

Response to Documentary Information Disclosure Policy Request

To: Redacted

Date: 19 April 2013

Re: Request No. 20130320-1

Thank you for your Request for Information dated 20 March 2013 (the “Request”), which was submitted through the Internet Corporation for Assigned Names and Numbers’ (ICANN) Documentary Information Disclosure Policy (DIDP). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested

“[A]ll communication via email, fax, and postal mail from Network Solutions to ICANN and vice versa, as well as all other documents in file and ICANN computer for COMPWIZ.COM FVA-175793 and Ticket ID: MWO-112390.”

Response

The documents constituting “communication via email, fax, and postal mail from Network Solutions to ICANN and vice versa...for COMPWIZ.COM FVA-175793 and Ticket ID: MWO-112390” are, to the extent they exist within ICANN, documentation of ICANN’s work in furtherance of its contractual compliance process. It is essential for ICANN to have the ability to communicate with its contracted parties on compliance-related complaints and investigations in a way that encourages the open exchange of information with those contracted parties. As a result, and particularly when the formal Contractual Compliance enforcement process has not been initiated, documentation of ICANN’s investigatory communications with its contracted parties typically fall within the following Defined Conditions for Nondisclosure:

- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
- Information provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.

Specific tickets within ICANN’s Contractual Compliance systems are currently where communications between ICANN and registrars are logged. As a result, the logs for the

tickets referenced in your Request (including the communications between ICANN and the registrar named in your Request) are not appropriate for disclosure through the DIDP. To the extent that documented communication about the tickets referenced in your Request occurred outside of the ticketing system between ICANN and the referenced registrar, those off-ticket communications are also subject to the same Defined Conditions for Nondisclosure.

As a result of its investigation relating to the tickets referenced in your Request, ICANN received documents from registrar Network Solutions that were purportedly sent to you regarding the domain name COMPWIZ.COM. Because these are documents that have already been provided to you separately, these are not an appropriate subject of a DIDP request.

With respect to the request for “other documents in file and ICANN computer for COMPWIZ.COM FVA-175793 and Ticket ID: MWO-112390”, this Request is likely seeking either documents that you sent to/received from ICANN (and are therefore already in your possession) or ICANN’s internal communications. ICANN’s internal communications are also subject to Defined Conditions for Nondisclosure, including:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
- Confidential business information and/or internal policies and procedures.
- Information subject to the attorney– client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

In general, ICANN’s deliberative process in addressing complaints and proceeding through the Contractual Compliance enforcement stages on specific tickets is not appropriate for public disclosure for the same reason that ICANN does not release communications between ICANN and the contracted parties on specific tickets. It is essential for ICANN to have the ability to conduct its compliance-related investigations

in a way that encourages the open exchange of information and informal resolution of complaints.

For each of the items identified above as subject to Defined Conditions for Nondisclosure, ICANN has determined that there are no particular circumstances for which the public interest in disclosing the information outweighs the harm that may be caused to ICANN's internal Contractual Compliance processes by the requested disclosure.

About DIDP

ICANN's DIDP is limited to requests for information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, which is contained within the ICANN Accountability & Transparency: Framework and Principles please see <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.