing the winning bid would be debited the full amount of the winning bid from its registrar account. It would be the responsibility of participating registrars to collect funds from their customers with successful bids.

The price of the winning bid would be exclusive of the registration fee, which would be charged per the standard registration process to the registrar representing the winning bid at fulfillment after the grace period.

It would be the responsibility of participating registrars to manage its registrar account balance to allow for the additional costs of purchasing expiring domain names through the Central Listing Service. After a grace period of up to 10 days, the balance of the winning price less the Central Listing Service fee would be credited to the account of the participating previous registrar of record.

The grace period allows the gaining registrar time to secure payment from its customer. If it is unable to secure payment by the end of the grace period and it provides notice of the same to the .COM / .NET registry, its account will be credited the winning bid amount and the domain name registration will be re-auctioned. If the gaining registrar fails to provide written notice of its inability to secure payment during the grace period, no credit will be provided and a one-year registration of the domain name would be created for the gaining registrar.

If the gaining registrar secures payment prior to the end of the 10 day grace period, it can notify the .COM / .NET registry and a one-year registration of the domain name would be created for the gaining registrar.

A registrar that is unable to secure payment for more than 10% of its auction winnings in any 30 day period will have its access to the service suspended for a period of 30 days. A second incident would result in elimination of access to the service.

Fulfillment

After the 10 day grace period has elapsed and the .COM / .NET registry has not received notification from the gaining registrar that it is unable to collect payment from its customer, or the .COM/.NET registry has received notification for the gaining registrar that payment has been secured, the Central Listing Service would notify the Shared Registration System of the registrar representing the winning bid for a particular deleting domain name registration and the Shared Registration System would create a one-year registration of the domain name for the gaining registrar. Notification would be sent to the registrar representing the winning bid and the previous participating registrar of record.

The gaining registrar would be charged the registration fee per the standard registration process independent of the Central Listing Service.

Any name without a winning bid at the conclusion of the 5 day auction period would be deleted at the end of the pending delete period and made available as it is today.