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COALITION FOR ICANN TRANSPARENCY INC.

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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

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13 COALITION FOR ICANN
TRANSPARENCY INC., a Delaware
14 Corporation,

15 Plaintiff,

16 v.

17 VERISIGN, INC., a Delaware
Corporation; INTERNET
18 CORPORATION FOR ASSIGNED
NAMES AND NUMBERS, a
19 California Corporation,

20 Defendants.

Case No. 05-4826 (RMW) PVT

**FIRST AMENDED COMPLAINT FOR
VIOLATION OF THE ANTITRUST
LAWS AND DECLARATORY AND
INJUNCTIVE RELIEF**

Honorable Ronald M. Whyte

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1 Plaintiff Coalition for ICANN Transparency Inc. (“CFIT”) brings this action against
2 Internet Corporation for Assigned Names and Numbers (“ICANN”) and VeriSign, Inc.
3 (“VeriSign”), and alleges as follows:

4 **I. NATURE OF THE ACTION**

5 1. This action is brought to enjoin and prevent defendants ICANN and VeriSign from
6 carrying out their unlawful agreement to establish a permanent monopoly over the relevant
7 markets as alleged herein, and for declaratory and other relief. The unlawful agreement gives
8 VeriSign a permanent monopoly over all the “.com” and “.net” domain name registrations, a
9 monopoly for related services that it does not currently enjoy, and permits VeriSign to
10 permanently and indefinitely increase prices above the natural rate of inflation and what a fair
11 market would otherwise bear.

12 2. This is an action to restore competitive conditions in markets for “.com” and “.net”
13 Internet domain names, and to prevent VeriSign from expanding its monopoly control over the
14 .com and .net domain name registries into downstream and adjacent markets. CFIT seeks an
15 injunction against the defendants and their respective management personnel preventing them
16 from taking further steps to implement their unlawful agreement, including without limitation
17 preventing the signing or implementation of a proposed .com Registry Agreement between
18 ICANN and VeriSign (the “2006 .com Agreement”); an injunction against VeriSign’s monopoly
19 leveraging conduct as specified herein; an injunction requiring ICANN to adhere to its
20 governmental mandate to maintain competition and prevent discrimination in markets related to
21 Internet domain names; and an injunction requiring VeriSign and ICANN to abide by the terms of
22 the current .com agreement (the “2001 .com Agreement”) until it expires and requiring ICANN to
23 entertain competing bids for the operation of the .com registry at that time. Plaintiff also requests
24 declaratory relief that the agreements and understandings between the defendants, as reflected in
25 the terms of the 2006 .com Agreement, as well as the similar “2005 .net Agreement,” constitute
26 violations of federal and state antitrust laws, and ordering appropriate relief to restore competitive
27 conditions in affected markets.
28

1 3. ICANN has abrogated its government-mandated obligation to maintain
2 competition and prevent discrimination in markets related to Internet domain names by
3 acquiescing and colluding in VeriSign’s strong-arm tactics to leverage its limited-duration
4 contractual monopoly over the .com and .net Internet domain name registries into permanent
5 monopolies over those registries and over adjacent and downstream markets for various domain
6 name services. Specifically and without limitation, ICANN and VeriSign have agreed to terms
7 that have the practical effect of installing VeriSign as the permanent operator of the .com and .net
8 registries and shielding VeriSign from the competitive pressures of the periodic re-bidding
9 process that ICANN typically imposes on registry operators. ICANN and VeriSign have also
10 agreed to terms that permit VeriSign to extend its monopoly control to the downstream markets
11 for back order services and other services. The unlawful agreements and understandings between
12 VeriSign and ICANN have the effects of imposing supracompetitive prices on consumers,
13 distributing the monopoly profits between ICANN and VeriSign, and excluding competition and
14 rivals from the relevant markets permanently.

15 **II. PARTIES**

16 4. ICANN is a private not-for-profit corporation, organized and existing under the
17 laws of the State of California, and having its principal place of business in Marina Del Rey,
18 California. ICANN is responsible for providing technical coordination of the Internet domain
19 name system.

20 5. VeriSign is a corporation, organized and existing under the laws of the State of
21 Delaware, and having its principal place of business in Mountain View, California. VeriSign
22 currently acts under contract with ICANN as the “registry” for all .com and .net domain names.

23 6. CFIT is a not-for-profit membership corporation, organized and existing under the
24 laws of the State of Delaware, and having its principal place of business in the District of
25 Columbia.

26 **III. STANDING**

27 7. CFIT brings this action for injunctive and declaratory relief on behalf of its
28 members. CFIT’s purpose, as stated in its Articles of Incorporation, is to “promote the interests

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1 of its member businesses by seeking a competitive and fair market for domain name registry
2 services.” CFIT was formed for the purpose of challenging the anticompetitive agreements and
3 activities of defendants alleged herein, including the 2006 .com Agreement. CFIT’s members
4 include Internet domain name registrars, registrants, and back order service providers, including
5 but not limited to Pool.com, Inc. (“Pool.com”) and R. Lee Chambers Company, LLC (hereinafter
6 referred to as “CFIT’s Supporters”).

7 **IV. JURISDICTION AND VENUE**

8 8. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331
9 and 1337; the Declaratory Judgment Act, 28 U.S.C. § 2201; and principles of supplemental
10 jurisdiction under 28 U.S.C. § 1367.

11 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c), in that
12 defendant VeriSign resides, transacts business, and is found in this district and defendant ICANN
13 resides, transacts business, and is found in the State of California and in this district.

14 10. **Intradistrict Assignment:** A substantial part of the events giving rise to CFIT’s
15 claims occurred in Santa Clara County, California, where defendant VeriSign has its principal
16 place of business. Assignment to the San Jose division is therefore proper.

17 **V. RELEVANT MARKETS**

18 11. The relevant markets for antitrust analysis in this case include the following:

19 1. The markets for the purchase and sale of domain name registrations (the
20 “Domain Name Registration Markets”), which include:

21 (a) The market for .com domain name registrations (the “.com
22 Registration Market”).

23 (b) The market for .net domain name registrations (the “.net
24 Registration Market”).

25 2. The market for back order services used by end users in the purchase and
26 sale of expiring domain name registrations (the “Expiring Names
27 Registration Services Market”). The Expiring Names Registration Services
28 Market includes various services that are bought by end users to register

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1 domain names when they expire on the .com and .net registries. The
2 relevant services include, without limitation, “back order” services that
3 assist registrars in acquiring expiring domain names for registration on
4 behalf of clients (potential and actual registrants), and auctions through
5 which expiring domain name registrations are released to the public for
6 bidding.

7 12. Although over 250 TLDs¹ exist, they are not equally accessible to businesses
8 based in the United States. All country-code TLDs are operated and managed outside of the
9 United States, and are therefore not subject to United States antitrust laws and statutes.
10 Registration with ccTLDs requires a Registrant to leave the borders and protection of the United
11 States. Therefore these ccTLDs cannot be counted as part of the relevant market for determining
12 antitrust violations.

13 13. Many of the generic TLDs, or gTLDs, are restricted either in use or in meaning.
14 Specifically, gTLDs such as “.edu,” “.mil,” “.gov,” “.aero,” and “.coop” are reserved for specific
15 types of institutions and are not available to businesses or private persons. Many gTLDs carry
16 inherent meanings which cause confusion Registrants would want to avoid. The gTLD “.org”
17 carries the connotation of a non-profit organization, and similarly “.travel” connotes a travel-
18 related Registrant. As a result, “.com” and “.net” have become more than just the most used
19 TLD, they have become the definitive TLDs for all commercial and private Registrants within the
20 United States who seek to avoid confusion with other types of associations.

21 14. The relevant geographic market as to each relevant product market is the world.

22 15. VeriSign is a participant in each relevant market. ICANN is a participant in each
23 relevant market in that it collects fees that are either directly or ultimately borne by registrars and
24 registrants for each registration.

25

26

27

28 ¹ TLDs or “top-level domains” are described more fully in section VII.B, paragraphs 16 through 19. “.com” and “.net” are examples of TLDs.

1 16. VeriSign is the sole Registry for the .com and .net domains. As a result, any
2 arrangements Verisign enters into to control competition in the expired domain names market or
3 in the site finder market, or to fix prices, constitutes an unjustifiable use of monopoly power.

4 **VI. INTERSTATE COMMERCE**

5 17. The conduct of defendants VeriSign and ICANN complained of herein will take
6 place in and affect interstate trade and commerce of the United States in that the purchases and
7 sales of services in the relevant markets are transacted across state lines.

8 18. The conduct of defendants VeriSign and ICANN complained of herein will
9 directly, substantially, and foreseeably affect interstate trade and commerce in that defendants
10 will obstruct free and open competition in the .com and .net Registration Markets and in the
11 Expiring Names Registration Services Market.

12 **VII. BACKGROUND**

13 **A. THE INTERNET DOMAIN NAME SYSTEM**

14 19. The Internet is a network of interconnected computers and computer networks.
15 Every computer connected directly to the Internet has a unique numerical address. These
16 addresses, which are known as Internet Protocol (“IP”) addresses, are necessary for computers to
17 communicate with each other over the Internet. An example of an IP address is 64.233.161.147.

18 20. Because numerical IP addresses can be cumbersome and difficult for Internet users
19 to remember or to use, the numerical IP address system has been overlaid with a more user-
20 friendly system of domain names, the Domain Name System or DNS.

