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11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 Switch Communications Group, LLC, a
14 Nevada limited liability company;

15 Plaintiff,

16 v.

17 Dorian Banks, an individual,

18 Defendant.

19 Case No. 2:11-cv-01810-GMN-VCF

20 **[PROPOSED] ORDER GRANTING
21 PRELIMINARY INJUNCTION**

22 This matter having come before the Honorable Gloria M. Navarro on November 17,
23 2011, Laraine M.I. Burrell, of the law firm of Greenberg Traurig, LLP, appearing on behalf of
24 Plaintiff Switch Communications Group, LLC. ("Switch" or "Plaintiff"), and no appearance
25 being made on behalf of Defendant Dorian Banks ("Banks" or "Defendant"), and good
26 cause appearing therefore, this Court hereby finds and orders as follows:

27 1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121 and
28 28 U.S.C. §§ 1331 and 1338;

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COUNSEL/PARTIES OF RECORD	
NOV 17 2011	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

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1 2. The Court has personal jurisdiction over the Defendant in that the Defendant
2 regularly conducts business in the State of Nevada, and Defendant committed tortious acts
3 that she knew or should have known would cause injury to Plaintiff in the State of Nevada;

4 3. Defendant was served on November 11, 2011 by electronic mail in
5 accordance with Rules 4 and 5 of the Federal Rules of Civil Procedure and pursuant to the
6 Order of this Court with the Complaint in this action, Summons, Plaintiff's Application for
7 Temporary Restraining Order and Motion for Preliminary Injunction and Temporary
8 Restraining Order entered by this Court on November 10, 2011;

9 4. Plaintiff, in compliance with the Order of this Court, filed a bond in the amount
10 of One Hundred and No/100 Dollars (\$100.00) on November 15, 2011.

11 5. Switch has made extensive use of the SWITCH Marks for providing
12 telecommunication services, co-locations services, and operating facilities for computers
13 and telecommunication equipment of others and has obtained federal registration for the
14 SWITCH Marks for various goods and services, including but not limited to:

- 15 (a) SWITCH COMMUNICATIONS GROUP for providing
16 telecommunications connections to a global computer network and
17 colocation services (U.S. Reg. No. 3,229,168);
- 18 (b) SWITCH T-SCIF for providing telecommunications connections to the
19 internet and colocation services (U.S. Reg. No. 3,547,908);
- 20 (c) SWITCH WDMD for colocation services (U.S. Reg. No. 3,540,816),
- 21 (d) SWITCHNAP for providing telecommunications to the internet and
22 colocation services (U.S. Reg. No. 3,547,909),
- 23 (e) SWITCHNAP WORLD for providing telecommunications connections
24 to the internet and colocation services (3,880,400),
- 25 (f) SWITCHFORCE, for security guard services, designing security
26 systems for others, security surveillance services, guard night-watch
27 services, alarm center services, mobile and stationary security guard
28 services, alarm rescue services, alarm rescue services; photographic

- 1 surveillance services, detective agencies; interior decoration
2 consultation, engineering and legal counseling services; development
3 of bar-code systems; computer programming for others; computer
4 software design for others, up-dating and maintenance of computer
5 software (U.S. Reg. No. 3,942,121),
6 (g) SWITCHSAFE for computer disaster recovery services (U.S. Reg. No.
7 3,946,128),
8 (h) SWITCHWORKS for design and installation of computer hardware and
9 software systems for others (U.S. Reg. No. 3,942,079),
10 (i) SWITCHMOD for colocation facility development services (U.S. Reg.
11 No. 3,984,525),
12 (j) SWITCH L.D.C. for providing management of building operation
13 systems; computer software and hardware for energy use
14 management, air conditioning and energy usage monitoring and
15 management systems (U.S. Reg. No. 3,984,524), and
16 (k) SWITCHMACRO-MOD for colocation facility development services
17 (U.S. Reg. No. 3,984,966).

18 6. Since Switch commenced operations in November 2003, it has continuously
19 used SWITCH and related marks in connection with advertising and promoting its services
20 in the United States and around the world. The SWITCH name is well-known and well-
21 respected in the data center industry, and has been covered by CNN Money, Vegas Inc.,
22 the Wall Street Journal, and CNBC, among other outlets. Switch has spent millions of
23 dollars to advertise and promote the SWITCH marks in print, broadcast media and on the
24 internet through the Switch website, accessible throughout the United States and around
25 the world at <switchnap.com>.

26 7. Based on its federal trademark registrations and extensive use, Switch owns
27 the exclusive right to use the SWITCH Marks in connection with telecommunication
28 services, co-locations services, and operating facilities for computers and

1 telecommunication equipment of others. The extensive advertising and promotion of
2 services offered by Switch have resulted in the SWITCH name and marks being distinctive
3 for telecommunication services, co-locations services, and operating facilities for computers
4 and telecommunication equipment of others;

5 8. Defendant Banks has used Switch's marks as part of its Internet domain
6 name <switch.net> without Switch's authority or permission;

7 9. Switch will suffer irreparable injury if the Court does not require the domain
8 name registrar ENOM423 INCORPORATED ("Registrar") to lock the infringing <switch.net>
9 domain name and transfer it to Switch pending litigation of this matter;

10 10. Plaintiff has demonstrated likelihood of success on the merits of its mark
11 infringement claims against Defendant under the Lanhan Act, 15 U.S.C. § 1114, and
12 Nevada law; and

13 11. Plaintiff has demonstrated likelihood of success on the merits of its unfair
14 competition claims against Defendant under the Lanham act, 15 U.S.C. § 1125(a).

15 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Switch's Motion
16 for Preliminary Injunction is hereby GRANTED.

17 IT IS FURTHER ORDERED that, pursuant to 15 U.S.C. § 1125(d)(1), the domain
18 name <www.switch.net> shall be transferred to and held by Plaintiff throughout the
19 pendency of this litigation;

20 IT IS FURTHER ORDERED that the Registrar and/or its successor registrars
21 remove all existing Domain Name Server (DNS) entries and corresponding addresses, and
22 enter the Registrar's default Domain Name Server and address entries to prevent further
23 damage caused by the infringing use of the Infringing Domain Name.

24 IT IS FURTHER ORDERED that Defendant will immediately cease and desist any
25 and all use of Plaintiff's name and trademarks and any and all variants thereof, including
26 use of the Infringing Domain Names and any and all variants thereof;

27 IT IS FURTHER ORDERED that Defendant shall file, pursuant to 15 U.S.C. §
28 1116(a), with this Court and serve upon Plaintiff within thirty (30) days after entry of this

1 Order, a report in writing under oath setting in detail the manner and form in which
2 Defendant has complied with this Court's Order; and

3 IT IS FURTHER ORDERED that the bond posted with this Court in the amount of
4 One Hundred and no/100 Dollars (\$100.00) shall be applied to this preliminary injunction.

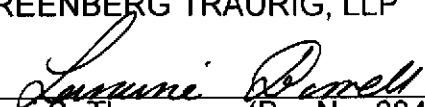
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6 
7 UNITED STATES DISTRICT JUDGE

8 Dated: 11-17-11

9 Respectfully submitted by:

10 DATED: 17th day of November, 2011

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12 GREENBERG TRAUIG, LLP

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