Board Governance Committee 2013 Annual Report on Accountability Mechanisms

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1. Reconsideration Requests

Bylaws Provisions Re: Annual Report on Reconsideration Requests

- ICANN's Reconsideration Policy is set forth in Article IV, section 2 of ICANN's Bylaws.
- This annual report is presented in fulfillment of subsection 19 of that policy, which calls for the BGC to provide information found in the following slides.

Information on Specific Reconsideration Requests

Number and Nature of Requests Received in 2013

- Sixteen Requests have been received in 2013
- Request 13-1: Reconsideration of ICANN staff's conclusion that Ummah Digital, Ltd.'s gTLD application for .UMMAH is ineligible for further review under the New gTLD Program based upon the determination by the Support Applicant Review Panel (SARP) that the application did not meet the criteria to for financial assistance.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-2: Reconsideration of: (1) staff and Board inaction on the consideration of Nameshop's letter of "appeal" sent after denial of Nameshop's change request to change its applied-for string from .IDN to .INTERNET; and (2) the decision of the SARP that Nameshop did not meet the criteria to be eligible for financial assistance under ICANN's Applicant Support Program.
- Request 13-3: Reconsideration of the staff action of 20 March 2013 regarding "Trademark Claims Protections for Previously Abused Names".

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-4: Reconsideration of the Board action (through the New gTLD Program Committee ("NGPC")) on 4 June 2013, accepting advice from ICANN's Governmental Advisory Committee regarding DCA Trust's new gTLD application for .AFRICA, and determining that this particular application will not be approved.
- Request 13-5: Reconsideration of the ICANN staff action of 26 February 2013, when the results of the String Similarity Panel were posted for the New gTLD Program, placing the applications for .HOTELS and .HOTEIS into a string similarity contention set.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-6: Reconsideration of the 8 August 2013 Expert Determination dismissing Hotel Top-Level-Domain S.a.r.l's objection to the new gTLD application for .HOTELS.
- Request 13-7: Reconsideration of the 29 July 2013 Expert Determination sustaining The DirecTV Group, Inc.'s objection to Dish DBS Corporation's application for .DIRECT.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-8: Reconsideration of the 13 July 2013 resolution of the NGPC that permitted and encouraged dispute resolution panels to use direction in enforcing the deadlines set forth in the New gTLD Applicant Guidebook.
- Request 13-9: Reconsideration of the 21 August 2013 Expert Determination sustaining Commercial Connect, LLC's objection to Amazon's new gTLD application for the Japanese characters that translate to "online shopping" as being confusingly similar to Commercial Connect's application for .SHOP.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-10: Reconsideration of ICANN staff's acceptance of the 8 August 2013 Expert Determination dismissing Commercial Connect, LLC's objection to Top Level Domain Holdings Limited's application for the Chinese characters that translate to "shop," in light of the 21 August 2013 Expert Determination sustaining Commercial Connect's objection to Amazon's application for the Japanese characters that translate to "online shopping".
- Request 13-11: Reconsideration of the ICANN staff's "Response to Documentary Information Disclosure Policy Request" provided in response to a request from the Noncommercial Users Stakeholders Group under ICANN's Documentary Information Disclosure Policy.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-12: Reconsideration of the 30 August 2013 Expert Determination sustaining the objection of Sina Corporation to Tencent Holdings Limited's applications for .微博 (Chinese characters for "microblogging") and .WEIBO.
- Request 13-13: Reconsideration of the International Center for Expertise of the International Chamber of Commerce's decision to dismiss GOProud, Inc.'s community objection to dotGay LLC's gTLD application for the .GAY string.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-14: Reconsideration of the 27 August 2013 Expert Determination sustaining Charleston Road Registry, Inc.'s ("Charleston") (objection to DERCars' new gTLD application for .CARS (the "CARS-II Determination"), specifically, in light of the 7 August 2013 Expert Determination dismissing Charleston's objection to Koko Castle, LLC's application for .CARS and the 10 October 2013 Expert Determination dismissing Charleston's objection to Uniregistry, Corp.'s application for .CARS.

Number and Nature of Requests Received in 2013 (cont.)

- Request 13-15: Reconsideration of the 10 October 2013 staff action to not invite Commercial Connect, LLC's gTLD application for .SHOP to Community Priority Evaluation.
- Request 13-16: Reconsideration of the 25 October 2013 action by staff accepting the Expert Determination on the community objection to the application filed by dot Sport Limited for .SPORT.

