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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
12

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

15 Plaintiff,

16 v.

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

20 Defendants.
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Case No. 5:05-CV-04826 (RMW)

**DECLARATION OF JESSE W.
MARKHAM, JR. IN SUPPORT OF THE
COALITION FOR ICANN
TRANSPARENCY'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

1 I, Jesse W. Markham, Jr., declare as follows:

2 1. I am a partner in the law firm of Morrison & Foerster LLP, counsel of record for
3 Plaintiff Coalition For ICANN Transparency Inc. ("CFIT") in the above-entitled action. I am
4 duly admitted to practice before this Court and all courts in the State of California. I have
5 personal knowledge of the facts set forth in this declaration and could competently testify to them
6 if called as a witness. I submit this declaration in support of CFIT's Application for a Temporary
7 Restraining Order.

8 2. I was informed this afternoon that Kurt Pritz of the Internet Corporation for
9 Assigned Names and Numbers ("ICANN") announced today in Vancouver, British Columbia that
10 the proposed 2005 .com Registry Agreement which is the subject of this TRO application would
11 not be put to a vote by the ICANN Board during its meeting this week in Vancouver.

12 3. Having received this information, I telephoned Jeffrey LeVee of the Jones Day law
13 firm, who is representing ICANN in this matter, to inform him of this announcement and to
14 explore a possible stipulation to freeze matters at the status quo until the Court is able to decide
15 CFIT's upcoming motion for a preliminary injunction.

16 4. Mr. LeVee told me that ICANN had previously decided that it would not have a
17 Board vote on the proposed 2005 .com Registry Agreement this week. He also said that ICANN
18 does not have any Board meetings scheduled for the rest of this year.

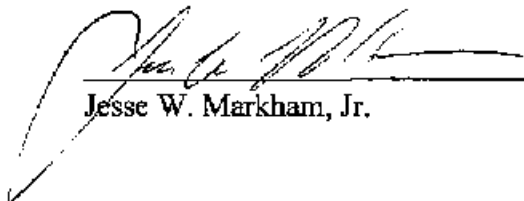
19 5. Notwithstanding these facts, Mr. LeVee refused to agree to a proposed freeze at
20 the status quo. He told me that ICANN plans to hold its Board meeting at the end of the public
21 discussions this week in Vancouver and will decide at that Board meeting how and when the
22 matter will be put to a vote. Although there is no Board meeting scheduled prior to the end of
23 2005, Mr. LeVee informed me that ICANN could convene a special Board meeting to consider
24 the issue with one week's notice.

25 6. Attached hereto as Exhibit A is a true and correct copy of a letter dated as of this
26 date to Mr. LeVee from myself.

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

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This declaration was executed on the 29th day of November, 2005, in San Francisco,
California.



Jesse W. Markham, Jr.