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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10
11 **REGISTERSITE.COM**, an Assumed
Name of **ABR PRODUCTS INC.**, a
12 New York Corporation, *et al.*,

13 Plaintiffs,

14 v.

15 **INTERNET CORPORATION FOR**
ASSIGNED NAMES AND
16 **NUMBERS**, a California corporation,
et al.,

17 Defendants.
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Case No. CV 04-1368 ABC (CWx)
Hon. Audrey B. Collins

**PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS FIRST
AMENDED COMPLAINT BY
DEFENDANT ENOM, INC.**

DATE: July 12, 2004
TIME: 10:00 a.m.
COURTROOM: Room 680 –
Roybal Bldg.

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1 I. INTRODUCTION

2 Defendant eNom, Inc. (“eNom”)¹, in its Motion to Dismiss First Amended
3 Complaint (“Motion”), argues that Plaintiff’s Third Cause of Action against it
4 should be dismissed.² In support of this claim, eNom has submitted exhibits from its
5 own website that purport to allow a fair analysis of the representations eNom makes
6 to consumers. As the attached Exhibit A indicates, however, the most prominent
7 pages on eNom’s website – which eNom neglected to provide to this Court –
8 contain a number of misleading statements. Moreover, those misleading statements
9 are directed toward ordinary consumers rather than the “sophisticated purchasers”
10 eNom claims are its target audience.

11 Plaintiffs plead in their first amended complaint (“FAC”) a false advertising
12 claim that is sufficiently plain and straightforward. As Plaintiffs allege in their Third
13 Cause of Action, the statements on eNom’s website will lead subscribers to believe
14 that they have a much higher chance of obtaining a desired domain name registration
15 under eNom’s “First Dibs” service than they actually have. eNOM admits its
16 statements are so confusing that to clarify them “would, at best, be unhelpful and
17 would be misleading in most circumstances.” Plaintiffs’ recitation of statements on
18 eNom’s website are even more definite than other statements this court has held
19 “adequately stated the facts” to support an unfair competition claim.³ Accordingly,
20 this Court should deny eNom’s motion to dismiss Plaintiffs’ Third Cause of Action.

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23 ¹ eNom’s claim that Plaintiffs have agreed to substitute eNom, Inc., a Nevada corporation, for the
24 current eNom plaintiff in a Second Amended Complaint, is incorrect. Plaintiffs actually have agreed to
25 **add** the Nevada entity as a plaintiff. eNom’s statement that Plaintiffs have agreed to voluntarily dismiss it
26 from their Ninth Cause of Action, however, is accurate.

27 ² eNom has also joined in and incorporated by reference the arguments of defendants Verisign, Inc.
28 and Network Solutions, Inc. (collectively, “Verisign”) in Verisign’s motion to dismiss Plaintiffs’ claim
pursuant to FED. R. CIV. P. 12(b)(6). Accordingly, Plaintiffs have not re-argued those issues in this
memorandum, and incorporate their response to Verisign’s motion by reference herein.

³ See Perfect 10, Inc. v. Cybernet Ventures, Inc., 167 F.Supp.2d 1114, 1125 (C.D.Cal. 2001).