Number of Requests Acted Upon

For the period of 19 October 2012 through 8 November 2013, the BGC acted upon twelve Requests: Requests 13-1 through 13-12. The Board (through the NGPC) acted upon the following eight of the twelve Requests that were decided by the BGC: Requests 13-1 through 13-8.

Number of Requests Acted Upon (cont.)

Request 13-1

- On 11 April 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the staff decision that Ummah's application is ineligible for further review based on the SARP's decision that the application failed to meet the criteria for financial assistance.
- The NGPC approved the Recommendation on 18 May 2013.

Number of Requests Acted Upon (cont.)

Request 13-2

- On 1 May 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the staff and Board's inaction on the consideration of Nameshop's letter of "appeal" re denial of change request's to change its applied-for string from .IDN to .INTERNET; and the SARP's decision that Nameshop did not meet criteria for financial assistance.
- The NGPC approved the Recommendation on 18 May 2013.

Number of Requests Acted Upon (cont.)

Request 13-3

- On 25 June 2013, the BGC recommended that the Board deny the request to reconsider the staff action of 20 March 2013 regarding "Trademark Claims Protections for Previously Abused Names".
- The NGPC approved the Recommendation on 2 July 2013.

Request 13-4

- On 1 August 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the Board action of 4 June 2013 accepting advice from the GAC regarding DCA Trust's new gTLD application for .AFRICA

Number of Requests Acted Upon (cont.)

Request 13-4 (cont.)

- The NGPC approved the Recommendation on 13 August 2013.

Request 13-5

- On 1 August 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the staff action of 26 February 2013, when the results of the String Similarity Panel were posted for the New gTLD Program, placing the applications for .HOTELS and .HOTEIS into a string similarity contention set.

Number of Requests Acted Upon (cont.)

Request 13-5 (cont.)

- The NGPC approved the Recommendation on 10 September 2013.

Request 13-6

- On 25 September 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the 8 August 2013 Expert Determination dismissing Hotel Top-Level-Domain S.a.r.l's objection to the new gTLD application for .HOTELS.
- The NGPC approved the Recommendation on 5 November 2013.

Number of Requests Acted Upon (cont.)

Request 13-7

- On 25 September 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the 29 July 2013 Expert Determination from a dispute resolution panel established by the Arbitration and Mediation Center of the World Intellectual Property Organization sustaining The DirecTV Group, Inc.'s objection to Dish DBS Corporation's application for .DIRECT.
- The NGPC approved the Recommendation on 5 November 2013.

Number of Requests Acted Upon (cont.)

Request 13-8

- On 10 October 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the 13 July 2013 resolution of the New gTLD Program Committee that permitted and encouraged dispute resolution panels to use direction in enforcing the deadlines set forth in the New gTLD Applicant Guidebook.
- The NGPC approved the Recommendation on 5 November 2013.

Number of Requests Acted Upon (cont.)

Request 13-9

- On 10 October 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the 21 August 2013 Expert Determination sustaining Commercial Connect, LLC's objection to Amazon's new gTLD application for the Japanese characters that translate to "online shopping" as being confusingly similar to Commercial Connect's application for .SHOP.
- The NGPC has not yet acted on this recommendation.

Number of Requests Acted Upon (cont.)

Request 13-10

- On 10 October 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider staff's acceptance of the 8 August 2013 Expert Determination dismissing Commercial Connect, LLC's objection to Top Level Domain Holdings Limited's application for the Chinese characters that translate to "shop".
- The NGPC has not yet acted on this recommendation.

Number of Requests Acted Upon (cont.)

Request 13-11

- On 29 October 2013, the BGC denied the request to reconsider staff's "Response to Documentary Information Disclosure Policy Request" provided in response to a request from the Non-Commercial Users Stakeholder Group under ICANN's Documentary Information Disclosure Policy (DIDP).

Number of Requests Acted Upon (cont.)

Request 13-12

- On 29 October 2013, the BGC recommended that the Board (through the NGPC) deny the request to reconsider the 30 August 2013 Expert Determination form a dispute resolution panel established by the Arbitration and Mediation Center of the World Intellectual Property Organization sustaining the objection of Sina Corporation to Tencent Holdings Limited's applications for .微博 (Chinese characters for "microblogging") and .WEIBO.
- The NGPC has not yet acted on this recommendation.

