### UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

GRAHAM SCHREIBER,	) )
Plaintiff, v.	) ) )
LORRAINE LESLEY DUNABIN; CENTRALNIC LTD.; NETWORK SOLUTIONS LLC; VERISIGN INC.; INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS; AND ENOM, INC.,	
Defendants.	

# DEFENDANT INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS' MOTION TO DISMISS <u>PLAINTIFF GRAHAM SCHREIBER'S COMPLAINT</u>

Defendant Internet Corporation for Assigned Names and Numbers ("ICANN"), by and through the undersigned counsel, respectively moves this Court for an order to dismiss Plaintiff Graham Schreiber's Complaint against ICANN entirely.<sup>1</sup>

lock of personal jurisdiction, lack of venue, and failure to state a claim upon which relief may be granted. *Dynamis, Inc. v. Dynamis.com*, 780 F. Supp. 2d 465, 471 (E.D. Va. 2011) ("Federal Rules of Civil Procedure allow a party denying jurisdiction and service to bring a Rule 12(b)(6) challenge without waiving the jurisdictional objection."); Fed. R. Civ. P. 12(b) ("No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.") By filing its motion to dismiss, defendant ICANN does not consent to personal jurisdiction in Virginia and reserves all of its jurisdictional objections. *Dynamis*, 780 F. Supp. 2d at 469 (Holding that "[w]ell established law permits a defendant to appear for the limited purpose of challenging personal jurisdiction provided the jurisdictional objection is timely raised.")

As set forth more fully in the accompanying Memorandum and the Declaration of Akram Atallah, the Complaint against ICANN should be dismissed under Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction over ICANN. In addition, the Complaint against ICANN should be dismissed under Fed. R. Civ. P. 12(b)(3) for lack of venue. Finally, the Complaint against ICANN should be dismissed under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted.

Pursuant to Local Rule 7(E), counsel for ICANN hereby certifies that a good faith effort has been made with Plaintiff Schreiber to resolve the matters stated herein, but the parties were unable to reach an agreeable solution.

Dated: September 10, 2012 Respectfully submitted,

/s/ Walter D. Kelley, Jr.

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Attorneys for Defendant INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

#### **CERTIFICATE OF SERVICE**

As Plaintiff Graham Schreiber is proceeding pro se in the above entitled action, he is not registered with the ECF system and cannot be served electronically. I certify that on September 10, 2012, a copy of the foregoing was filed electronically with the Clerk of Court using the ECF system, which will send notifications to any ECF participants, and was served via First Class Mail on the following:

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12061 Bluemont Way

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Graham Schreiber PLAINTIFF

5303 Spruce Ave. Burlington, Ontario

Canada L7L-1N4 Dated: September 10, 2012

## /s/ Walter D. Kelley, Jr.

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GRAHAM SCHREIBER,  Plaintiff,  v.  LORRAINE LESLEY DUNABIN; CENTRALNIC LTD.; NETWORK SOLUTIONS LLC; VERISIGN INC.; INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS; AND ENOM, INC.,  Defendants.	) ) ) Civil Action No. 1:12-CV-00852 (GBL/JFA) ) ) ) ) ) ) ) ) ) ) ) ) ) ) ) ) ) )
[PROPOSED] ORDER	
Upon consideration of Defendant Internet Corporation for Assigned Names and	
Numbers' ("ICANN") Motion to Dismiss Plaintiff Graham Schreiber's Complaint against	
ICANN, all papers submitted in connection therewith, and the oral argument of the parties, it is	
hereby	
ORDERED that Defendant ICANN's M	Motion to Dismiss Plaintiff's Complaint with
prejudice is GRANTED	
IT IS SO ORDERED.	
Dated:	
	The Honorable Gerald Bruce Lee District Judge