

**DECLARATION OF
TIM SWITZER**

DECLARATION OF TIM SWITZER

I, TIM SWITZER declare as follows:

1. I am the Vice President, Finance & Customer Operations for defendant NeuLevel, Inc. I have personal knowledge of the facts set forth below and if called and sworn as a witness, could and would testify competently thereto.
2. I submit this declaration in support of defendant NeuLevel's opposition to plaintiffs' request for preliminary injunctive relief. I have read the affidavit of Doug Armentrout and submit this to supplement that affidavit regarding the harm to NeuLevel of a delay in its launch of .biz.
3. As the Vice President, Finance & Customer Operations of NeuLevel, I am aware of the expenses associated with the first several phases of the launch of the new top level domain, .biz. Likewise, I am aware that a \$2.00 application fee is charged to the Registrars as a processing fee for the application.
4. The \$2.00 application charge will not be sufficient to recoup the costs of developing the system for handling land rush applications and matching them to the IP Claims database. This complex system took months to build and involves matching each application to names in the IP Claims database, e-mailing applicants when there has been an exact match and providing applicants with a secure website (including user id and password) in order for them to communicate their decision as to whether to proceed with the application or withdraw it. Nor will the \$2.00 application charge cover the costs of operational and customer service support provided by NeuLevel to applicants and Registrars during the .biz launch. Indeed, NeuLevel will be operating at a loss through the initial launch of .biz.
5. NeuLevel considers the cost of developing the system to match domain name applications to IP Claims to be costs that will not be recovered given that this system will only be used during the first few weeks of operation during the launch period. The system will have no application once the registry becomes active on October 1st and the land rush application phase has passed.
6. NeuLevel will be irretrievably harmed if the launch of the .biz domain name is

AMUL, GULLIP, SIBLUS, FRUCHI & FROU, L.L.P.
2008 CENTURY PARK EAST
SUITE 2001
LOS ANGELES, CA 90067

1 delayed. Any delay would have both market implications and revenue implications for
2 NeuLevel. NeuLevel has aggressively marketed towards the October 1 launch date and spent
3 millions of dollars over the past six months in marketing this date. Moreover, in the past several
4 months, NeuLevel has engaged in a public relations and costly marketing campaign that has
5 resulted in hundreds of articles in the press about the .biz launch and numerous appearances by
6 several NeuLevel executives on radio and television. Any delay would undermine the efficacy of
7 this costly PR program and waste these marketing expenditures.

8 7. Likewise, a delay in launch will adversely impact the revenue model for the
9 company by delaying any income to be received on the registrations of .biz domains. Not only
10 would the failure to meet current revenue projections adversely impact future investment in the
11 company, it could slow growth by reducing spending and reducing staff, requiring recourse to
12 outside financing to cover expenses, and limiting additional spending necessary to expand the
13 business and to develop value added services to differentiate the .biz product from other top
14 level domains. In other words, delay will materially adversely affect the company.

15 8. A delay in the launch is also contrary to our business plans which anticipate that
16 .biz will be one of the earliest of the new TLDs to launch in the marketplace. NeuLevel's
17 success is predicated on providing an alternative name space for businesses that did not obtain
18 their name of choice in the earlier .com, .org and .net name spaces. Indeed, .biz is considered
19 the most likely of the new TLDs to succeed in providing businesses with an alternative to these
20 name spaces. NeuLevel's success in becoming the business alternative to those other name
21 spaces could be eroded if the delay in launch enables competitors to take its market share and
22 capture business that would have gone to .biz.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Executed this 14th day of September, 2001, at Sterling, Virginia

26
27  9/14/01
28 Tim Switzer, VP NeuLevel

AKUJ, LULLIP, SAIBUSS, FIAUER & FENU, L.L.P.
2028 CENTURY PARK EAST
SUITE 2000
LOS ANGELES, CA 90047