21 **B. DOMAIN NAME SYSTEM HIERARCHY**

22 21. The DNS defines a hierarchical name space divided into zones, each of which has
23 authority over the zones below it. For purposes of the DNS, domain names are read from right to
24 left. The top zone is divided into top-level domains, or “TLDs” such as “.com” and “.net.” Each
25 TLD is divided into second-level domains or “SLDs” such as “example.com” or “example.net.”
26 Second-level domains can be further divided into third-level domains, such as
27 “another.example.com,” and so on.
28

1 22. A set of “root servers” provides a list of the registries responsible for maintaining
2 each TLD. For example, at present, the root servers tell users looking for .com or .net domain
3 names to find the location for that domain name on name servers operated by VeriSign. For
4 example, a user looking for google.com would be directed to VeriSign’s .com name server to find
5 the entry for “google.” The VeriSign server, in turn, would tell the user that google could be
6 found at the host identified by the address 64.233.161.147.

7 23. There are currently two different types of TLDs: seventeen generic TLDs
8 (“gTLDs”): “.aero,” “.biz” “.com,” “.coop,” “.info,” “.jobs,” “.mobi,” “.museum,” “.name,”
9 “.net,” “.org,” “.pro,” “.travel,” “.gov,” “.edu,” “.mil,” and “.int” and approximately 240 two-
10 letter country code TLDs (“ccTLDs”), such as “.us,” “.uk,” “.jp,” and “.kr.”

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

16 **C. REGISTRIES, REGISTRARS, AND REGISTRANTS**

17 25. VeriSign acts as the “Registry” for domain names registered in the .com and .net
18 gTLDs in accordance with a written agreement with ICANN. As the Registry for the .com and
19 .net gTLDs, VeriSign maintains the definitive database that associates registered domain names
20 in these gTLDs with the corresponding IP numbers of their respective domain name servers. The
21 domain name servers, in turn, direct Internet queries to resources such as websites and e-mail
22 systems. This database is known as a “zone file.” Oftentimes, the Registry is referred to as a
23 “Registry operator” and the zone file is referred to as the “Registry.”

24 26. A domain name is created by an individual or organization that registers the
25 domain name and thereby includes it in the zone file. The individual or organization that registers
26 a specific domain name is a “Registrant.”

27 27. Registrants do not have direct access to the VeriSign Registry and do not interact
28 directly with the Registry in connection with domain name registrations. Instead, prospective

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1 registrants must register domain names through any one of over 130 private companies located in
2 the United States and throughout the world that act as domain name “Registrars” for the second-
3 level domain names in the .com and .net gTLDs.

4 28. Internet users typically interact with the DNS through their Internet Service
5 Providers (“ISP”). Specifically, when a user requests a Web site associated with a domain name,
6 the user’s computer searches its local cache for the IP address associated with that domain name.
7 If the IP address is not found locally, the computer will query the ISP’s name server. If the ISP’s
8 name server does not have the address for the domain name requested, it will query the
9 appropriate Registry’s name server (*i.e.*, its zone file), from which it will obtain the name and IP
10 address of the name server associated with the domain name requested. It will then query the
11 name server associated with the domain name, and pass the IP address back to the user’s
12 computer.

13 **D. COMPETITION FOR THE TLD REGISTRY AGREEMENTS**

14 29. Historically, ICANN has sought to obtain the benefits of competition by putting
15 TLD registry agreements out for bid, and by selecting a registry operator on the basis of the
16 benefits to consumers in price and quality of service presented by each prospective registry
17 operator.

18 30. In fact, one of the principal reasons ICANN was created was to enable competition
19 in the registration of domain names.

20 31. As set forth more completely below, on July 1, 1997, as part of the Clinton
21 Administration’s Framework for Global Electronic Commerce, the President directed the
22 Secretary of Commerce to privatize the domain name system (DNS) in a manner that increases
23 competition and facilitates international participation in its management.

24 32. This Presidential directive resulted in a policy process that created ICANN. One
25 of the principal statements of United States policy behind the creation of ICANN was a document
26 released by the U.S. Department of Commerce on June 5, 1998, and titled “Management of
27 Internet Names and Addresses,” Docket Number: 980212036-8146-02. This document is often
28 referenced by ICANN and the entities that are involved in ICANN as the “White Paper.” The

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1 White Paper specifically provided that the corporation which would become ICANN should seek
2 to use “Where possible, market mechanisms that support competition and consumer choice.” The
3 United States believed that competition would “lower costs, promote innovation, encourage
4 diversity, and enhance user choice and satisfaction.”

5 33. This mandate to create competition is one of the core values currently written into
6 ICANN's by-laws (“In performing its mission, the following core values should guide the
7 decisions and actions of ICANN:....(6) Introducing and promoting competition in the registration
8 of domain names where practicable and beneficial in the public interest.”).

9 34. Periodic bidding for the TLD registry agreements has yielded substantial benefits
10 for consumers. For example, VeriSign and others recently bid competitively for the right to
11 operate the .net registry beginning in July 2005. VeriSign’s bid was selected as the winning bid
12 in part because VeriSign promised immediately to *lower* .net registration fees by more than thirty
13 percent.

14 35. Because there can be only one registry operator at a time for each TLD registry,
15 there is no competition among prospective registry operators during the term of each registry
16 agreement. The only time there can be competition among prospective registry operators is at the
17 end of a registry agreement, when the next registry operator must be selected.

18 36. The only competitive constraint on a TLD registry operator is the meaningful
19 prospect that the operator could lose the registry in the next round of bidding on the basis of
20 overcharging or poor performance during the current contract term.

21 37. The threat of future competitive bidding not only constrains the TLD operator at
22 the moment when it bids, but also during its operation of the registry. A failure to act reasonably
23 and provide service on competitive terms and conditions throughout the contract term poses a
24 potential for the current operator to lose in future bidding competition for the TLD registry
25 agreement.

26 38. Until June 2005, VeriSign had operated both the .net and the .com registries under
27 the competitive threat of future competitive bidding. When ICANN awarded the contract for the
28 .net registry to VeriSign in July 2005, however, ICANN and VeriSign eliminated all realistic

1 prospects that VeriSign would face competitive bidding for that registry in the future. The new
2 2005 .net Agreement included a renewal provision that allowed ICANN to solicit competitive
3 bids for the .net registry only if a court or arbitrator issued a non-appealable final order finding
4 VeriSign to be in breach of the agreement, and VeriSign failed to cure the breach. The proposed
5 2006 .com Agreement challenged in this action includes an identical provision, thereby
6 eliminating all realistic prospect that VeriSign will face competitive bidding for the .com registry
7 in the future.

8 **E. OTHER TLDs ARE NOT SUBSTITUTES FOR .COM AND .NET**

9 39. The .com registry does not compete with other TLDs. The .net registry also does
10 not compete with other TLDs. The .com and .net registries cannot compete with each other for an
11 additional, separate reason: VeriSign controls both the .com and the .net registries.

12 40. Consumers do not regard .com domain names as having reasonable substitutes in
13 any other top-level domain name registries. Demand cross-elasticities between .com domain
14 names, on the one hand, and domain names in other TLDs such as .net, .info, .biz and in country
15 code TLDs, are low. Decreases in the price of domain name registrations in other TLDs (such as
16 occurred on July 1, 2005 when .net domain name registration prices were cut by more than thirty
17 percent) do not result in price decreases for .com domain name registrations. As a promotional
18 device, .info domain names were given away for free for a significant period when that registry
19 first started to operate. During that time, there was no discernible number of registrants switching
20 from .com domain names to .info domain names. The prices that consumers are willing to pay
21 for .com domain name registrations in auctions substantially exceed the prices they are willing to
22 pay for domain name registrations in other TLDs when they are offered at auctions. For example,
23 during the past year, nine .com domain names sold for \$600,000.00 or more, while the highest
24 selling .biz domain name was \$15,000.00.

25 41. Many .com domain name registrants regard domain names in other TLDs as
26 complements to, rather than substitutes for, .com domain name registrations and seek similar
27 domain name registrations in a number of TLDs. In fact, VeriSign itself has registered not only
28 “verisign.com” but also “verisign.net,” “verisign.info,” and “verisign.biz,” among others.

1 Moreover, most .com domain name registrants would experience overwhelming costs to switch
2 from a .com domain name registration to the complementary domain name in another TLD (for
3 example, a switch from cook.com to cook.net or to cook.info), including potential lost traffic, e-
4 mails, and goodwill, as well as slippage in search engine results and costs associated with revising
5 letterhead, business cards, Internet listings, and websites. As a result, they would not regard
6 domain names in other TLDs as reasonable substitutes for domain names in the .com TLD.

7 42. For many .com domain name registrants, their .com domain name has become
8 their trademark or trade name, such as “Amazon.com.” These registrants do not regard domain
9 names in other TLDs, such as “Amazon.net,” to be reasonable substitutes for their .com domain
10 name registrations. For a company that has branded its online identity with a .com domain name,
11 the costs of changing that branding to a new TLD are enormous. For this reason, .com registrants
12 are locked into their use of the .com registry.

13 43. .com domain names are the primary commercial domain names and dominate the
14 market for domain names registered for commercial purposes. There are in excess of 46,000,000
15 .com domain name registrations, which is 76 percent of domain names registered in generic TLDs
16 (.com, .net, .org, .info, and .biz) and roughly 46 percent of all domain names registered in any
17 TLD (including those registered in restricted TLDs such as .gov or .museum, and the country
18 code TLDs).

