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DAVIS WRIGHT TREMAINE LLP
865 S. FIGUEROA ST.
SUITE 2400
LOS ANGELES, CALIFORNIA 90017-2566
TELEPHONE (213) 633-6800
FAX (213) 633-6899

FREDERICK F. MUMM (State Bar No. 91259)
MARC A. FULLER (State Bar No. 225462)

Attorneys for Defendant eNOM, INC., a Nevada Corporation, erroneously sued as eNOM, Inc., a Washington Corporation and ENOM FOREIGN HOLDINGS CORPORATION, a Washington Corporation

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGISTERSITE.COM, an Assumed Name of ABR PRODUCTS INC., a New York corporation; et al.,

Plaintiffs,

vs.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS, a California corporation; VERISIGN, INC., a Delaware corporation; NETWORK SOLUTIONS, INC., a Delaware corporation; ENOM, INC., a Washington corporation; ENOM FOREIGN HOLDINGS CORPORATION, a Washington corporation; and DOES 1-10, inclusive,

Defendants.

Case No. CV04-1368 ABC (CWx)

NOTICE OF MOTION AND MOTION TO DISMISS FIRST AMENDED COMPLAINT BY DEFENDANT ENOM, INC.; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; EXHIBITS A AND B

Date: July 12, 2004
Time: 10:00 a.m.
Courtroom: 680

The Honorable Audrey B. Collins
Roybal Fed. Building

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 12, 2004, at 10:00 a.m., or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable Audrey B. Collins, located at 255 E. Temple Street, Los Angeles, California, defendant eNom,

COPY

1 Inc. (“eNom”) will and hereby does move, pursuant to Rule 12(b)(6) of the Federal
2 Rules of Civil Procedure, to dismiss Claims 1 through 3, and 5 through 8, of the First
3 Amended Complaint (the “FAC”) for failure to state a claim for relief. Good cause
4 exists to grant this motion, as follows:

5 1. The First Claim (“Unfair Trade Practices Act” – Illegal Lottery) fails to
6 state a claim for relief because (a) plaintiffs lack Article III standing in that they
7 cannot allege any injury to themselves; and (b) the allegations of the FAC on their
8 face demonstrate that the predicate “unlawful” activity is not unlawful;

9 2. The Second Claim (“Unfair Trade Practices Act” – CLRA violation)
10 fails to state a claim for relief because (a) plaintiffs lack Article III standing in that
11 they cannot allege any injury to themselves; (b) the allegations of the FAC on their
12 face demonstrate that the Consumers Legal Remedies Act activity is not applicable,
13 and (c) the FAC alleges no misrepresentations by eNom;

14 3. The Third Claim (“Unfair Trade Practices Act” – Misleading
15 Statements) fails to state a claim for relief because (a) plaintiffs lack Article III
16 standing in that they cannot allege any injury to themselves; and (b) the allegations of
17 the FAC on their face demonstrate that eNom made no misleading statements as a
18 matter of law;

19 4. The Fifth Claim (“Unfair Trade Practices Act” – Deceptive Sales) fails
20 to state a claim for relief because (a) plaintiffs lack Article III standing in that they
21 cannot allege any injury to themselves; and (b) the allegations of the FAC on their
22 face demonstrate that eNom made no misleading statements or engaged in any
23 deceptive sales as a matter of law;

24 5. The Sixth Claim (“Unfair Trade Practices Act” – False Representations)
25 fails to state a claim for relief because (a) plaintiffs lack Article III standing in that
26 they cannot allege any injury to themselves; and (b) the allegations of the FAC on
27 their face demonstrate that eNom made no false representations as a matter of law;