



VeriSign to face Sex.com lawsuit

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The original owner of the Sex.com domain name has won a potentially landmark court victory, allowing him to sue registrar Network Solutions for transferring his domain to a con man.

A Ninth Circuit Court of Appeals judge ruled that Gary Kremen, who first registered the Sex.com name in 1994, had a property right to the stolen domain and that **Network Solutions** was potentially liable for giving it away without proper authorization.

"Exposing Network Solutions to liability when it gives away a registrant's domain name on the basis of a forged letter is no different from holding a corporation liable when it gives away someone's shares under the same circumstances," Judge Alex Kozinski wrote. "The common law does not stand idle while people give away the property of others."

The decision puts domain names on the same footing as ordinary, tangible property and could ultimately be hugely

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influential in Internet-related cases. Previously, the legal status of domain names has been uncertain, and Network Solutions has consistently argued against according domains the same kind of property protections as an automobile or piece of real estate.

But it also marks a turnaround in a case worthy of a Hollywood screenwriter's imagination, featuring forged letters, con men, bounty hunters and a fugitive's flight to Mexico.

Kremen lost his rights to the Sex.com name in 1995, when an ex-con named Stephen Cohen--only recently released from prison for impersonating a bankruptcy lawyer--forged a letter said to be from Kremen's company and authorizing transfer of the domain name

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to himself. The letter claimed that Kremen's company, "Online Classifieds," did not have an Internet connection, and so had authorized Cohen to take over the name and to conduct the necessary transaction with Network Solutions.

The domain name registrar transferred the domain to Cohen without verifying the authenticity of the letter, and Cohen went on to make at least \$40 million over the next few years using the site, Kremen's attorneys said.

Kremen ultimately **sued Network Solutions and Cohen**. A lower court ruled that Network Solutions was not liable, because domain names were not covered by the same rules as tangible property. Kremen subsequently won a \$65 million judgment against Cohen, who promptly transferred his assets overseas and fled the country. The original owner of the domain posted a **\$50,000 reward notice** for Cohen on his newly returned Sex.com site, but the con man remains at large.

The appeals court ruling could bode ill for Network Solutions, now owned by VeriSign. The property-rights legal claim made by Kremen in court falls under a doctrine of "strict liability," which means that if the company did indeed make the transfer to an unauthorized person, it is almost automatically responsible for

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damages. The company is likely to appeal the decision, however.

VeriSign could not immediately be reached for comment.

Kremen's attorney, James Wagstaffe, said the case will likely become one of the foundations of Internet law.

"What this says is that the Internet is subject to the laws of accountability," Wagstaffe said. "It says the Net is subject to the same laws we live by in the rest of our lives."

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