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6 Attorneys for RICHARD DOYLE, in his official capacity
 as City Attorney for the City of San Jose
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 9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

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 13 VIDEO SOFTWARE DEALERS
 ASSOCIATION and ENTERTAINMENT
 14 SOFTWARE ASSOCIATION,

15 Plaintiffs,

16 v.

17 ARNOLD SCHWARZENEGGER, in his
 official capacity as Governor of the State
 18 of California; BILL LOCKYER, in his
 official capacity as Attorney General of the
 19 State of California; GEORGE KENNEDY,
 in his official capacity as Santa Clara
 20 County District Attorney, RICHARD
 DOYLE, in his official capacity as City
 21 Attorney for the City of San Jose; and
 ANN MILLER RAVEL, in her official
 22 capacity as County Counsel for the
 County of Santa Clara,
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24 Defendants.

Case Number: C05-04188 RMW

**ANSWER BY CITY ATTORNEY
 RICHARD DOYLE TO COMPLAINT
 FOR DECLARATORY AND
 INJUNCTIVE RELIEF**

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 26 Defendant Richard Doyle ("Defendant"), in his official capacity as City Attorney for the
 27 City of San Jose, hereby answers the Complaint ("Complaint") of Plaintiffs on file herein and
 28 admits, denies, and alleges as follows:

1 1. Answering the allegations of paragraph 1 of the Complaint, Defendant has
2 insufficient information or belief to enable him to respond and, basing his denial on that
3 ground, denies each and every allegation contained therein.

4 2. Answering the allegations of paragraph 2 of the Complaint, Defendant admits
5 the existence of the "Act," the terms of which speaks for themselves. Except as so admitted,
6 Defendant denies the remaining allegations contained therein

7 3. Answering the allegations of paragraph 3 of the Complaint, Defendant denies
8 the allegations contained therein.

9 4. Answering the allegations of paragraph 4 of the Complaint, Defendant
10 acknowledges the legal arguments made therein, but has insufficient information or belief to
11 enable him to respond and, basing his denial on that ground, denies each and every
12 allegation contained therein.

13 5. Answering the allegations of paragraph 5 of the Complaint, Defendant admits
14 the existence of the "Act," the terms of which speaks for themselves. Except as so admitted,
15 Defendant denies the remaining allegations contained therein.

16 6. Answering the allegations of paragraph 6 of the Complaint, Defendant has
17 insufficient information or belief to enable him to respond and, basing his denial on that
18 ground, denies each and every allegation contained therein.

19 7. Answering the allegations of paragraph 7 of the Complaint, Defendant denies
20 the allegations contained therein.

21 8. Answering the allegations of paragraph 8 of the Complaint, Defendant admits
22 that the complaint states that the action is brought against these defendants in their official
23 capacities. Except as so admitted, Defendant denies the remaining allegations contained
24 therein

25 9. Answering the allegations of paragraph 9 of the Complaint, Defendant admits
26 that he is employed in this judicial district, Defendant has insufficient information or belief to
27 enable him to respond and, basing his denial on that ground, denies each and every
28 remaining allegation contained therein.

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10. Answering the allegations of paragraph 10 of the Complaint, Defendant denies the allegations contained therein.

11. Answering the allegations of paragraph 11 of the Complaint, Defendant has insufficient information or belief to enable him to respond and, basing his denial on that ground, denies each and every allegation contained therein.

12. Answering the allegations of paragraph 12 of the Complaint, Defendant has insufficient information or belief to enable him to respond and, basing his denial on that ground, denies each and every allegation contained therein.

13. Answering the allegations of paragraph 13 of the Complaint, Defendant has insufficient information or belief to enable him to respond and, basing his denial on that ground, denies each and every allegation contained therein.

14. Answering the allegations of paragraph 14 of the Complaint, Defendant denies the allegations contained therein.

15. Answering the allegations of paragraph 15 of the Complaint, Defendant denies the allegations contained therein.

16. Answering the allegations of paragraph 16 of the Complaint, Defendant admits the allegations contained therein based on information and belief.

17. Answering the allegations of paragraph 17 of the Complaint, Defendant has insufficient information or belief to enable him to respond and, basing his denial on that ground, denies each and every allegation contained therein.

18. Answering the allegations of paragraph 18 of the Complaint Defendant has insufficient information or belief to enable him to respond and, basing his denial on that ground, denies each and every allegation contained therein.

19. Answering the allegations of paragraph 19 of the Complaint, Defendant admits that Richard Doyle is the City Attorney for the City of San Jose and that the Act exists, the terms of which speak for themselves. Except as so admitted, Defendant denies the remaining allegations contained therein.

