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COALITION FOR ICANN TRANSPARENCY INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
11

12 COALITION FOR ICANN TRANSPARENCY
INC., a Delaware corporation,
13
14 Plaintiff,
15 v.
16 VERISIGN, INC., a Delaware corporation;
INTERNET CORPORATION FOR ASSIGNED
17 NAMES AND NUMBERS, a California
corporation,
18 Defendants.
19

Case No.

**DECLARATION OF ANTHONY
FARROW IN SUPPORT OF THE
COALITION FOR ICANN
TRANSPARENCY'S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

20 I, Anthony Farrow, hereby declare:

21 1. I am the Chief Executive Officer of Pool.com, Inc. ("Pool.com"). Pool.com is
22 engaged in the business of operating a backorder service for .com and .net domain names in the
23 VeriSign registry system. Pool.com operates through a network of registrars to compete for the
24 opportunity to assist customers in the registration of domain names that have not been renewed by
25 the owner or owners of such names. I have personal knowledge of the facts stated herein and
26 could testify competently to them if called to do so.

27 2. I make this declaration in support of the allegation that consumers and competition
28 will be harmed by the proposed ICANN/VeriSign "Registry Agreement." I have done a

1 comparison of the pricing provisions of the proposed Registry Agreement versus the pricing
2 provisions under the existing Registry Agreement that the defendants are seeking to replace.
3 Attached as Exhibit A is a true and correct copy of a spreadsheet that sets forth the results of my
4 analysis. Exhibit A was prepared under my direction and instruction and I can testify
5 competently to the manner of its preparation.

6 **The "Tax" On Consumers—The Existing Registry Agreement**

7 3. Under the existing Registry Agreement, the price for a .com domain name
8 registration is capped, and remains capped through November 10, 2011 (assuming VeriSign is
9 granted a four-year renewal in accordance with the agreement), at \$6.00. In addition, ICANN
10 charges what it calls a "registry-level transaction fee" of \$0.25 per year, which is paid to ICANN
11 by the registrar. Thus, under the existing Registry Agreement, a registrar must pay \$6.25 to
12 register a domain name.

13 4. Under the existing Registry Agreement, a fee of \$6.25 would generate gross
14 revenue of \$281.3 million in 2006, assuming 45 million .com domain name transactions. As
15 Exhibit A illustrates, over the term of the existing Registry Agreement (2005 through 2012), the
16 total "tax" on consumers in that scenario would amount to \$2.325 billion.¹

17 **The "Tax" On Consumers—The Proposed Registry Agreement**

18 5. Under the proposed Registry Agreement, by contrast, the price for a .com domain
19 name would go up. According to Section 7.3(d) of the proposed Registry Agreement, the price of
20 registration would remain at \$6.00 through the end of 2006. The ICANN "registry-level
21 transaction fee," however, would increase. According to Section 7.3(g) of the proposed Registry
22 Agreement, the maximum price of registration does not include the fees provided for in Sections
23 7.2(d) and (e). The fee provided for in Section 7.2(d) would be \$0.37 (an increase from the

24
25 ¹ I recognize that the existing Registry Agreement does not, by its terms, continue
26 through the year 2012 and that, even under that agreement, there could be a renewal in 2011 and a
27 renegotiation of the price going forward. The proposed Registry Agreement, however, continues
28 into 2012. In order to have the comparisons congruent—i.e., cover the same seven-year period
(2006-2012)—I "extended" by one year the term of the existing Registry Agreement and ran my
figures for 2012 at the same \$6.25 price.

1 current \$0.25 fee) from January 1, 2006 until July 1, 2006. It would further increase to \$0.45
2 from July 1, 2006 until July 1, 2007, and then it would increase to \$0.50. The maximum per
3 transaction fee allowed under Section 7.2(e) would be \$0.15. A registrar seeking to
4 register/renew a domain name will be required to pay both of these fees in addition to the
5 maximum price for registry services provided in Section 7.3(d), which initially is set at \$6.00.

6 6. Including both the maximum price for registry services and the fees from Sections
7 7.2(d) and (e), the price for a .com domain name registration would jump from \$6.25 (under the
8 existing Registry Agreement) to \$6.56 beginning January 1, 2006.

9 7. The new Registry Agreement also contains a price escalator. After January 1,
10 2007, the price for a domain name registration would increase automatically each year by seven
11 percent. Under Section 7.3(d)(ii), that 7% price increase would not only be automatic, it could
12 only go up, never down. Furthermore, the increase is not tied to the inflation rate or any other
13 index.

14 8. Beginning with the price of \$6.00 in 2006 and multiplying by 1.07 each year (as
15 provided in Section 7.3(d)(ii) of the proposed Registry Agreement), the price escalator will result
16 in the following base prices: \$6.42 in 2007; \$6.87 in 2008; \$7.35 in 2009; \$7.86 in 2010; \$8.42
17 in 2011; and \$9.00 in 2012.