19 44. Consumers likewise do not regard .net registrations as having reasonable
20 substitutes in any other top level domain name registries. Demand cross-elasticities between
21 domain names in the .net TLD, on the one hand, and domain names in other TLDs such as .com,
22 .info, .biz and country code TLDs, are low. The significant decrease in the registration fee for
23 .net domain names in July 2005 (more than thirty percent) did not result in significant numbers of
24 consumers switching to .net domain names from domain names in other TLDs. When .info
25 domain names were being given away for free when that registry first started to operate, there was
26 no discernible number of registrants switching from .net domain names to .info domain names.
27 The prices that consumers are willing to pay at auctions for .net domain name registrations
28 substantially exceed the prices they are willing to pay for domain names in all other TLDs when

1 they are offered at auction, with the sole exception of .com domain names. For example, during
2 the past year the highest selling .net domain name was \$150,000.00, which more than double
3 what anyone was willing to pay for a domain name in the other TLDs (other than the .com TLD).

4 45. As with registrants of .com domain names, many .net domain name registrants use
5 their .net domain name as their trademark or trade name, such as “earthlink.net.” They would be
6 unwilling to incur the substantial switching costs involved in switching from their .net domain
7 name to a complementary domain name in another TLD (such as a switch from “att.net” to
8 “att.info”). Moreover, because .net domain names are the primary domain names used for
9 networking purposes and dominate the market for such names, they are commonly used by
10 Internet and e-mail service providers who could not easily substitute a domain name in an
11 alternative TLD without potentially disrupting traffic for thousands if not millions of customers.
12 Domain names in the .net TLD exceed 6,500,000, comprising 11 percent of all domain names
13 registered in unrestricted generic TLDs and roughly 7 percent of all registered domain names.

14 46. There are a limited number of generic TLDs. A number of these generic TLDs,
15 such as .mil, .museum, and .travel, impose restrictions on who can register a domain name in the
16 TLD and the purpose for which such a domain name can be used. Other generic TLDs, such as
17 .org and .edu, are recognized by consumers as being used in connection with particular purposes,
18 such as non-profit organizations and educational institutions. None of these generic TLDs
19 compete with the .com or .net TLDs.

20 47. The country codes TLDs do not compete with either the .com TLD or the .net
21 TLD. Many ccTLDs impose nexus requirements between the prospective registrant and the host
22 country for the ccTLD, preserving the idea that domain names in ccTLDs should be used by
23 individuals and entities that have a nexus with the host country. Some of these nexus
24 requirements can be quite onerous, for example, limiting domain name registrations to entities
25 formed or incorporated in the host country. Even in those cases where there is no nexus
26 requirement, a ccTLD is not viewed as a reasonable substitute for a .com or .net domain name for
27 individuals and entities who have no nexus with the host country because it could lead to
28 consumer confusion. For example, a company located in the United States would not view a

1 domain name registered in the Mexican TLD as a substitute for a domain name registered in the
2 .com or .net TLDs. Additionally, all country code TLDs are operated and managed outside of the
3 United States, and are therefore not subject to United States antitrust laws and statutes.
4 Registration with ccTLDs requires a Registrant to leave the borders and protection of the United
5 States. Therefore, these ccTLDs cannot be counted as part of the relevant market for determining
6 antitrust violations.

7 **F. COMPETITION IN REGISTRATION OF EXPIRING NAMES**

8 48. Qualified registrars are granted a limited number of connections to VeriSign's
9 registry computers, which they use to register domain names on behalf of registrants. To register
10 a new or expiring domain name, a registrar sends an "add" command to VeriSign's registry
11 computer for that domain name; if the name is available, the "add" command is accepted, and the
12 domain name is registered on behalf of a registrant.

13 49. There currently exists a competitive marketplace for obtaining expired domain
14 names. This market is comprised of back order service providers, who compete to provide the
15 lowest prices and highest quality service to customers seeking to register recently-expired domain
16 names. Many companies, such as SnapNames and Pool.com, compete in this Expiring Names
17 Registration Services Market. Back-order service providers compete on the basis of price and on
18 quality of service to obtain customers who are seeking recently-expired domain names. Price
19 competition has at times been fierce. For example, at one time SnapNames charged
20 approximately \$60 to a customer seeking an expired domain name irrespective of whether
21 SnapNames was ultimately successful in obtaining the domain name for the customer.

22 50. Pool.com introduced "pay-for-performance" as a competitive initiative, offering a
23 back order service for which the customer paid only if it obtained the domain name for the
24 customer. The competitive market has largely adopted "pay-for-performance." In order to attract
25 customers, back order service providers have had to compete on quality of service. The more
26 effective a back order service provider is in obtaining domain names, the more customers it
27 attracts, resulting in more income. Consumers have benefited in both price and quality of service
28 from competition in the Expiring Name Registration Services Market.

1 **G. HISTORY OF gTLD DOMAIN NAME ADMINISTRATION**

2 51. Today's Internet has its origin in a network called the ARPAnet which was
3 launched by the Department of Defense ("DOD") in 1969. ARPAnet was later linked to other
4 networks established by various government agencies, universities, and research facilities. In
5 1990, NSFnet, the network developed by the National Science Foundation superseded ARPAnet.

6 52. In 1992, Congress passed the Scientific and Advanced-Technology Act of 1992,
7 42 U.S.C. § 1862(g), which allowed commercial activity on NSFnet and permitted NSFnet to
8 interconnect with commercial networks.

9 53. In 1993, NSF signed a cooperative agreement with Network Solutions ("NSI")
10 under which NSI became the exclusive registrar for second-level domains in .com, .net, .org, and
11 .edu, as well as the exclusive Registry operator for each of those top-level domains. The NSF
12 initially underwrote NSI's domain registration services, thereby allowing Internet users to register
13 domain names free of charge. However, on or about September 13, 1995, NSF and NSI entered
14 into Amendment 4 of the cooperative agreement, which permitted NSI to charge Internet users
15 \$100 for a two-year registration of a second-level domain in the .com, .net, and .org domains.
16 Thirty percent of the registration fees were to be paid into an NSF Infrastructure fund. In April
17 1998, the portion of the fee allocated to the Infrastructure fund was held to constitute an
18 unconstitutional tax, and the effective rate for domain registrations dropped to \$35 per year.

19 54. On July 1, 1997, the Clinton administration issued a report on electronic
20 commerce, "*A Framework for Global Electronic Commerce*." The report supported private
21 efforts to address Internet governance and made the Department of Commerce ("DOC") the lead
22 agency on this initiative. Accompanying the report was a presidential directive that called on the
23 DOC to "support efforts to make the governance of the domain name system private and
24 competitive and to create a contractually based self-regulatory regime that deals with potential
25 conflicts between domain name usage and trademark laws on a global basis." To carry out this
26 mission, the DOC first issued a Request for Comment on DNS administration, and then on
27 February 20, 1998, it published "*Proposal to Improve Technical Management of Internet Names
28 and Addresses*" (commonly referred to as the "Green Paper").

1 55. After receiving more than 650 comments, the DOC ended the proposed
2 rulemaking and instead published on June 10, 1998, a policy statement also known as the “White
3 Paper.” The White Paper, reflecting the views of the overwhelming majority of comments, called
4 upon the private sector to create a new, not-for-profit corporation to assume responsibility, over
5 time, for the management of certain aspects of the DNS. The White Paper identified four specific
6 functions to be performed by this new corporation: (i) To set policy for and direct the allocation
7 of Internet Protocol number blocks; (ii) To develop overall policy guidance and control of top-
8 level domains and the Internet root server system; (iii) To develop policies for the addition,
9 allocation, and management of gTLDs, and the establishment of domain name registries and
10 domain name registrars and the terms, including licensing terms, applicable to new and existing
11 gTLDs and registries under which registries, registrars, and gTLDs are permitted to operate; and
12 (iv) To coordinate maintenance and dissemination of the protocol parameters for Internet
13 addressing. The White Paper also articulated the fundamental policies that would guide United
14 States participation in the transfer of DNS management responsibility to the private sector:
15 stability; competition; private, bottom-up coordination; and representation.

16 56. The White Paper listed a number of tasks to be undertaken on a priority basis,
17 including, in particular, the creation and organization of a new, not-for-profit corporation
18 (“NewCo”) to manage the DNS and the rapid introduction of competition in the provision of
19 domain name registration services. The Department of Commerce committed to enter into an
20 agreement with NSI by which NSI would agree to take specific actions, including commitments
21 as to pricing and equal access, designed to permit the development of competition in domain
22 name registration.

23 57. In fulfillment of the commitment expressed in the White Paper, on October 7,
24 1998, the DOC and NSI entered Amendment 11 to the Cooperative Agreement. In Amendment
25 11, NSI agreed to recognize NewCo “when recognized by the [DOC] in accordance with the
26 provisions of the Statement of Policy.” NSI further committed to enter into a contract with
27 NewCo, and acknowledged “that NewCo will have the authority, consistent with the provisions of
28 the Statement of Policy and the agreement between the [DOC] and NewCo, to carry out NewCo’s

1 Responsibilities.” Under Amendment 11, “NewCo’s Responsibilities” specifically include the
 2 establishment and implementation of DNS policy and the terms, including licensing terms,
 3 applicable to new and existing gTLDs and registries under which registries, registrars and gTLDs
 4 are permitted to operate.” Amendment 11 also provided for the development, deployment, and
 5 licensing by NSI (under a license agreement to be approved by the Department of Commerce) of
 6 a mechanism to allow multiple registrars to submit registrations for the gTLDs for which NSI
 7 acted as the Registry (the “Shared Registration System,” or “SRS”).

