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NETWORK SOLUTIONS, INC.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 REGISTERSITE.COM, an Assumed Name of)
ABR PRODUCTS INC., a New York)
11 Corporation; NAME.COM, LLC, a Wyoming)
Limited Liability Company; R. LEE)
12 CHAMBERS COMPANY LLC, a Tennessee)
Limited Liability Company *d/b/a*)
13 DOMAINSTOBESEEN.COM; FIDUCIA LLC,)
a Nevada Limited Liability Company; SPOT)
14 DOMAIN, LLC, a Wyoming Limited Liability)
Company; !\$6.25 DOMAINS NETWORK, INC.,)
15 a Delaware Corporation *d/b/a* ESITE)
Corporation; AUSREGISTRY GROUP PTY)
16 LTD., an Australian Proprietary Limited)
Company; ! \$! BID IT WIN IT, INC., a)
17 Minnesota Corporation,)

18 Plaintiffs,)

19 v.)

20 INTERNET CORPORATION FOR ASSIGNED)
NAMES AND NUMBERS, a California)
21 Corporation; VERISIGN, INC., a Delaware)
Corporation; NETWORK SOLUTIONS, LLC,)
22 a Limited Liability Company of unknown origin;)
NETWORK SOLUTIONS, INC., a Delaware)
23 Corporation; ENOM, INCORPORATED, a)
Nevada Corporation; ENOM, INC., a Washington)
24 Corporation; and DOES 1-10, inclusive;)

25 Defendants.)
26
27
28

Case No. SC 082479

**GENERAL AND SPECIAL
DEMURRERS OF DEFENDANT
NETWORK SOLUTIONS, INC. TO
COMPLAINT**

Date: November 16, 2004

Time: 8:30 a.m.

Department: F

Judge: Hon. Gerald Rosenberg

Action Filed: August 4, 2004

1 Pursuant to California Code of Civil Procedure sections 430.10(e) and (f), defendant Network
2 Solutions, Inc. hereby generally and specially demurs to the Complaint, and to each of the purported
3 First, Second, Fourth, Fifth, Sixth, and Seventh Causes of Action in the Complaint (those being the
4 only purported causes of action in the Complaint asserted against Network Solutions, Inc.), as follows:
5

6 GENERAL DEMURRERS

7 1. The purported First Cause of Action in the Complaint fails to state facts sufficient to
8 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
9 properly plead that WLS involves two or more persons competing for the same item or “prize,” as
10 would be required for an illegal “lottery.”
11

12 2. The purported First Cause of Action in the Complaint fails to state facts sufficient to
13 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
14 properly plead that WLS involves the distribution of items or “prizes” by random chance, as would be
15 required for an illegal “lottery.”
16

17 3. The purported Second Cause of Action in the Complaint fails to state facts sufficient to
18 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
19 properly plead that Plaintiffs are damaged “consumers” within the meaning and contemplation of the
20 Consumers Legal Remedies Act, Civil Code §§ 1750–1784.
21

22 4. The purported Second Cause of Action in the Complaint fails to state facts sufficient to
23 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
24 properly plead that Network Solutions, Inc.’s alleged advertisement is likely to deceive a reasonable
25 consumer of WLS subscriptions, as would be required for an alleged violation of the Consumers Legal
26 Remedies Act, Civil Code §§ 1750–1784.
27
28

1 5. The purported Fourth Cause of Action in the Complaint fails to state facts sufficient to
2 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
3 properly plead that reasonable WLS consumers are likely to be deceived by advertising for WLS that
4 allegedly fails to disclose the likelihood that a WLS subscription will be successful, as would be
5 required for an alleged violation of California Business & Professions Code section 17200.

6
7 6. The purported Fifth Cause of Action in the Complaint fails to state facts sufficient to
8 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
9 properly plead that reasonable WLS subscribers are likely to be deceived by any alleged failure to
10 advise them to check the publicly available “expiration dates” of domain names, as would be required
11 for an alleged violation of California Business & Professions Code section 17200.

12
13 7. The purported Sixth Cause of Action in the Complaint fails to state facts sufficient to
14 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
15 properly plead that reasonable domain name registrants are likely to be deceived by alleged
16 advertisements marketing WLS as “protection,” as would be required for an alleged violation of
17 California Business & Professions Code section 17200.

18
19 8. The purported Sixth Cause of Action in the Complaint fails to state facts sufficient to
20 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
21 properly plead that the alleged advertisements marketing WLS as “protection” are in any way untrue,
22 as would be required for an alleged violation of California Business & Professions Code section 17200.

23
24 9. The purported Seventh Cause of Action in the Complaint fails to state facts sufficient to
25 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
26 properly plead an unfair business practice, as would be required for an alleged violation of California
27 Business & Professions Code section 17200, merely because WLS subscriptions allegedly provide no
28 consideration to subscribers.

1 10. The purported Seventh Cause of Action in the Complaint fails to state facts sufficient to
2 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
3 properly plead that WLS subscriptions lack contractual consideration and, therefore, that offering them
4 would constitute an unfair business practice, as would be required for an alleged violation of California
5 Business & Professions Code section 17200.

