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Cooperative Engagement Process Invoked by Nameshop

Sivasubramanian M <isolatedn@gmail.com>

Thu, Mar 31, 2016 at 3:02 AM

To: Independent Review <IndependentReview@icann.org>

Cc: Akram Atallah <akram.atallah@icann.org>, John Jeffrey <john.jeffrey@icann.org>, Steve Crocker <steve.crocker@icann.org>, Christine Willett <christine.willett@icann.org>, Amy Stathos <amy.stathos@icann.org>

Hello

This is in response to the email message from Independent Review of ICANN, Date: Sat, Mar 19, 2016 at 6:08 AM, with the subject line: "Cooperative Engagement Process Invoked by Nameshop."

We note with surprise and object that you are conveying an intent to rush to close the Cooperative Engagement Process unilaterally.

With your acceptance of the Nameshop letter to the Board during the Marrakech meeting we hoped that Cooperative Engagement process has actually begun in earnest at the Marrakesh meeting, but your communication of March 16 is contrary to what was agreed during the meeting at Marrakesh with Akram Atallah -the broad agreement was to examine the issues in good faith.

You mention in your message that you have forwarded the Nameshop letter to the Board and CEO on 8th March, please clarify if this intent to close the CEP arises from a directive or response to that Nameshop letter from the Board and CEO. In case the contents of your message do not reflect a Board response to the Nameshop letter, we are surprised that you are rushing before allowing adequate time for a response from the Board and CEO on our letter sent formally through the CEP process.

We also object to the manner in which the issue is summarized. As observed in your message, Nameshop is not seeking "to be able to proceed with *an* application for .INTERNET", it has in place and has been pursuing THE new gTLD application for .Internet, the string having been applied for and published by you by the "Change Request" process. The manner of your summary is either inadvertent if so acknowledged, or is a wilful attempt to misrepresent the facts concerning the existing application for .Internet. Your message conveniently fails to note that the actual issues have not been addressed during any of the Redressal processes nor during CEP as pointed out by us on several occasions, but instead conveniently mentions that Mr Atallah stated that " the issues have been discussed numerous times". This is not true. ICANN has consistently been evasive on several points raised by Nameshop concerning evaluation and redressal gaps.

We also fail to understand the restrictions on "bylaw violations by the Board" placed as a stonewall to the Cooperative Engagement Process, and have repeatedly sought the actual issues to be addressed and discussed in this internal process.

Based on your usual CEP modalities and from your email communication we understood that you prefer to discuss the issues on the table with a legal counsel present from our side, the counsel that we engaged as a needy applicant in an informal capacity on the first instance at Dublin to your agreement, was "inadequate" as already conveyed to you. Besides, post representation we were told that the Counsel's firm represents a large American Internet business with DNS affiliations, which indicated a severe potential conflict of interest. In effect, so far Nameshop has not so far participated in the CEP with the aid of a legal counsel as required by ICANN, so the CEP needs to be extended to allow us time to include a counsel for fair and truthful representation.

While a punitively enormous legal course remains an option should we be forced to pursue, we have elected to pursue this path of the internal process to avoid adverse publicity on an issue that has a line-up of gross and persistent violations of processes, repeated in the reconsideration process and repeated again in the Cooperative Engagement process. We object to the arbitrary dates that you have indicated for your intent to closure of the CEP and urge you to cooperate and proceed further in good faith towards a fair resolution on the issues especially surrounding the Change Request for .Internet which conforms to every criteria as laid down by ICANN.

Thank you.

Sivasubramanian M

Nameshop

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