8 **H. ICANN’S ROLE IN THE INTERNET DOMAIN NAME SYSTEM**

9 58. In September 1998, Defendant Internet Corporation for Assigned Names and
 10 Numbers was formed. ICANN is a non-profit public benefit corporation organized without
 11 members pursuant to California Corporation Code § 5110 et. seq. According to its by-laws, the
 12 board of directors of ICANN controls it.

13 59. In October 1998, ICANN transmitted to the Department of Commerce a copy of
 14 its articles of incorporation, and proposed by-laws. In November 1998, the DOC entered into a
 15 Memorandum of Understanding (“MOU”) with ICANN that recognized ICANN as the new, now
 16 completely independent, not-for-profit corporation for DNS management and specifically
 17 contemplated ultimate transition of management responsibility to ICANN. The MOU expressly
 18 identified the promotion of competition in the DNS as one of its central principles.

19 60. In the MOU, ICANN expressly agreed to abide by principles of stability,
 20 competition, private, bottom-up coordination, and representation:

21 C. The Principles:

22 The parties will abide by the following principles:

23 1. Stability

24 This Agreement promotes the stability of the Internet and allows
 25 the Parties to plan for a deliberate move from the existing structure
 26 to a private-sector structure without disruption to the functioning of
 27 the DNS. The Agreement calls for the design, development, and
 28 testing of a new management system that will not harm current
 functional operations.

2. Competition

1 This Agreement promotes the management of the DNS in a manner
2 that will permit market mechanisms to support competition and
3 consumer choice in the technical management of the DNS. This
4 competition will lower costs, promote innovation and enhance
5 user choice and satisfaction.

3. Private, Bottom-Up Coordination

5 This Agreement is intended to result in the design, development,
6 and testing of a private coordinating process that is flexible and able
7 to move rapidly enough to meet the changing needs of the Internet
8 and of Internet users. This Agreement is intended to foster the
9 development of a private sector management system that, as far as
10 possible, reflects a system of bottom-up management.

4. Representation.

10 This Agreement promotes the technical management of the DNS in
11 a manner that reflects the global and functional diversity of Internet
12 users and their needs. This Agreement is intended to promote the
13 design, development, and testing of mechanisms to solicit public
14 input, both domestic and international, into a private-sector decision
15 making process. These mechanisms will promote the flexibility
16 needed to adapt to changes in the composition of the Internet user
17 community and their needs.

14 61. The MOU also obligated ICANN to “act in a non-arbitrary and reasonable manner
15 with respect to design, development, and testing of the DNS Project and any other activity related
16 to the DNS Project,” and to refrain from acting “unjustifiably or arbitrarily to injure particular
17 persons or entities or particular categories of persons or entities.”

18 62. Under the MOU, ICANN exclusively awards the generic and country code TLD
19 registry agreements, including the registry agreements for the .com and .net TLDs.

20 63. The original MOU was scheduled to terminate on September 30, 2000, and has
21 been amended six times. The most recent amendment, which was entered into on or around
22 September 17, 2003, is scheduled to terminate on September 30, 2006. In this amendment, the
23 DOC reaffirmed “its policy goal of privatizing the technical management of the DNS in a manner
24 that promotes stability and security, competition, coordination, and representation.”

25 64. ICANN’s by-laws also explicitly recognize “core values,” which “should guide the
26 decisions and actions of ICANN,” including:

- 27 1. “Where feasible and appropriate, depending on market mechanisms to
28

1 promote and sustain a competitive environment.”

2 2. “Introducing and promoting competition in the registration of domain
3 names where practicable and beneficial in the public interest.”

4 65. Within the mandate contained in the MOU, ICANN has had and continues to have
5 very broad discretion over how it fulfills its obligations under the MOU. The DOC no longer has
6 any control over the workings of ICANN, nor does it actively influence ICANN’s decision-
7 making procedures. The DOC has recognized that ICANN is subject to federal anti-trust laws.

8 **I. ICANN’S AGREEMENTS WITH VERISIGN**

9 **1. The 2001 .com and .net Agreements (“the 2001 Registry Agreements”)**

10 66. On or about November 10, 1999, NSI and ICANN entered into a written Registry
11 Agreement (the “1999 Registry Agreement”) with respect to NSI’s operation of the Registry for
12 the .com and .net gTLDs.

13 67. On or about May 25, 2001, VeriSign and ICANN entered into the 2001 .com
14 Agreement with respect to VeriSign’s operation of the .com registry and the 2001 .net Agreement
15 with respect to VeriSign’s operation of the .net registry. The 2001 Registry Agreements
16 superseded the 1999 Registry Agreement with NSI.

17 68. In accordance with the 2001 Registry Agreements, Verisign undertook to operate
18 the .com and .net gTLD registry and to pay certain registry-level fees to ICANN. Verisign is the
19 sole registry for the .com and .net gTLDs and therefore maintains a monopoly over the .com and
20 .net gTLDs.

21 69. The 2001 .com Agreement is set to expire on November 10, 2007, but provides
22 that VeriSign may submit a written proposal to extend the agreement between November 10,
23 2005, and May 10, 2006. ICANN is required to consider this proposal for a period not to exceed
24 six (6) months “before deciding whether to call for competing proposals from potential successor
25 registry operators.” VeriSign “shall be awarded a four-year renewal term” unless ICANN
26 determines that VeriSign is in material breach of the 2001 .com Agreement, or the proposal to
27 extend the agreement contains a maximum price that exceeds the price allowed under Section 22
28

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1 of the 2001 .com Agreement or certain other conditions apply. This four-year renewal term, if
2 granted, would expire on November 10, 2011.

3 70. VeriSign has repeatedly breached the terms of the 2001 .com Agreement, and
4 ICANN itself has sought to redress certain of VeriSign's breaches in litigation against VeriSign.
5 These breaches give ICANN the right to seek competitive bids to replace VeriSign at the
6 expiration of the current term, or even earlier. The MOU's mandate that ICANN support
7 competition requires it to exercise its right to seek competitive bids because of VeriSign's
8 repeated breaches.

9 71. VeriSign and ICANN have agreed to bypass this process by entering into a new
10 .com Registry Agreement that will replace the current .com Registry Agreement prior to its
11 expiration. In the new 2006 .com Agreement, negotiated and agreed to by defendants, VeriSign
12 is proposing to set a new maximum price for domain name registrations that exceeds the price
13 allowed under Section 22 of the 2001 .com Agreement. If VeriSign had proposed this pricing
14 change to ICANN as part of a written proposal to extend the 2001 .com Agreement (as
15 contemplated by that agreement), ICANN would have had the right, and (because of the MOU)
16 the obligation, to seek competitive bids for the .com registry.

17 72. The 2001 .net Agreement also allowed for competitive bidding, which took place
18 in advance of its expiration on June 30, 2005. That agreement established a procedure by which
19 ICANN was to select as a successor operator of the .net registry "the eligible party that it
20 reasonably determines is best qualified to perform the registry function . . . taking into account all
21 factors relevant to the stability of the Internet, promotion of competition, and maximization of
22 consumer choice"

23 73. Under both the 2001 .com Agreement and the 2001 .net Agreement, VeriSign is
24 required to provide "Registry Services" to ICANN-accredited registrars in a manner meeting the
25 performance and functional specifications attached to the agreement. "Registry Services" are
26 defined in the 2001 .com Agreement as follows:

27 "Registry Services" means services provided as an integral part of
28 the Registry TLD, including all subdomains. These services
include: receipt of data concerning registrations of domain names

1 and nameservers from registrars; provision to registrars of status
2 information relating to the Registry TLD zone servers,
3 dissemination of TLD zone files, operation of the Registry zone
4 servers, dissemination of contact and other information concerning
5 domain name and nameserver registrations in the Registry TLD,
6 and such other services required by ICANN through the
7 establishment of Consensus Policies as set forth in Definition 1 of
8 this Agreement.

9 The 2001 .net Agreement contains a substantially similar definition of “Registry Services.”

10 74. Under both the 2001 .com Agreement and the 2001 .net Agreement, VeriSign is
11 also obligated to comply with “Consensus Policies,” which consist of specifications and policies
12 established on the basis of a consensus among Internet stakeholders represented in the ICANN
13 process, as demonstrated by compliance with detailed procedures prescribed in the agreement.
14 The consensus policy limits VeriSign’s ability to exact monopoly pricing or other monopoly
15 terms.

16 75. The 2001 .com Registry Agreement defines “Consensus Policies” as consisting of
17 those specifications and policies established on the basis of a consensus among Internet
18 stakeholders represented in the ICANN process, as demonstrated by compliance with specific,
19 detailed procedures prescribed in the agreement. Exh. 1, section I.1.

20 76. The 2001 Registry Agreements set forth “General Obligations of Registry
21 Operator [VeriSign].” VeriSign generally is obligated to comply with Consensus Policies if,
22 among other requirements, they are properly adopted by ICANN and consistent with ICANN’s
23 other contractual obligations, and (A) they “do not unreasonably restrain competition”; and (B)
24 relate to “(1) issues for which uniform or coordinated resolution is reasonably necessary to
25 facilitate interoperability, technical reliability, and/or stable operation of the Internet or DNS, (2)
26 Registry policies reasonably necessary to implement Consensus Policies relating to registrars, or
27 (3) resolution of disputes regarding the registration of domain names (as opposed to the use of
28 such domain name).” Exh. 1, section II.