1 20. Answering the allegations of paragraph 20 of the Complaint, Defendant has
2 insufficient information or belief to enable him to respond and, basing his denial on that
3 ground, denies each and every allegation contained therein.

4 21. Answering the allegations of paragraph 21 of the Complaint, Defendant denies
5 the allegations contained therein.

6 22. Answering the allegations of paragraph 22 of the Complaint, Defendant denies
7 the allegations contained therein.

8 23. Answering the allegations of paragraph 23 of the Complaint, Defendant has
9 insufficient information or belief to enable him to respond and, basing his denial on that
10 ground, denies each and every allegation contained therein.

11 24. Answering the allegations of paragraph 24 of the Complaint, Defendant admits
12 the allegations contained therein based on information and belief.

13 25. Answering the allegations of paragraph 25 of the Complaint, Defendant
14 acknowledges the legal arguments made therein, but has insufficient information or belief to
15 enable him to respond and, basing his denial on that ground, denies each and every
16 allegation contained therein.

17 26. Answering the allegations of paragraph 26 of the Complaint, Defendant
18 acknowledges the legal arguments made therein, but has insufficient information or belief to
19 enable him to respond and, basing his denial on that ground, denies each and every
20 allegation contained therein.

21 27. Answering the allegations of paragraph 27 of the Complaint, Defendant admits
22 the allegations contained therein based on information and belief.

23 28. Answering the allegations of paragraph 28 of the Complaint, Defendant denies
24 the allegations contained therein.

25 29. Answering the allegations of paragraph 29 of the Complaint, Defendant denies
26 the allegations contained therein.

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1 30. Answering the allegations of paragraph 30 of the Complaint, Defendant admits
2 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
3 Defendant denies the remaining allegations contained therein

4 31. Answering the allegations of paragraph 31 of the Complaint, Defendant admits
5 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
6 Defendant denies the remaining allegations contained therein

7 32. Answering the allegations of paragraph 32 of the Complaint, Defendant admits
8 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
9 Defendant denies the remaining allegations contained therein

10 33. Answering the allegations of paragraph 33 of the Complaint, Defendant admits
11 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
12 Defendant denies the remaining allegations contained therein

13 34. Answering the allegations of paragraph 34 of the Complaint, Defendant admits
14 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
15 Defendant denies the remaining allegations contained therein

16 35. Answering the allegations of paragraph 35 of the Complaint, Defendant admits
17 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
18 Defendant denies the remaining allegations contained therein

19 36. Answering the allegations of paragraph 36 of the Complaint, Defendant admits
20 the existence of the “Act,” the terms of which speaks for themselves. Except as so admitted,
21 Defendant denies the remaining allegations contained therein

22 37. Answering the allegations of paragraph 37 of the Complaint, Defendant denies
23 the allegations contained therein.

24 38. Answering the allegations of paragraph 38 of the Complaint, Defendant denies
25 the allegations contained therein.

26 39. Answering the allegations of paragraph 39 of the Complaint, Defendant denies
27 the allegations contained therein.

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1 40. Answering the allegations of paragraph 40 of the Complaint, Defendant denies
2 the allegations contained therein.

3 41. Answering the allegations of paragraph 41 of the Complaint, Defendant denies
4 the allegations contained therein.

5 42. Answering the allegations of paragraph 42 of the Complaint, Defendant denies
6 the allegations contained therein.

7 43. Answering the allegations of paragraph 43 of the Complaint, Defendant denies
8 the allegations contained therein.

9 44. Answering the allegations of paragraph 44 of the Complaint, Defendant denies
10 the allegations contained therein.

11 45. Answering the allegations of paragraph 45 of the Complaint, Defendant denies
12 the allegations contained therein.

13 46. Answering the allegations of paragraph 46 of the Complaint, Defendant denies
14 the allegations contained therein.

15 47. Answering the allegations of paragraph 47 of the Complaint, Defendant has
16 insufficient information or belief to enable him to respond and, basing his denial on that
17 ground, denies each and every allegation contained therein.

18 48. Answering the allegations of paragraph 48 of the Complaint, Defendant denies
19 the allegations contained therein.

20 49. Answering the allegations of paragraph 49 of the Complaint, Defendant denies
21 the allegations contained therein.

22 50. Answering the allegations of paragraph 50 of the Complaint, Defendant
23 acknowledges the legal arguments made therein, but has insufficient information or belief to
24 enable him to respond and, basing his denial on that ground, denies each and every
25 allegation contained therein.