6
7 11. The purported Seventh Cause of Action in the Complaint fails to state facts sufficient to
8 constitute a cause of action against Network Solutions, Inc., *inter alia*, in that it does not, and cannot,
9 properly plead that WLS would restrain competition in the market for domain name registration
10 services and, therefore, that offering WLS is an unfair business practice, as would be required for an
11 alleged violation of California Business & Professions Code section 17200.
12

13 SPECIAL DEMURRERS

14 1. The purported First Cause of Action in the Complaint is incomplete and uncertain, *inter*
15 *alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2–4), which is expressly
16 incorporated by reference into the purported First Cause of Action, as well as paragraph 5.16 (*id.*, page
17 25, line 11) of the Complaint, which is contained in the purported First Cause of Action, refer to two
18 separate and distinct defendants – Network Solutions, Inc. and Network Solutions, LLC – under the
19 single, undifferentiated heading of “NSI,” such that it cannot reasonably be determined therefrom
20 which “Network Solutions” entity is alleged to have accepted pre-orders for WLS subscriptions.
21

22 2. The purported Second Cause of Action in the Complaint is incomplete and uncertain,
23 *inter alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2–4), which is expressly
24 incorporated by reference into the purported Second Cause of Action, as well as paragraphs 6.5 (*id.*,
25 page 27, line 9), 6.6 (*id.*, page 27, line 14), and 6.12 (*id.*, page 28, line 5) of the Complaint, which are
26 contained in the purported Second Cause of Action, refer to two separate and distinct defendants –
27 Network Solutions, Inc. and Network Solutions, LLC – under the single, undifferentiated heading of
28

1 “NSI,” such that it cannot reasonably be determined therefrom which representations, if any, are
2 allegedly attributable to Network Solutions, Inc.

3
4 3. The purported Fourth Cause of Action in the Complaint is incomplete and uncertain,
5 *inter alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2–4), which is expressly
6 incorporated by reference into the purported Fourth Cause of Action, as well as paragraphs 8.5 (*id.*,
7 page 31, line 19), 8.6 (*id.*, page 31, lines 22–24), 8.7 (*id.*, page 31, line 28), 8.8 (*id.*, page 32, line 1),
8 8.11 (*id.*, page 32, line 8), 8.18 (*id.*, page 32, line 27; page 33, line 1), 8.19 (*id.*, page 33, line 4), and
9 8.21 (*id.*, page 33, line 9) of the Complaint, which are contained in the purported Fourth Cause of
10 Action, refer to two separate and distinct defendants – Network Solutions, Inc. and Network Solutions,
11 LLC – under the single, undifferentiated heading “NSI,” such that it cannot reasonably be determined
12 therefrom which alleged acts and/or advertising is allegedly attributable to Network Solutions, Inc., if
13 any.

14
15 4. The purported Fifth Cause of Action in the Complaint is incomplete and uncertain, *inter*
16 *alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2–4), which is expressly
17 incorporated by reference into the purported Fifth Cause of Action, as well as paragraphs 9.4 (*id.*, page
18 33, line 24), and 9.9 (*id.*, page 34, line 10) of the Complaint, which are contained in the purported Fifth
19 Cause of Action, refer to two separate and distinct defendants – Network Solutions, Inc. and Network
20 Solutions, LLC – under the single, undifferentiated heading “NSI,” such that it cannot reasonably be
21 determined therefrom which “Network Solutions” entity allegedly is selling WLS subscriptions.

22
23 5. The purported Sixth Cause of Action in the Complaint is incomplete and uncertain, *inter*
24 *alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2–4), which is expressly
25 incorporated by reference into the purported Sixth Cause of Action, as well as paragraphs 10.4 (*id.*,
26 page 35, lines 5–6), 10.6 (*id.*, page 35, line 11), and 10.15 (*id.*, page 36, line 19) of the Complaint,
27 which are contained in the purported Sixth Cause of Action, refer to two separate and distinct
28 defendants – Network Solutions, Inc. and Network Solutions, LLC – under the single, undifferentiated

1 heading "NSI," such that it cannot reasonably be determined therefrom which of the alleged actions and
2 representations, if any, are attributable to Network Solutions, Inc.

3
4 6. The purported Seventh Cause of Action in the Complaint is incomplete and uncertain,
5 *inter alia*, in that paragraph 2.12 of the Complaint (Compl., page 6, lines 2-4), which is expressly
6 incorporated by reference into the purported Seventh Cause of Action, as well as paragraphs 11.4 (*id.*,
7 page 37, line 6), 11.5 (*id.*, page 37, line 7), 11.7 (*id.*, page 37, line 11), and 11.12 (*id.*, page 37, line 24)
8 of the Complaint, which are contained in the purported Seventh Cause of Action, refer to two separate
9 and distinct defendants – Network Solutions, Inc. and Network Solutions, LLC – under the single,
10 undifferentiated heading "NSI," such that it cannot reasonably be determined therefrom which
11 "Network Solutions" entity is alleged to be "implementing" WLS.

12
13 WHEREFORE, Network Solutions, Inc. prays:

- 14 1. That these demurrers be sustained without leave to amend;
15 2. For its costs of suit incurred herein; and
16 3. For such other and further relief as this Court may deem just and proper.

17
18 DATED: October 4, 2004.

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