77. In an effort avoid federal antitrust violations by VeriSign, the 2001 .com Registry
Agreement further sets forth the following “General Obligations of ICANN.” “With respect to all
matters that impact the rights, obligations, or role of Registry Operator,” the agreement explicitly

1 provides that ICANN shall, among other obligations: (i) “exercise its responsibilities in an open
2 and transparent manner,” (ii) “not unreasonably restrain competition and, to the extent feasible,
3 promote and encourage robust competition....” As discussed below, these goals were abandoned
4 in the 2005 .net and 2006 .com Registry Agreements. Exh. 1, section II.4.

5 78. Appendix G to both the 2001 .com Agreement and the 2001 .net Agreement sets
6 forth the maximum prices VeriSign can charge for specified services. Among other things,
7 Appendix G sets a maximum price of six dollars (\$6.00) per year for registration of a domain
8 name and six dollars (\$6.00) per year for renewal or extension of the registration of a domain
9 name. In addition, for each one-year domain name registration a “registry-level transaction fee”
10 of \$0.25 is charged and paid to ICANN. Under the 2001 .com Agreement, a registrar currently
11 pays \$6.00 per year to register each domain name registered with VeriSign. The registrar also
12 pays \$0.25 to ICANN for the registry-level transaction fee. Any amount above \$6.25 that is
13 charged to the registrant is kept by the registrar. On information and belief, VeriSign has always
14 charged the maximum price allowed under the 2001 .com Agreement and 2001 .net Agreement to
15 register a .com or .net domain name. Thus, the maximum price has been more than a price cap; it
16 has been the *de facto* price.

17 79. Appendix I to both the 2001 .com Agreement and the 2001 .net Agreement
18 includes a Code of Conduct. Under the Code of Conduct, VeriSign is obligated to “at all times
19 strive to operate as a trusted and neutral third-party provider of Registry Services.” Among other
20 obligations, the Code of Conduct requires VeriSign to treat all ICANN-accredited registrars
21 equally and to give them equivalent access to the registry and prohibits VeriSign from
22 warehousing or registering domain names in its own right other than through an ICANN-
23 accredited registrar.

24 2. The Unlawful and Anticompetitive 2005 Registry Agreements

25 80. Unrestrained by any competition, ICANN and VeriSign have now abandoned their
26 commitments to avoid unreasonable restraints of trade and promote fair competition in the
27 “Covenants” or “General Obligations” to this effect.
28

1 81. Moreover, VeriSign is now using its monopoly power to raise prices above their
2 natural level and permit VeriSign to leverage their power into other markets. The antitrust and
3 unfair competition laws were enacted to prohibit this very conduct.

4 82. Defendants have agreed to eliminate the competitive constraints imposed by the
5 competitive bidding process, the Consensus Policies and the Code of Conduct, and thereby to
6 secure for VeriSign an unlawful monopoly in each of the relevant markets. Pursuant to the
7 conspiracy, ICANN allowed VeriSign to alter substantial terms of its bid for the 2005 .net
8 Agreement, after the bid was accepted by ICANN and after bidding was closed to other
9 participants. The conspiracy led to the implementation of the monopolistic provisions in the 2005
10 .net Agreement, and also includes an understanding between the conspirators as to the terms for
11 the .com Registry Agreement.

12 83. The objectives of the unlawful conspiracy are to replace the 2001 .com and .net
13 Agreements with successor agreements that eliminate permanently all vestiges of competition in
14 the operation of these two registries and in the Relevant Markets; to secure for VeriSign free
15 reign to impose supracompetitive prices for registrations of domain names in the .com and .net
16 TLDs; to free VeriSign from current limitations that prevent it from leveraging monopolies in
17 downstream and adjacent markets; and to divide between VeriSign and ICANN the monopoly
18 profits achieved by operation of the conspiracy.

19 84. ICANN and VeriSign have agreed (a) to extend the term of VeriSign's control of
20 the .com registry for an additional five years beyond the termination date under the current 2001
21 .com Agreement, in violation of its terms and without ever submitting the renewal to any sort of
22 competitive bidding; (b) to eliminate any meaningful prospect that VeriSign will ever have to
23 compete to operate the .net registry or the .com registry or that there will be any competitive
24 bidding to operate either of them; (c) to increase the overall prices to consumers of domain names
25 in the .com and .net TLDs; (d) to assure that any contractual price caps will be identical to the
26 actual prices by having eliminated any competitive constraint on VeriSign in the relevant
27 markets; (e) to free VeriSign to launch preemptive services that, by virtue of its control of the
28 .com and .net registries, will eliminate rivalry and permit VeriSign to exploit a complete

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1 monopoly over traffic data and other resources it has never paid or competed for the right to
2 exploit; and (f) to provide mechanisms by which ICANN shares in the resulting monopoly profits.

3 85. **Elimination of Competitive Bidding.** Under the terms of the conspiracy, ICANN
4 has agreed to divest itself of any meaningful ability to require VeriSign to bid for a renewal term
5 against competing registry operators for the .com TLD. Under the existing 2001 .com
6 Agreement, ICANN has the right to require VeriSign to bid for a renewal term to begin in
7 November 2007. Under the MOU between ICANN and the Department of Commerce, ICANN is
8 required to avail itself of every available opportunity to harness competition for the benefit of
9 consumers and the Internet.

10 86. The 2006 .com Registry Agreement provides for the automatic renewal of the
11 agreement, *inter alia*, as follows:

12 Renewal. This Agreement shall be renewed upon the expiration of
13 the term set forth in Section 4.1 above and each later term, unless
14 the following has occurred : (i) following notice of breach to
15 Registry Operator in accordance with Section 6.1 and failure to cure
16 such breach within the time period prescribed in Section 6.1, an
17 arbitrator or court has determined that Registry Operator has been
18 in fundamental and material breach of Registry Operator's
19 obligations set forth in Sections 3.1(a), (b), (d) or (e); Section 5.2 or
20 Section 7.3 and (ii) following the final decision of such arbitrator or
21 court, Registry Operator has failed to comply within ten days with
22 the decision of the arbitrator or court, or within such other time
23 period as may be prescribed by the arbitrator or court.

24 Upon renewal, in the event that the terms of this Agreement are not
25 similar to the terms generally in effect in the Registry Agreements
26 of the 5 largest gTLDs (determined by the number of domain name
27 registrations under management at the time of renewal), renewal
28 shall be upon terms reasonably necessary to render the terms of this
Agreement similar to such terms in the Registry Agreements for
those other gTLDs. The preceding sentence, however, shall not
apply to the terms of this Agreement regarding the price of Registry
Services... Upon renewal, Registry-Level Transaction Fees may be
reasonably modified so long as any increase in such fees shall not
exceed the average of the percentage increase in Registry-Level
Transaction Fees for the 5 largest gTLDs (determined as for the 5
largest gTLDs (determined as above), during the prior three-year
period.

26 87. ICANN's conspiratorial agreement to waive its right to impose competitive
27 bidding with respect to operation of the .com registry, and to violate its contract with the federal
28

1 government, is a keystone of the overall conspiracy with VeriSign. ICANN has similarly
2 conspired with VeriSign to eliminate future competitive bidding for operation of the .net registry.
3 In 2005, competitive bidding for the .net registry yielded a reduction in the price for .net domain
4 name registrations that was in excess of thirty percent. ICANN's and VeriSign's conspiracy
5 eliminates this possibility in the future.

6 **88. Increasing Prices.** The conspiracy increases significantly the prices that VeriSign
7 will charge for .com and .net domain name registrations. The conspiracy also, in effect, raises the
8 amounts that registrants ultimately bear for the registry level transaction fees paid to ICANN. By
9 eliminating periodic rivalry to run the registry, VeriSign will be unconstrained in setting prices
10 and will charge the maximum cap allowed by the terms of the conspiracy.

11 **89.** The 2006 .com Registry Agreement affects prices by not only redrafting the
12 previous provisions for maximum price, but also redefining which terms are included in the
13 maximum price. In the 2006 .com Registry Agreement VeriSign and ICANN effectively fix the
14 price for .com domain name registration at \$6 through December 31, 2006, and further conspire
15 to permit VeriSign to permanently raise the price of .com registration 7% for four out of the next
16 six years. This price exceeds the historical rate of inflation and is greater than what a fair market
17 would otherwise bear.²

18 **90.** Furthermore, the 2006 .com Registry Agreement specifically excludes the
19 "registry-level transaction fee" from the definition of the maximum price. Therefore, the actual
20 price is not simply \$6.00 plus the ICANN sanctioned 7% increase in four of the next six years,
21 but these two terms plus the registry-level transaction fee. Exh. 2, section 7.3(d). Under the
22 terms of the 2006 .com Registry Agreement, the increase in the registry-level transaction fee is an
23 automatic process. The Agreement makes no provision for registrars and Internet stakeholders to
24 provide any input into the process. *Id.*

25 ² In the 2005 .net Registry Agreement, entered into on June 29, 2005, ICANN and VeriSign agree to set the price for
26 new and renewed domain name registrations at \$4.25. The Agreement then goes on to say that, effective January 1,
27 2007, the "controls on [VeriSign's] pricing set forth in this Agreement shall be eliminated...." Exh. 3, section 7.3.
28 Virtually the only restriction the Agreement places on pricing is that all registrars be equally subject to the price
VeriSign sets and treated equally under any incentive programs VeriSign offers. The unfettered ability to raise prices
indefinitely demonstrates the collusive manipulation and control which ICANN and VeriSign are perpetrating. Only
with certain monopolistic control over the market could the two defendants create such an agreement.

