

# EXHIBIT N

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MANATT, PHELPS & PHILLIPS, LLP  
STEPHEN M. RYAN (DC Bar No. 359099) (sryan@manatt.com)  
700 12th Street, N.W., Suite 1100  
Washington, DC 20005-4075  
Telephone: (202) 585-6500  
Facsimile: (202) 585-6600

ORIGINAL  
FILED  
06 OCT 27 PM 3:40  
RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

MANATT, PHELPS & PHILLIPS, LLP  
CHAD S. HUMMEL (CA Bar No. 139055) (chummel@manatt.com)  
JACK S. YEH (CA Bar No. 174286) (jyeh@manatt.com)  
11355 W. Olympic Boulevard  
Los Angeles, CA 90064  
Telephone: (310) 312-4000  
Facsimile: (310) 312-4224

MANATT, PHELPS & PHILLIPS, LLP  
CHRISTOPHER L. WANGER (CA Bar No. 164751) (cwanger@manatt.com)  
JOHN P. KERN (CA Bar No. 206001) (jkern@manatt.com)  
1001 Page Mill Road, Building 2  
Palo Alto, CA 94304-1006  
Telephone: (650) 812-1300  
Facsimile: (650) 213-0260

ARIN adv. Gary Kremen  
(22149-060)  
C. Wanger J. Yeh (LA) LA Cal.  
S. Ryan (DC) D. Wishon  
C. Hummel (LA) Client (SMR - DC)

*Attorneys for Non-Party*  
AMERICAN REGISTRY FOR INTERNET NUMBERS, LTD.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT  
SAN JOSE DIVISION

GARY KREMEN,  
  
Plaintiff,  
  
vs.  
  
STEPHEN MICHAEL COHEN, et. al.,  
  
Defendant.

Case No. C 98 20718 JW  
[Related Case No. C 06-2554 JW]  
  
**NOTICE OF MOTION AND MOTION TO STRIKE MATERIAL FILED AFTER REPLY AND WITHOUT PRIOR COURT APPROVAL AND, IN THE ALTERNATIVE, REQUEST FOR APPROVAL TO FILE SUPPLEMENTAL BRIEF**  
  
[N.D. LOCAL RULE 7-3(d)]

TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OR RECORD:

1 PLEASE TAKE NOTICE that American Registry for Internet Numbers (“ARIN”) hereby  
2 moves to strike the letter dated October 25, 2006 and accompanying Proposed Order filed by  
3 counsel for Plaintiff, Gary Kremen, on October 25, 2006 in this matter (the “New Proposed  
4 Order”) on the grounds that it was filed after ARIN’s Reply in Support of its Motion to  
5 Modify/Clarify Order but without prior Court approval in violation of Northern District Local  
6 Rules 7-3(d) and (a).

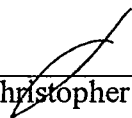
7 Kremen’s improperly filed New Proposed Order adds new matter and ARIN will be  
8 prejudiced if it is not stricken or, alternatively, if ARIN is denied the opportunity to address the  
9 new matter. The New Proposed Order is inconsistent with the intent of this Court’s September  
10 17, 2001 Order in that it continues to attempt to exempt Kremen from the normal and necessary  
11 processes and oversight that ARIN employs for the allocation and registration of IP Resources.  
12 Specifically, rather than requiring Kremen to simply execute a Registration Services Agreement  
13 for the IP Resources over which ARIN has control, Kremen’s New Proposed Order constructs a  
14 process whereby Kremen would be provided IP resources without any contractual or other  
15 obligations to use them appropriately (if Kremen is dissatisfied with ARIN’s proffer of  
16 information matching IP Resources to Cohen-related contracts). For the reasons discussed at the  
17 October 23, 2006, hearing, such a scenario was not contemplated nor intended by the Court when  
18 it entered its Order in 2001.