26 51. Answering the allegations of paragraph 51 of the Complaint, Defendant denies
27 the allegations contained therein.

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1 52. Answering the allegations of paragraph 52 of the Complaint, Defendant denies
2 the allegations contained therein.

3 53. Answering the allegations of paragraph 53 of the Complaint, Defendant
4 incorporates by reference its answers to paragraphs 1 through 52 of the Complaint.

5 54. Answering the allegations of paragraph 54 of the Complaint, Defendant denies
6 the allegations contained therein.

7 55. Answering the allegations of paragraph 55 of the Complaint, Defendant denies
8 the allegations contained therein.

9 56. Answering the allegations of paragraph 56 of the Complaint, Defendant denies
10 the allegations contained therein.

11 57. Answering the allegations of paragraph 57 of the Complaint, Defendant denies
12 the allegations contained therein.

13 58. Answering the allegations of paragraph 58 of the Complaint, Defendant denies
14 the allegations contained therein.

15 59. Answering the allegations of paragraph 59 of the Complaint, Answering the
16 allegations of paragraph 58 of the Complaint, Defendant incorporates by reference its
17 answers to paragraphs 1 through 58 of the Complaint.

18 60. Answering the allegations of paragraph 60 of the Complaint, Defendant denies
19 the allegations contained therein.

20 61. Answering the allegations of paragraph 61 of the Complaint, Defendant denies
21 the allegations contained therein.

22 62. Answering the allegations of paragraph 62 of the Complaint, Defendant denies
23 the allegations contained therein.

24 63. Answering the allegations of paragraph 63 of the Complaint, Defendant
25 incorporates by reference its answers to paragraphs 1 through 62 of the Complaint.

26 64. Answering the allegations of paragraph 64 of the Complaint, Defendant
27 acknowledges the legal arguments made therein, but has insufficient information or belief to
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1 enable him to respond and, basing his denial on that ground, denies each and every
2 allegation contained therein.

3 65. Answering the allegations of paragraph 65 of the Complaint, Defendant denies
4 the allegations contained therein.

5 66. Answering the allegations of paragraph 66 of the Complaint, Defendant denies
6 the allegations contained therein.

7 **AFFIRMATIVE DEFENSES**

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9 **FIRST AFFIRMATIVE DEFENSE**

10 The Complaint and each alleged cause of action fail to state facts sufficient to
11 constitute a cause of action.

12 **SECOND AFFIRMATIVE DEFENSE**

13 The injunction requested, if enforced, would compel an act contrary to public policy
14 and harmful to the public interest.

15 **THIRD AFFIRMATIVE DEFENSE**

16 All of the immunities and defenses afforded by Government Code §§800-1000,
17 inclusive.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 The challenged acts are discretionary acts, and Defendant properly exercised his
20 discretion.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 Plaintiff has failed to name real parties in interest and/or indispensable parties.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 Plaintiff has failed to allege a justiciable controversy.

25 **SEVENTH AFFIRMATIVE DEFENSE**

26 Plaintiff has failed to mitigate damages.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 Plaintiff is barred from recovering from Defendant on the grounds of estoppel.

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NINTH AFFIRMATIVE DEFENSE

Plaintiff lacks standing to bring the causes of action alleged.

TENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from obtaining injunctive or other equitable relief by the reason of unclean hands.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint is premature and/or barred in that there is no case or controversy at this time.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff has named incorrect and improper parties as defendants in this matter.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant's conduct was privileged and/or justified under applicable law.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's injuries and damages, if any, were proximately caused or contributed to in whole or in part by the negligence of third parties or entities not under the direction, control or authority of Defendant and for which Defendant are not responsible.

FIFTEENTH AFFIRMATIVE DEFENSE

All other affirmative defenses alleged by the other defendants in this action.

WHEREFORE, Defendant prays for judgment as follows:

1. That judgment be rendered in favor of Defendant and against Plaintiff;
2. That Plaintiff take nothing by reason of its Complaint on file herein;
3. That Plaintiff's request for injunctive and declaratory relief be denied;
4. That Defendant be awarded its costs, attorneys' fees, and disbursements of suit incurred herein; and

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5. For such other and further relief as the Court may deem just and proper.

Dated: November 21, 2005

RICHARD DOYLE, City Attorney

By: /s/ Robert Fabela
ROBERT FABELA
Sr. Deputy City Attorney

Attorneys for RICHARD DOYLE, in his
official capacity as City Attorney for the City
of San Jose