1 91. In addition, pursuant to the conspiracy, the 2005 .net Agreement provides for
2 higher prices in the future for new or renewal domain name registrations in the .net TLD. Until
3 December 31, 2006, the maximum price is set at \$4.25, which includes a \$0.75 Registry-Level
4 Transaction Fee that is paid to ICANN by the registrars. Beginning in 2007, the price controls set
5 forth in the 2005 .net Registry Agreement will be eliminated. Without the constraint of
6 competitive bidding, VeriSign will be free to impose, and will impose, monopoly pricing on .net
7 domain name registrations.

8 92. **Monopoly Leveraging.** The conspiracy also suspends the application of
9 Consensus Policies, contractual restrictions and competitive constraints that otherwise could limit
10 VeriSign's freedom to exact monopoly profits from the relevant markets that are downstream and
11 adjacent to the relevant markets for .com and .net domain name registrations.

12 93. The 2006 .com Registry Agreement sets forth a "Process for Consideration of
13 Proposed Registry Services" whereby ICANN makes a preliminary determination as to whether a
14 Registry Service "(i) could raise significant Security or Stability issues; or (ii) could raise
15 significant competition issues." If ICANN determines that the proposed Registry Service raises
16 significant competition issues, then it must refer the issue "to the appropriate governmental
17 competition authority." If ICANN finds that no competition concerns exist, VeriSign is permitted
18 to provide the new Registry Service.

19 94. Thus, VeriSign will be free to launch the very services, among others, that ICANN
20 and the Internet community have previously thwarted on competitive grounds, including services
21 that would displace the competitive back order services market (such as VeriSign's proposed
22 Central Listing Service ("CLS") or Wait List Service ("WLS")) or similar services. The
23 conspiracy allows VeriSign to mine the economic value of all unregistered domain names by
24 monitoring traffic data (which allows VeriSign to see which unregistered names Internet users
25 attempt to visit), eliminating all forms of competition for which competitive and fair access to this
26 data is necessary. The 2006 .com Agreement permits VeriSign to use its exclusive access to this
27 traffic data for its own commercial benefit, including to promote the sale of domain names.
28

1 95. One of the services VeriSign intends to re-launch under the conspiracy is a
2 modified and expanded version of the Wait List Service, which it has renamed the Central Listing
3 Service (“CLS”). On information and belief, VeriSign intends to launch CLS as soon as possible.
4 The CLS service will affect the manner in which expired .com domain names are released to the
5 public. Under the current system, when a .com domain name is not renewed by the registrant,
6 VeriSign automatically renews it upon expiration and gives the registrar up to forty-five days to
7 inform the registry that the domain name is to be deleted. Once the registrar confirms with the
8 registry that the domain name is to be deleted, the domain name enters the redemption grace
9 period. During this period, a registrant who failed to renew its domain name may do so upon
10 payment of a fee above the standard registry fee. At the end of the redemption grace period, the
11 domain name is added to the pending delete file and all of the registrars are notified that it is
12 pending deletion. At that point, the registrars may use their back order service providers to try to
13 register the domain name on behalf of their registrants.

14 96. Under the proposed CLS service, the pending delete period, as well as the daily
15 release of deleted domain names, will be eliminated. Instead, VeriSign will notify all registrars
16 who have signed the CLS service agreement of the domain names to be deleted, and will hold a
17 five-day auction for all of the domain names. If there are no bids on a particular domain name, it
18 will be released by VeriSign and can be registered as with any other previously unused domain
19 name. If there is a successful bid for the domain name, VeriSign will deduct the bid amount (plus
20 the registry fee and any ICANN fees) from the successful registrar’s account and the domain
21 name will enter a ten-day grace period designed to permit the registrar to collect the bid amount
22 from the successful registrant to complete the auction. Although a registrar has no ownership
23 interest in a domain name, if the registrar that released the domain name has signed the CLS
24 agreement, then the registrar will receive ninety percent of the auction bid. VeriSign will receive
25 the remaining ten percent.

26 97. The 2006 .com Agreement would create a new definition of “Consensus Policies,”
27 including new limitations on what policies can be “Consensus Policies.” The effect of the new
28 limitations on “Consensus Policies” is to restrict the ability of Internet stakeholders other than

1 VeriSign to require VeriSign to act in the interest of the entire Internet community and
2 consistently with the pro-competitive mandate of the Department of Commerce MOU.

3 98. In conspiring with VeriSign to allow VeriSign to leverage its monopoly, ICANN
4 intentionally abdicated its responsibility under the MOU to support competition and to ensure that
5 new proposed registry services are not anticompetitive. As part of the 2006 .com Agreement,
6 ICANN swears off any attempt to review the competitive effect of any proposed registry service.
7 As a result, anticompetitive services that ICANN previously resisted, and new services that
8 ICANN should resist under the MOU's pro-competition mandate, would be approved under the
9 2006 .com Agreement. Under this agreement, if ICANN determines that the proposed registry
10 service "might raise significant competition issues, ICANN shall refer the issue to the appropriate
11 governmental competition authority." The agreement further provides that "[f]ollowing such
12 referral, ICANN shall have no further responsibility, and [VeriSign] shall have no further
13 obligation to ICANN, with respect to any competition issues relating to" the proposed registry
14 service.

15 99. **ICANN's Economic Motives to Conspire.** ICANN is motivated to enter into the
16 conspiracy by economic factors. First, the conspiracy provides for ICANN to share in the
17 monopoly profits, including among other things, through the payment by VeriSign to ICANN of a
18 "registry level fee," beginning at \$6 million dollars per year and increasing over the next two
19 years to potentially in excess of \$12 million dollars per year. Second, VeriSign has put ICANN
20 in financial jeopardy through a stream of costly and aggressive litigation: VeriSign brought
21 claims in federal court that were dismissed without prejudice; filed similar claims again in federal
22 court that were dismissed with prejudice; proceeded to file for a third time in state court; and has
23 also proceeded in arbitration against ICANN. ICANN has acquiesced to VeriSign's pressure to
24 conspire, and ICANN has further been lured by the share of monopoly profits that it will receive
25 from VeriSign's operations of the .net and .com registries. In addition, the 2005 .net Agreement
26 provides for a maximum price per year for each new or renewal domain name registration. Until
27 December 31, 2006, the maximum price is set at \$4.25, which includes a \$.75 Registry-Level
28 Transaction Fee that is paid to ICANN by the registrar. The increase in the "Registry-Level

1 Transaction Fee” from \$0.25 under the 2001 .net Agreement to \$0.75 under the 2005 .net
2 Agreement allows ICANN to share in the monopoly profit generated by VeriSign’s and ICANN’s
3 conspiracy.

4 100. The conspiracy hands VeriSign an additional windfall by relieving it of its
5 obligation under the 2001 .com Agreement to expend a minimum of two hundred million dollars
6 (\$200,000,000) “for research, development, and infrastructure improvements to the .com, .net,
7 and .org Registries” between May 25, 2001, and December 31, 2010.

8 101. The conspiracy also frees VeriSign from the Code of Conduct in Appendix I to the
9 2001 .com Agreement.

10 **VIII. ICANN’S AND VERISIGN’S ANTICOMPETITIVE, EXCLUSIONARY AND**
11 **PREDATORY CONDUCT IN THE RELEVANT MARKETS**

12 102. The history of ICANN’s oversight of the Internet domain name system has seen an
13 ever-expanding empire-building by VeriSign, most recently with ICANN’s capitulation.
14 VeriSign has repeatedly taken steps to expand its limited-duration contractual monopoly over the
15 registry itself into a permanent monopoly over that registry and over markets for various domain
16 name services. VeriSign’s misconduct has included in several instances outright breaches of its
17 contracts with ICANN. Indeed, these breaches have led to litigation between VeriSign and
18 ICANN in which ICANN brought a counterclaim alleging that VeriSign was in violation of
19 material provisions of its contracts with ICANN. However, ICANN’s resistance to VeriSign’s
20 misconduct has all along been feeble, and now ICANN has capitulated entirely in return for a
21 share of the monopoly profits its acquiescence will afford to VeriSign.

22 **A. ANTICOMPETITIVE CONDUCT IN THE DOMAIN NAME REGISTRATION**
23 **MARKET**

24 103. VeriSign’s persistence in challenging ICANN’s oversight authority has been
25 rewarded with a steady erosion of competition under ICANN. For example, in negotiating to take
26 over operation of the .com registry in 2001, VeriSign deployed its substantial economic muscle to
27 extract from ICANN a renewal term that would make it difficult for ICANN to reopen the
28 registry contract to competitive bidding. Now, the conspiracy all but eliminates that potential for

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1 competition in all of the relevant markets, and virtually ensures VeriSign's monopoly control
2 over these markets. Without the threat of future open bidding on its registry operation contracts,
3 VeriSign is free to increase the prices consumers are charged for registering domain names. In
4 just one manifestation of VeriSign's monopoly control, the proposed .com Registry Agreement
5 calls for an increase in registration fees coupled with guaranteed annual additional increases (in
6 four of the next six years) – and with the renewal provision for four of every six years, in
7 perpetuity. By contrast, because VeriSign failed to secure similar favorable renewal terms in its
8 initial 2001 contract to operate the .net registry, VeriSign faced competitive bidding when it
9 sought to renew the .net registry agreement in 2005. As a result, VeriSign was forced to agree to
10 lower registration fees by thirty percent in connection with that registry in order to win renewal of
11 the contract. The conspiracy frees VeriSign from competitive bidding for either registry in the
12 future.