19 For these reasons, and the reasons set forth in ARIN’s papers and at oral argument,  
20 Kremen’s New Proposed Order should be stricken and the Court should enter the Proposed Order  
21 previously submitted by ARIN in connection with its Motion to Clarify/Modify or any other order  
22 that is consistent therewith requiring Kremen to sign a Registration Services Agreement as a  
23 precondition of any obligation by ARIN to allocate any IP Resources to Kremen. If the Court  
24 intends to consider Kremen’s New Proposed Order, ARIN requests approval to file a short brief  
25 fully addressing its deficiencies.  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: October 27, 2006

MANATT, PHELPS & PHILLIPS, LLP

By:   
\_\_\_\_\_  
Christopher L. Wanger

*Counsel for Moving Non-Party*  
AMERICAN REGISTRY FOR INTERNET NUMBERS,  
LTD.

20168382.1

**PROOF OF SERVICE**

I, Antonino Scardina, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 1001 Page Mill Road, Building 2, Palo Alto, CA 94304-1006. On October 27, 2006, I served the within documents:

**NOTICE OF MOTION AND MOTION TO STRIKE MATERIAL FILED AFTER REPLY AND WITHOUT PRIOR COURT APPROVAL AND, IN THE ALTERNATIVE, REQUEST FOR APPROVAL TO FILE SUPPLEMENTAL BRIEF**

- by transmitting via e-mail the document(s) listed above to the e-mail addresses set forth below on this date before 5:00 p.m. (counsel for S. Cohen was not served electronically)
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palo Alto, California addressed as set forth below.
- by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

**Karl Kronenberger**  
**Terri Hanley**  
 Kronenberger Hanley, LLP  
 220 Montgomery Street, Ste. 1920  
 San Francisco, CA 94104  
 Phone: (415) 955-1155  
 Fax: (415) 955-1159  
 Email: [karl@kronenbergerlaw.com](mailto:karl@kronenbergerlaw.com)  
[terri@kronenbergerlaw.com](mailto:terri@kronenbergerlaw.com)

**Ory Sandel**  
**Patricia De Fonte**  
**Richard Idell**  
 Idell & Seitel LLP  
 465 California Street, Ste. 300  
 San Francisco, CA 94104  
 Phone: (415) 986-2400  
 Fax: (415) 392-9259  
 Email: [ory.sandel@ibslaw.com](mailto:ory.sandel@ibslaw.com)  
[patricia.defonte@ibslaw.com](mailto:patricia.defonte@ibslaw.com)  
[richard.idell@ibslaw.com](mailto:richard.idell@ibslaw.com)

**Timothy P. Dillon**  
**Nadya Y. Spivack**  
 Dillon & Gerardi  
 4660 La Jolla Village Dr., Suite 775  
 San Diego, Ca 92122  
 Phone: (858) 587-1800  
 Email:  
[NSpivack@DillonGerardi.com](mailto:NSpivack@DillonGerardi.com)

**John A. Goalwin**  
 350 So. Figueroa Street, Suite 499  
 Los Angeles, Ca 90071  
 Phone: (213) 202-7820  
 (attorney for S. Cohen)

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I


**PROOF OF SERVICE**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 27, 2006.

  
Antonino Scardina

10/25

1 RICHARD J. IDELL, ESQ., #069033  
2 ORY SANDEL, ESQ. #233204  
3 IDELL & SEITEL LLP  
4 465 California Street, Suite 300  
5 San Francisco, CA 94104  
6 Telephone: (415) 986-2400  
7 Facsimile: (415) 392-9259

8 Attorneys for Plaintiff  
9 GARY KREMEN

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 GARY KREMEN, an individual,  
14 Plaintiff,  
15 v.  
16 STEPHEN MICHAEL COHEN, an individual,  
17 OCEAN FUND INTERNATIONAL, LTD., a  
18 foreign company, SAND MAN  
19 INTERNACIONAL LIMITED, a foreign  
20 company, SPORTING HOUSES  
21 MANAGEMENT CORPORATION, a Nevada  
22 Company, SPORTING HOUSES OF AMERICA,  
23 a Nevada company, SPORTING HOUSES  
24 GENERAL, INC., a Nevada, company, and DOES  
25 1-20 inclusive,  
26 Defendants.