18 9. In addition a registrar seeking to register a domain name will have to pay the fees
19 provided for in Sections 7.2 (d) and (e). Thus, the maximum cost of registration would be as
20 follows: \$6.52 (from January 1, 2006 until July 1, 2006); \$6.60 (from July 1, 2006 until January
21 1, 2007); \$7.02 (from January 1, 2007 until July 1, 2007); \$7.07 (from July 1, 2007 until January
22 1, 2008); \$7.52 (in 2008); \$8.00 (in 2009); \$8.51 (in 2010); \$9.07 (in 2011); and \$9.65 (in 2012).

23 10. In Exhibit A, I have set forth my calculations of the gross revenue that would be
24 generated under the pricing scheme in the proposed Registry Agreement. For the seven years
25 2006 through 2012, the gross revenue would amount to \$3.036 billion.

26 11. Over the seven-year life of the proposed Registry Agreement, consumers would
27 pay an additional \$711.3 million over the \$2.325 billion they would pay under the existing
28 Registry Agreement. (*Compare* paragraph 4, above.) In other words, the proposed Registry

1 Agreement will impose an incremental "tax" on consumers \$711.3 million over the life of that
2 agreement as compared to the tax to consumers under the existing Registry Agreement.


3 12. Due to compounding, the seven percent rate of increase in the price-escalator
4 clause of the proposed Registry Agreement actually amounts to 7.14%.

5 **The "Tax" On Consumers—Compared to Competitive Bidding**

6 13. I also ran calculations on the assumption that the price for .com name registration
7 could be established through competitive bidding. Assuming a free-market price of \$4.00 per
8 name, with the registrar paying the ICANN "registry-level transaction fee" of \$0.25 in addition to
9 the \$4.00 charge, I found that the gross revenue for the time period 2006 through 2012 would
10 amount to \$1.581 billion. In other words, the proposed Registry Agreement would impose an
11 incremental "tax" on consumers \$1.455 billion over the life of that agreement as compared to the
12 tax to consumers under a competitive-bid scenario.

13 I declare under penalty of perjury under the laws of the United States that the foregoing is
14 true and correct.

15 Executed this 25th day of November, 2005, in Ottawa, Canada.

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17 
18 Anthony Farrow

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EXHIBIT A

ICANN-VeriSign Tax Increase

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
.com Registrations (millions, actuals per zooknic.com) % growth from prior year	22.0	25.8	32.7	40.0	45	47	50	53	56	59	62
	18%	18%	27%	22%	13%	4%	6%	6%	6%	5%	5%
Existing.com Contract											
Price cap	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
Registry tax	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25
Total .com Consumer Tax (\$millions)	\$137.5	\$161.6	\$204.4	\$250.0	\$281.3	\$293.8	\$312.5	\$331.3	\$350.0	\$368.8	\$387.5
										7-Year Total:	\$2,325.0
New .com Proposed Contract											
Price cap	\$6.00	\$6.42	\$6.87	\$7.35	\$7.86	\$8.42	\$9.00	\$9.65	\$10.25	\$10.85	\$11.50
Registry tax**	\$0.56	\$0.63	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65	\$0.65
Total .com Consumer Tax (\$millions)	\$295.2	\$331.1	\$376.0	\$424.0	\$476.6	\$535.1	\$598.3	\$666.3	\$735.1	\$808.3	\$886.3
										7-Year Total:	\$3,036.3
Competitively-bid .com Contract											
Price cap	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00
Registry tax	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25
Total .com Consumer Tax (\$millions)	\$191.3	\$199.8	\$212.5	\$225.3	\$238.0	\$250.8	\$263.5	\$276.3	\$289.0	\$301.5	\$314.0
										7-Year Total:	\$1,581.0
ICANN/VRSN .com Tax Increase (versus existing contract) (\$millions)	\$14.0	\$37.4	\$63.5	\$92.7	\$126.6	\$166.4	\$210.8	\$260.3	\$310.8	\$368.8	\$430.3
										7-Year Total Tax Increase:	\$711.3
ICANN/VRSN .com Tax Increase (versus competitive contract) (\$millions)	\$104.0	\$131.4	\$163.5	\$198.8	\$238.6	\$284.4	\$334.8	\$391.3	\$448.3	\$505.8	\$563.3
										7-Year Total Tax Increase:	\$1,455.3

** The numbers in this row are calculated by adding the number for each period as listed in Section 7.2(d) to the \$0.15 described in Section 7.2(e) of the proposed .com registry agreement. Because the prices change mid-way through the year on July 1, 2006 (from \$0.037 to \$0.45) and July 1, 2007 (from \$0.45 to \$0.50), an average price was used for the years 2006 and 2007.