13 104. VeriSign also used its litigation with ICANN and the confidential settlement
14 negotiations attendant to that litigation to obtain an unfair competitive advantage in its 2005 bid
15 to operate the .net registry. In its settlement negotiations for .com, which preceded the
16 submission of competitive bids for .net, VeriSign learned of material changes in ICANN's
17 registry contractual terms, including the release of price caps and changes in the approval process
18 for new registry services, that allowed VeriSign to submit a more competitive bid for .net than it
19 could have had it been subject to the rules applicable to other bidders.

20 105. VeriSign, insulated from the threat of future competition, has engaged in
21 monopolistic conduct that has disrupted the competitive balance of the Internet, and at times has
22 included flagrant breaches of its obligations under the existing .com and .net registry agreements.
23 For example, VeriSign has taken impermissible steps, without obtaining required consent from
24 ICANN, to introduce, *inter alia*, fee-based services, including "IDN" (international domain name)
25 and "ConsoliDate," in each case undermining ICANN's ability to maintain competitive and
26 nondiscriminatory balance in the markets for domain name services.

1 106. VeriSign engaged in a predatory and exclusionary campaign that included
2 depleting ICANN's resources while at the same time luring it with a share of monopoly profits, in
3 order to exclude rivals from the relevant markets.

4 107. Through its own conduct, including its unlawful conspiracy with ICANN,
5 VeriSign has monopolized the relevant markets for .com and .net domain name registrations, has
6 imposed supracompetitive prices on consumers in those markets, and has eliminated any
7 economic pressure on itself to innovate or offer improvements in service including security and
8 stability.

9 **B. ANTICOMPETITIVE CONDUCT IN THE EXPIRING NAMES REGISTRATION**
10 **SERVICES MARKET**

11 108. Acting alone and also in collusion with ICANN, VeriSign has leveraged, and
12 threatens to leverage, contractual registry monopolies into monopolies over other adjacent and
13 downstream markets and to destroy and completely transform a functioning and competitive
14 marketplace for Internet domain names and related services.

15 109. As described above in more detail, there is strong competition within the Expiring
16 Names Registration Services Market for the registration of expiring domain names. A number of
17 back order service providers compete in this market, and their services have been well-received
18 by consumers.

19 110. ICANN and VeriSign have conspired to eliminate all competition for such services
20 and share between themselves the monopoly profits that VeriSign will take by excluding all other
21 back order service providers. Under the conspiracy, VeriSign will discontinue the existing
22 competitive process through which it currently releases expiring domain names to the public.
23 Instead, VeriSign will implement the Central Listing Service ("CLS") whereby it will retain all
24 expiring .com and .net domain names, and open them up for auction through a dedicated auction
25 site. Registrants will continue to order domain names through registrars, but registrars must deal
26 directly with VeriSign in order to receive expiring names to offer to prospective clients.

27 111. The conspiracy will immediately and permanently substitute a complete VeriSign
28 monopoly in place of the existing competition among back order service providers, with

1 predictable adverse price effects for consumers. At the outset, VeriSign, again with ICANN's
2 blessing, will skim ten percent off winning bids and nothing in the contracts or otherwise will
3 prevent VeriSign from further increasing prices.

4 112. VeriSign's CLS auction monopoly entirely displaces the currently competitive
5 market for back order services.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 **Monopolization Under Section 2 of the Sherman Act**

9 **(Against VeriSign-.com and .net Registration Markets)**

10 113. Plaintiff repeats and incorporates by reference the allegations set forth above as if
11 fully set forth herein.

12 114. For purposes of this claim, the relevant product markets are the .com and .net
13 Registration Markets. The relevant geographic markets are global.

14 115. VeriSign has a complete monopoly in the .com and .net Registration Markets, and
15 exercises market power in those markets. VeriSign has acted alone and in concert with ICANN
16 unlawfully to maintain its monopoly indefinitely into the future in violation of Section 2 of the
17 Sherman Act, 15 U.S.C. § 2.

18 116. VeriSign's monopoly control of the .com and .net Registration Markets has been
19 maintained and extended through exclusionary and predatory conduct.

20 117. It is unnecessary and unreasonable for a single company to continue indefinitely to
21 maintain monopoly control over the .com and .net registries.

22 118. VeriSign's unlawful conduct has caused and, unless enjoined by this Court, will
23 continue to cause adverse and anticompetitive injury to consumers and to the business and
24 property of Internet stakeholders and to CFIT's Supporters, including Pool.com and R. Lee
25 Chambers Company LLC.

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SECOND CAUSE OF ACTION

Attempted Monopolization Under Section 2 of the Sherman Act

(Against VeriSign - .com and .net Registration Markets)

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4 119. Plaintiff repeats and incorporates by reference the allegations set forth above as if
5 fully set forth herein.

6 120. For purposes of this claim, the relevant product markets are the .com and .net
7 Registration Markets. The relevant geographic markets are global.

8 121. VeriSign has a complete monopoly in the .com and .net Registration Markets, and
9 exercises market power in those markets.

10 122. VeriSign has engaged in exclusionary and predatory conduct with the specific
11 intent to extend and perpetuate its monopoly over these relevant markets in violation of Section 2
12 of the Sherman Act, 15 U.S.C. § 2.

13 123. The acts done and threatened by VeriSign are exclusionary insofar as they have
14 prevented and threaten to further prevent in perpetuity any other entity from ever competing to
15 operate the .com and .net registries such as by offering lower prices, superior service or
16 innovation.

17 124. By virtue of VeriSign's exclusionary scheme and unlawful conduct, there is a
18 dangerous probability that VeriSign will succeed in extending its monopoly control over the .com
19 and .net Registration Markets in perpetuity in violation of Section 2 of the Sherman Act, 15
20 U.S.C. § 2.

21 125. If not enjoined, there is a dangerous likelihood that VeriSign's monopolization
22 will continue, with the result that all other existing and potential competitors will be forever
23 excluded from competition in the relevant .com and .net Registration Markets, and VeriSign will
24 continue to impose supra-competitive price increases.

25 126. If not enjoined by this Court, VeriSign will continue to cause adverse and
26 anticompetitive injury to consumers and to the business and property of Internet stakeholders and
27 to CFIT's Supporters, including Pool.com and R. Lee Chambers Company LLC.
28

THIRD CAUSE OF ACTION

Attempted Monopolization Under Section 2 of the Sherman Act

(Against VeriSign – Expiring Names Registration Services Market)

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4 127. Plaintiff repeats and incorporates by reference the allegations set forth above as if
5 fully set forth herein.

6 128. For purposes of this claim, the relevant product market is the Expiring Names
7 Registration Services Market. The relevant geographic market is the world.

8 129. VeriSign has a complete monopoly in the .com and .net Registration Markets, and
9 exercises market power in those markets.

10 130. The Expiring Names Registration Services Market is currently highly competitive.

11 131. VeriSign has engaged in exclusionary and predatory conduct with the specific
12 intent to acquire and maintain unlawfully a monopoly in each of the currently competitive
13 relevant markets, including the Expiring Names Registration Services Market.

14 132. VeriSign's unlawful monopoly, if not enjoined and restrained, will result in the
15 elimination of competition from rival service providers, including CFIT's Supporters, as well as
16 supra-competitive price increases.

17 133. The acts done and threatened by VeriSign pursuant to the 2006 .com Agreement,
18 and the acts undertaken pursuant to the 2005 .net Agreement, as well as the other acts taken by
19 VeriSign to implement this scheme, are exclusionary and predatory insofar as they preclude
20 others from competing for the provision of registration services in the Expiring Names
21 Registration Services Market.

22 134. By virtue of VeriSign's exclusionary scheme and unlawful conduct, there is a
23 dangerous probability that VeriSign will succeed in gaining monopoly control over the currently
24 competitive markets for registering expiring domain names, in violation of Section 2 of the
25 Sherman Act, 15 U.S.C. § 2.

26 135. If not enjoined, there is a dangerous likelihood that VeriSign's monopolization
27 will continue, with the result that all other existing and potential competitors will be forever
28

1 excluded from competition in the relevant Expiring Names Registration Services Market, and that
2 VeriSign will continue to impose supra-competitive price increases.

3 136. If not enjoined by this court, VeriSign will continue to cause adverse and
4 anticompetitive injury to consumers and to the business and property of Internet stakeholders and
5 to CFIT's Supporters, including Pool.com and R. Lee Chambers Company LLC.

6 **FOURTH CAUSE OF ACTION**

7 **Conspiracy to Monopolize Under Section 2 of the Sherman Act**

8 **(Against VeriSign and ICANN – All Relevant Markets)**

9 137. Plaintiff repeats and incorporates by reference the allegations set forth above as if
10 fully set forth herein.

11 138. For purposes of this claim, the relevant product markets are the .com and .net
12 Registration Markets and the Expiring Names Registration Services Market. The relevant
13 geographic markets are global.

14 139. VeriSign has a complete monopoly in the .com and .net Registration Markets, and
15 exercises market power in those markets. It is unnecessary and unreasonable for a single
16 company to continue indefinitely to maintain monopoly control over the .com and .net registries.

17 140. VeriSign has acted in concert with ICANN unlawfully to acquire and maintain
18 VeriSign's monopoly over these relevant markets indefinitely into the future in violation of
19 Section 2 of the Sherman Act, 15 U.S.C. § 2, and both have acted with the specific intent to
20 confer upon VeriSign unlawful monopoly power in these relevant markets.