Case No.: C 98 20718-JW

**[PROPOSED] ORDER RE: ARIN'S  
MOTION TO CLARIFY AND/OR MODIFY  
THIS COURT'S SEPTEMBER 17, 2001  
"ORDER RE: REGISTRATION OF IP  
NUMBERS (NETBLOCKS) IN THE NAME  
OF JUDGMENT CREDITOR"**

Hearing Date: October 23, 2006  
Time: 9:00 AM  
Place: Courtroom 8, 4<sup>th</sup> Floor  
Judge: The Honorable James Ware

27 Non-party American Registry for Internet Numbers' ("ARIN's") Motion to Clarify/Modify this  
28 Court's September 21, 2001 Order ("Motion") came before this Court on October 23, 2006 by regularly  
noticed hearing.

1 ARIN's Motion seeks clarification and/or modification of the terms of an Order issued by this  
2 Court on September 17, 2001 ("September 17, 2001 Order"), and entered without notice to ARIN, in the  
3 case entitled *Kremen v. Cohen*, Case No. C98-20718 (JW), filed in 1998. The September 17, 2001  
4 Order encompassed, in full, the following Internet Protocol ("IP") resources, which are also the subject  
5 of this Order: (1) 209.205.239.255 ("BLOCK 1"); (2) 208.214.46.0 and 208.214.47.255 ("BLOCK 2");  
6 (3) 64.19.192.0 and 64.19.239.255 ("BLOCK 3"); (4) Autonomous System Number ("ASN") 20228  
7 ("BLOCK 4"); and (5) ASN 11083 ("BLOCK 5") (BLOCK 1 through BLOCK 5 are collectively  
8 referred to as the "BLOCKS"). Having considered the supporting and opposing papers, the records on  
9 file herein, and the arguments of counsel, and ARIN having voluntarily submitted to the jurisdiction of  
10 this Court for purposes of the Motion and this Order, the motion is DENIED except as provided herein  
11 wherein the Court clarifies its Order of September 17, 2001. This Court hereby clarifies its September  
12 17, 2001 Order captioned "Order re: Registration of IP Numbers (Netblocks) in the Name of Judgment  
13 Creditor" as follows:

14 (1) The Court intends by its September 17, 2001 Order that as a condition of registration of  
15 the BLOCKS and ASNs pursuant to the Order of September 17, 2001, Kremen shall be bound by the  
16 terms and conditions of any signed agreements that may lawfully exist between ARIN, on the one hand,  
17 and Cohen or Cohen entities, on the other hand, that relate to any of the specific BLOCKS or to any  
18 ASN. ARIN shall have the burden of showing which signed contracts exist as to which BLOCKS or  
19 ASNs. Therefore, ARIN shall present to Kremen an Agreement to Be Bound in the form of the attached  
20 Exhibit "A" as to each such BLOCK and ASN, and upon signature of Kremen to such Agreement to Be  
21 Bound, ARIN shall register the BLOCK or ASN in Kremen's name.

22 (2) If there is no lawful contract in existence as to any such BLOCK, then ARIN shall  
23 register the BLOCK in Kremen's name forthwith.

24 (3) To the extent that BLOCK 5 resources are now unavailable due to transfer of LACNIC,  
25 ARIN will issue new IP resources, to replace those resources, of a substantially similar nature and  
26 quantity as necessary to substitute for the BLOCKS not being transferred. These new resources shall be  
27 subject to the same terms and conditions of signed agreements that may lawfully exist between ARIN,  
28



1 on the one hand, and Cohen or Cohen entities, on the other hand, if any, to which the unavailable  
2 allocations of BLOCK 5 were lawfully subject at the time that the original Order issued. ARIN shall  
3 have the burden of showing which, if any, signed contracts exist as to which BLOCKS or ASNs. As a  
4 condition of issuance of these resource allocations Kremen shall execute an Agreement to Be Bound in  
5 the form of the attached Exhibit "A". In the event that ARIN cannot produce agreements for BLOCK 5  
6 then the resources shall be issued to Kremen forthwith.

