

**Subject:** [DIDP] NCSG DIDP Request

**Date:** Wednesday, July 24, 2013 7:05:42 PM Pacific Daylight Time

**From:** Robin Gross

**To:** didp@icann.org

**CC:** Contact Information Redacted

The Articles of Incorporation of the Internet Corporation for Assigned Names and Numbers (ICANN), article 4, require ICANN to act through “open and transparent processes.” ICANN is required by its corporate Bylaws to use “open and transparent policy development mechanisms” (Bylaws, article I, Section 2(7)) and to “operate to the maximum extent feasible in an open and transparent manner” (Bylaws, article III, section 1 (1)).

To meet these obligations, ICANN has established a Documentary Information Disclosure Policy (DIDP) which requires it to “ensure that information contained in documents concerning ICANN’s operational activities, is made available to the public unless there is a **compelling** reason for confidentiality.”

The Noncommercial Users Stakeholders Group (NCSG), with over 300 members the largest and most diverse constituent member of ICANN’s Generic Name Supporting Organization (GNSO), supports ICANN’s commitment to open and transparent policy processes.

The NCSG notes that under the DIDP ICANN is required to supply “information not already publicly available” to any member of the public so requesting said information. “To the extent feasible” ICANN is required to provide this information to the requestor no later than 30 days from the date of receipt of the request.

As such, the Noncommercial Users Stakeholder Group (NCSG) respectfully requests that the following documentary information be provided to it without delay per the terms of the DIDP:

1. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, concerning and / or leading to the staff action of the imposition of the policy announced in the 20 March 2013 staff memo titled “*Trademark Claims Protection for Previously Abused Names*.”
2. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, leading to adoption of staff recommendation of the so-called “Trademark +50” policy, including, but not exclusively, any information, data, facts or rationale, per article 7 of the Affirmation of Commitments by the United States Department of Commerce and the Internet Corporation For Assigned Names and Numbers, leading to the determination that the number “50” was the appropriate enumerator for this unprecedented extension of property rights and if any other numbers were considered.
3. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, involved in the preparation, compilation and production of Fadi Chehade’s 19 September 2012 letter to members of the United States Congress.
4. All correspondence between ICANN, staff and Board, and third parties, including but not exclusively government officials, trade associations, corporate and legal firms and interests, concerning the extension of trademark protection beyond the GNSO-approved ‘exact match’ standard in the Trademark Clearinghouse (TMCH).
5. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, concerning the meeting convened by Fadi Chehade in Los Angeles on 15-16 November 2012 to discuss the creation of new trademark privileges in new gTLD policy. This request

explicitly includes but is not limited to materials relating to the meeting's organization, the substance of its discussions, and any follow-up materials related to the meeting.

6. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, concerning staff memo of 29 November 2012, and the 3 December 2013 update, titled "*Trademark Clearinghouse: Strawman Solution*", involving any aspect of allegedly abusively registered strings and policy / implementation concerns thereof.

7. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, provided to or used by Mr. Chehade and/or staff in compiling Mr. Chehade's 26 November 2012 blog post concerning strings and allegedly abusive registrations and policy / implementation issues thereof. This request explicitly includes but is not limited to any such materials relating to the post-publication change, deletion, addition, or other editing of the text of the blog post.

8. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, used in the creation of Mr. Chehade's e-mail to GNSO Chair Jonathan Robinson asking for "policy guidance" on the portion of the Strawman Model relating to the scope of trademark claims.

9. All documentation, contracts, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, including any and all communication between staff and Board, relating to ICANN, staff, board and external contractor's, consideration of and response to Reconsideration Request 13-3.

10. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, including any and all communication between staff and Board, relating to the Board Governance Committee's memo of 16 May 2013 concerning Reconsideration Request 13-3. This request includes but is not limited to materials related to the BGC's 16 May meeting in which NCSG's request was discussed, including board discussions, staff briefings or any notes, records or other information related to those staff briefings or board discussions.

11. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, including any and all communication between staff and Board, relating to the Board Governance Committee's Revised Recommendation of 25 June 2013, concerning Reconsideration Request 13-3, including but not limited to any materials relating to the reason for the revision. This request includes but is not limited to materials related to the BGC's 25 June meeting in which NCSG's request was discussed, including staff briefings or any notes, records or other information related to those staff briefings or board discussions.

12. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and all formats, form and media, including any and all communication between staff and Board, relating to the New gTLD Program Committees action of 2 July 2013 relating to Reconsideration Request 13-3.

13. All correspondence, and / or records thereof, between ICANN, staff and Board, and United States Senator Pat Leahy from 1 May 2012 to the present.

14. All correspondence, and / or records thereof, between ICANN, staff and Board, and Yahoo! Inc., including that between ICANN and Yahoo!'s representatives and agents, from 1 May 2012 to the present.

15. All documentation, memos, reports, analysis, correspondence, preparatory documents or any other information type not heretofore specified, both internal and external to ICANN in its possession, in any and

all formats, form and media, including contracts and invoices, relating to the involvement and / or contracting of outside counsel in any matter concerning Reconsideration Request 13-3.

Prompt attention to this information request is greatly appreciated. We would respectfully point out that the information requested, per the DIDP, is that which is not currently "publicly available". We are aware of the contents of the ICANN website and do not need any guidance in locating materials on it.

Thank you for your assistance in this matter. We applaud ICANN for its commitment to openness and transparency and look forward to receiving the materials requested in a timely manner.

Sincerely,

Robin Gross

Chair, Noncommercial Users Stakeholders Group (NCSG)