Number of Requests Pending

- As of 8 November 2013, there are four Reconsideration Requests pending BGC action and potentially seven Requests pending Board/ NGPC action.
- No Reconsideration Requests were pending at the conclusion of the 2012 calendar year.

Number of Reconsideration Requests the BGC Declined to Consider

- The BGC has thus far considered all Reconsideration Requests submitted between the Annual General Meeting in 2012 and the Annual General Meeting in 2013.

Other Accountability Mechanisms Available to Denied Requesters

- ICANN makes available the Ombudsman and the Independent Review Process as additional mechanisms to enhance ICANN accountability to persons materially affected by its decisions. The Ombudsman separately reports on his activities.

2. Independent Review Process ("IRP") Requests

Number and Nature of IRP Requests Received in 2013

- In accordance with Article IV, section 3 of ICANN's Bylaws, ICANN has designated the International Centre for Dispute Resolution as the body to process requests for independent review of Board actions alleged by an affected party to be inconsistent with ICANN's Articles of Incorporation or Bylaws.
- As of 8 November 2013, no IRP Request has been submitted in 2013.
- The previously pending IRP, *Manwin Licensing International S.A.R.L. v. ICANN,* ICDR Case No. 50 117 T 00812 11, was voluntary dismissed as a result of a confidential settlement between the parties.

Number and Nature of IRP Requests Received in 2013

- Three Cooperative Engagement Process ("CEP) have been initiated. CEP is procedure that can be initiated prior to the filing of an IRP for the purpose of narrowing the issues that are stated within the request for independent review.

3. Documentary Information Disclosure Policy ("DIDP") Requests

General Information Re DIDP

- The DIDP was developed as a part of the Accountability and Transparency Frameworks and Principles to help enhance ICANN's accountability and transparency.
- The DIDP provides that "information contained in documents concerning ICANN's operational activities, and within ICANN's possession, custody, or control" at the time the DIDP request is made, will be made available to the public unless there is a compelling reason for confidentiality, such as the Defined Conditions of Nondisclosure.
- All DIDP requests and responses are posted at: http://www.icann.org/en/about/transparency

Number and Nature of DIDP Requests Received in 2013

- As of 8 November 2013, twelve DIDP Requests have been submitted in 2013.
- Request 20130129-1, Igor Petrenko: requesting a list of all registered domains.
- Request 20130205-1 - 20130205–9, Garth Bruen: seeking information regarding tickets submitted in mid-2011 regarding Whois Data Problem Reporting Service.
- Request 20130211-1, Mary Blasy: seeking information regarding the 2012 renewal registry .com agreement with Verisign

Number and Nature of DIDP Requests Received in 2013

- Request 20130320-1, Compwiz: seeking documents relating to two complaint tickets that were filed with ICANN Compliance regarding domain name Compwiz.com
- Request 20130326-1, Oksana Prykhodko: seeking documents regarding the delegation of the IDN ccTLD .ykp to Ukraine.
- Request 20130328-1, Flip Petillion, Crowell & Moring: seeking documents regarding the String Similarity Panel's determination of .hotels and .hoteis to be confusingly similar.

Number and Nature of DIDP Requests Received in 2013

- Request 20130413-1, Kevin Murphy: seeking recordings and transcripts of Trademark Clearinghouse Strawman Solution meetings in November 2012.
- Request 20130422-1, Thomas Indelicarto, Verisign: seeking documents regarding ICANN's preparedness to launch New gTLDs, and communications between staff and the Security and Stability Advisory Committee from January 2013 to the present.
- Request 20130507-1, George Kirikos: seeking Board Finance Committee minutes and Form 900 for the FY2012.

Number and Nature of DIDP Requests Received in 2013

- Request 20130626-1, George Kirikos: seeking documents relating to the Expert Working Group on gTLD Directory Services.
- Request 20130724-1, NCSG: seeking documents regarding the TMCH Strawman Solution and Reconsideration Request 13-3.
- Request 20130810-1, Mathilde Frison: seeking documents regarding the implementation of the "ICANN Procedure For Handling WHOIS Conflicts with Privacy Law" and the 2013 Registrar Accreditation Agreements that were signed in Durban, South Africa.

Thank You