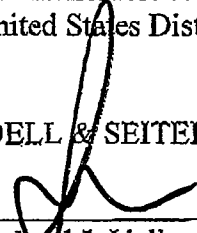
7 (4) Based on the representation of ARIN that BLOCK 2 is not a BLOCK administered by  
8 ARIN, ARIN is not required to provide substitute resources for that BLOCK, without prejudice to  
9 Kremen's right to enforce any judgment against UUNET or other party.

10 IT IS SO ORDERED

11  
12  
13 Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable James Ware  
United States District Judge

14  
15 SUBMITTED BY:

16 IDELL & SEITEL, LLP  
17  10-25-06  
18 Richard J. Idell  
19 Attorney for Plaintiff GARY KREMEN  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT "A"**

**Agreement to be Bound**

Re: BLOCK/ASN: \_\_\_\_\_

Gary Kremen hereby as a condition of registration of the above described  
BLOCK or ASN agrees to be bound by each of the terms and conditions of the agreement  
attached as Document "1."

Dated: \_\_\_\_\_

\_\_\_\_\_  
Gary Kremen

**PROOF OF SERVICE**

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Idell & Seitel LLP, 465 California Street, Suite 300, San Francisco, California 94104.

On October 25, 2006, I served the following document(s):

**[PROPOSED] ORDER RE: ARIN'S MOTION TO CLARIFY AND/OR MODIFY THIS COURT'S SEPTEMBER 17, 2001 "ORDER RE: REGISTRATION OF IP NUMBERS (NETBLOCKS) IN THE NAME OF JUDGMENT CREDITOR"**

by **E-MAIL TRANSMISSION**, by electronically transmitting a true and correct copy of the document(s) in Adobe Acrobat format to the electronic mail addresses indicated below.

by **FACSIMILE TRANSMISSION**, by placing a true and correct copy of the document(s) to be transmitted by facsimile machine to the number indicated below. The transmission was reported as complete and without error.

by regular **UNITED STATES MAIL** by placing a true and correct copy, enclosed in a sealed envelope for collection and mailing on the date and at the business address shown above following our ordinary business practices to the address(es) noted below. I am readily familiar with this business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

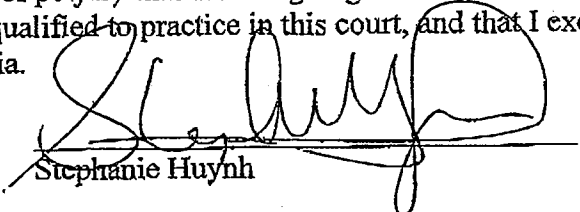
John Alan Goalwin  
350 S. Figueroa Street, #499  
Los Angeles, CA 90071-1203  
Fax: (213) 202-7829  
*Attorney for Defendant Stephen Cohen*  
jgoalwin@yahoo.com

Stephen M. Ryan  
MANATT, PHELPS & PHILLIPS, LLP  
700 12<sup>th</sup> Street, N.W., Suite 1100  
Washington, D.C. 20005-4075  
Fax: (202) 585-6600

Jack S. Yeh  
MANATT, PHELPS & PHILLIPS, LLP  
11355 W. Olympic Blvd.  
Los Angeles, CA 90064  
Fax: (310) 312-4224

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I certify and declare under penalty of perjury that the foregoing is true and correct, that I am employed in the office of an attorney qualified to practice in this court, and that I executed this declaration at San Francisco, California.



Stephanie Huynh