21 141. The Expiring Names Registration Services Market is currently highly competitive.
22 VeriSign and ICANN have combined and conspired to act together to obtain monopoly power for
23 VeriSign in each of the relevant markets. In furtherance of their conspiracy, VeriSign and
24 ICANN negotiated and entered into agreements and profit-sharing arrangements whereby
25 VeriSign and ICANN will in various ways share the monopoly overcharges that the conspiracy
26 will impose on consumers in the relevant markets.

27 142. Defendants' conspiracy to monopolize the relevant markets has been in violation
28 of § 2 of the Sherman Act.

1 143. Defendants' unlawful conspiracy has caused and, unless enjoined by this Court,
2 will continue to cause adverse and anticompetitive injury to consumers and to the business and
3 property of Internet stakeholders and to CFIT's Supporters, including Pool.com and R. Lee
4 Chambers Company LLC.

5 144. If not enjoined, defendants' conspiracy and restraint on trade will continue.

6 **FIFTH CAUSE OF ACTION**

7 **Conspiracy in Restraint of Trade Under Section 1 of the Sherman Act**

8 **(Against VeriSign and ICANN – All Relevant Markets)**

9 145. Plaintiff repeats and incorporates by reference the allegations set forth above as if
10 fully set forth herein.

11 146. For purposes of this claim, the relevant product markets are the .com and .net
12 Registration Markets and the Expiring Names Registration Services Market. The relevant
13 geographic markets are global.

14 147. VeriSign has a complete monopoly over the relevant .com and .net Registration
15 Markets, and exercises market power in those markets. It is unnecessary and unreasonable for a
16 single company to continue indefinitely to maintain monopoly control over the .com and .net
17 registries.

18 148. VeriSign has acted in concert with ICANN unlawfully to secure monopoly power
19 and to restrain and eliminate competition in the relevant .com and .net Registration Markets
20 indefinitely into the future in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

21 149. The Expiring Names Registration Services Market is currently highly competitive.

22 150. VeriSign and ICANN have conspired to act together to restrain trade and
23 competition in each of these relevant markets in violation of Section 1 of the Sherman Act, 15
24 U.S.C. § 1.

25 151. Defendants' conspiracy to restrain trade in the relevant markets has had, and
26 unless enjoined will continue to have, the effect of harming the competitive process in interstate
27 commerce.

1 152. If not enjoined, defendants' restraint on trade will continue, with the result that all
2 other existing and potential competitors will be excluded from competing in the relevant markets
3 and consumers will be forced to pay, and continue to pay in perpetuity, supra-competitive prices
4 for the registration of .com and .net domain names.

5 153. Defendants' conspiracy has caused, and unless enjoined will continue to cause,
6 injury to consumers and to the business and property of VeriSign's existing and potential
7 competitors and Internet stakeholders and to CFIT's Supporters, including Pool.com and R. Lee
8 Chambers Company LLC.

9 **SIXTH CAUSE OF ACTION**

10 **Conspiracy in Restraint of Trade Under the Cartwright Act**

11 **(Against VeriSign and ICANN – All Relevant Markets)**

12 154. Plaintiff repeats and incorporates by reference the allegations set forth above as if
13 fully set forth herein.

14 155. For purposes of this claim, the relevant product markets are the .com and .net
15 Registration Markets and the Expiring Names Registration Services Market. The relevant
16 geographic markets are global, including California.

17 156. VeriSign has a complete monopoly over the relevant .com and .net Registration
18 Markets, and exercises market power in those markets. It is unnecessary and unreasonable for a
19 single company to continue indefinitely to maintain monopoly control over the .com and .net
20 registries.

21 157. VeriSign has acted in concert with ICANN unlawfully to restrain and eliminate
22 competition in the relevant .com and .net Registration Markets indefinitely into the future in
23 violation of the Cartwright Act, California Business & Professions Code sections 16720 *et seq.*

24 158. The Expiring Names Registration Services Market is currently highly competitive.

25 159. VeriSign and ICANN have conspired to act together to restrain trade and
26 competition in each of these relevant markets in violation of the Cartwright Act California
27 Business & Professions Code sections 16720 *et seq.*

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1 160. Defendants' conspiracy to restrain trade in the relevant markets has had, and
2 unless enjoined will continue to have, the effect of harming the competitive process in California.

3 161. If not enjoined, defendants' restraint on trade will continue, with the result that all
4 other existing and potential competitors will be excluded from competing in the relevant markets
5 in California and consumers will be forced to pay, and continue to pay in perpetuity, supra-
6 competitive prices for the registration of .com and .net domain names.

7 162. Defendants' conspiracy has caused, and unless enjoined will continue to cause,
8 injury to consumers and to the business and property of VeriSign's existing and potential
9 competitors and Internet stakeholders and to CFIT's Supporters, including Pool.com and R. Lee
10 Chambers Company LLC.

11 **PRAYER**

12 WHEREFORE, CFIT prays for judgment as follows:

13 1. For a declaration that the 2005 .net Agreement and the proposed new 2006 .com
14 Registry Agreement are unlawful and in violation of Sections 1 and 2 of the Sherman Act, 15
15 U.S.C. §§ 1 and 2; and the Cartwright Act, California Business & Professions Code
16 sections 16720 *et seq*;

17 2. For a declaration that Section 3.1(b)(v) (the limitations on Consensus Policies),
18 Section 3.1(d) (the definition of Registry Services), Section 4.2 ("Renewal"), and Appendix 9
19 (explicitly authorizing the provision of specified new services) of the 2005 .net Agreement are
20 unlawful in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2; and the
21 Cartwright Act, California Business & Professions Code sections 16720 *et seq*;

22 3. That the Court adjudge and decree that VeriSign has monopolized interstate trade
23 and commerce in the relevant markets in violation of Section 2 of the Sherman Act, 15 U.S.C.
24 § 2;

25 4. That the Court adjudge and decree that VeriSign has attempted to monopolize
26 interstate trade and commerce in the relevant markets in violation of Section 2 of the Sherman
27 Act, 15 U.S.C. § 2;

28

1 5. That the Court adjudge and decree that ICANN and VeriSign have combined and
2 conspired to monopolize interstate trade and commerce in the relevant markets in violation of
3 Section 2 of the Sherman Act, 15 U.S.C. § 2;

4 6. That the Court adjudge and decree that ICANN and VeriSign have combined and
5 conspired to restrain interstate trade and commerce in the relevant markets in violation of
6 Section 1 of the Sherman Act, 15 U.S.C. § 1;

7 7. That the Court adjudge and decree that ICANN and VeriSign have combined and
8 conspired to restrain trade, and to have formed a trust, in violation of the Cartwright Act,
9 California Business & Professions Code §§ 16720 *et seq.*;

10 8. That Defendants and all persons, firms, and corporations acting on their behalf and
11 under their direction or control be permanently enjoined from engaging in, carrying out, renewing
12 or attempting to engage, carry out, or renew, any contracts, agreements, practices, or
13 understandings in violation of the Sherman Act, the Lanham Act, the Cartwright Act, or the
14 Unfair Competition Act, and specifically including, without limitation, the renewal provisions of
15 the proposed .com registry agreement and Section 2.4 “Renewal” of the 2005 .net Agreement;

16 9. That VeriSign be enjoined and prohibited from engaging in any “Registry
17 Services” except for services that are defined as “Registry Services” in the 2001 .com Agreement;

18 10. That VeriSign be ordered to divest promptly and in any event within 90 days the
19 registry business and all assets used or reasonably necessary to its operation to a separate
20 company that will be prohibited from engaging in any business except for services that are
21 defined as “Registry Services” in the 2001 .com Agreement;

22 11. That ICANN be prohibited from approving any service offered by VeriSign, its
23 divestee, or any future party operating the .com or .net registries where the effect may be to tend
24 to create a monopoly, to substantially harm competition, or to restrain trade and competition in
25 any line of commerce;

26 12. That CFIT and other third parties who shall have been or might be injured in their
27 business or property as a result of any violation by ICANN or Verisign of any of the provisions of
28 the Court’s order, including CFIT’s Supporters, be specifically authorized to enforce the

1 provisions of thereof in this Court, including without limitation pursuant to the antitrust laws of
2 the United States as well as any applicable state antitrust or unfair competition laws;

3 13. That VeriSign and ICANN be ordered to abide by the terms of the 2001 .com
4 Agreement until it expires on November 10, 2007, and that ICANN be ordered to entertain
5 competing bids for the operation of the .com registry by that time;

6 14. That VeriSign and ICANN be ordered and required to comply with the price
7 provisions of Appendix G of the 2001 .com Agreement, and the Code of Conduct provisions of
8 Appendix I of the 2001 .com Agreement and 2001 .net Agreement;

9 15. That VeriSign and ICANN be ordered and required to comply with the research
10 and development provisions of Appendix W of the 2001 .com Agreement and make public the
11 required annual reports thereunder;

12 16. That plaintiff have such other relief as the Court may consider necessary or
13 appropriate to restore competitive conditions in the markets affected by defendants' unlawful
14 conduct; and

15
16 17. That plaintiff recover the costs of this action.

17
18 Dated: March 14, 2006

CATHCART COLLINS & KNEAFSEY LLP

19
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21 By: 
Patrick A. Cathcart

22
23 Attorneys for Plaintiff
COALITION FOR ICANN TRANSPARENCY INC.

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