



VERISIGN™

May 20, 2013

Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, California 90094-2536

Re: Verisign's Letters to ICANN re: Proposed Registry Agreement

Dear ICANN:

Verisign attaches hereto three prior letters submitted to ICANN in part raising our concerns to ICANN's proposed changes to the new gTLD Registry Agreement. Additionally, in our letter of February 20, we requested that ICANN explain how it determines which letters it makes public and we asked ICANN whether it had received other, unpublished letters about the Registry Agreement or the gTLD program. ICANN did not respond to these letters nor answer the requests contained therein. Thus, we are submitting these letters to ensure that the public record as to Verisign's comments is complete. As discussed in these letters, we urge ICANN to ensure that all comments about the Registry Agreement and about its new gTLD program are made public.

Very truly yours,

Thomas C. Indelicato
Vice President and Associate General Counsel
VeriSign, Inc.



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February 20, 2013

VIA FED EX AND EMAIL

John Jeffrey, Esq.
General Counsel
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Re: ICANN's Transparency and Selective Disclosure Related to the new gTLD Program

Dear John:

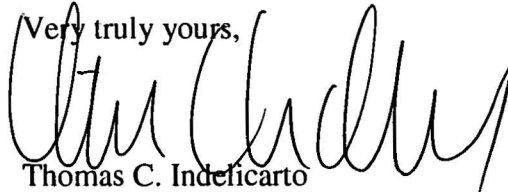
I am writing to raise Verisign's concern with ICANN's lack of transparency in matters pertaining to the new gTLD program. As you know, we have recently written two letters to you raising serious and substantive concerns with certain issues related to the new gTLD program. I have attached both letters for your convenience. To date, ICANN has not made either letter public (and you have neither acknowledged receiving nor responded to any concerns identified in either letter).

We are also aware that others have sent letters to ICANN raising additional important concerns with the new gTLD program, including a widely distributed letter from the Association of National Advertisers dated January 30, 2013. ICANN has similarly not made this letter public. We ask whether ICANN has received other similar letters and we wish to know why those (like ours and the letter from the ANA) have not been made public by ICANN.

We are increasingly concerned that ICANN is choosing to withhold from public view letters that raise important but critical issues with ICANN's new gTLD program. We note in this regard that ICANN *did* make public Verisign's letter of January 8, 2013 declining ICANN's invitation to voluntarily participate in a contractual compliance audit of the .net TLD. Because ICANN has published no criteria on how it decides to make letters public, we are left to conclude that ICANN posts only those letters it believes will advance its positions and withholds those thought to be critical. This conclusion, however, if true, violates ICANN's obligations under the Affirmation of Commitments and undermines our shared goal of upholding and supporting the multi-stakeholder model of Internet governance.

We therefore ask you to identify the standards ICANN uses to determine when a letter is made public and to consider making public all letters regarding the new gTLD program,

including those letters that raise concerns such as the attached letters and the letter from the ANA. We intend to make public our concerns including this and the attached letters.

Very truly yours,


Thomas C. Indelicarto
Vice President and Associate General Counsel
VeriSign, Inc.

Encls.

CC: Jim Bidzos
Executive Chairman and Chief Executive Officer
VeriSign, Inc.

Fadi Chehade
Chief Executive Officer
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dan Jaffe
Group Executive Vice President
Association of National Advertisers
2020 K Street, NW, Suite 660
Washington, DC 20006



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February 15, 2013

VIA FED EX AND EMAIL

John Jeffrey, Esq.
General Counsel and Secretary
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Re: Proposed Changes to Registry Agreement

Dear John:

I am writing by way of follow-up to Verisign's letter to you dated January 30, 2013 and to raise additional concerns with ICANN's new gTLD program.

The January 30th letter expressed Verisign's concerns about ICANN's continued changes to the new gTLD program process. Specifically, we highlighted in our letter the delay in key milestones in the new gTLD program, including our concerns with the announcement ICANN made during the January 11 webinar wherein ICANN moved the deadline, yet again, for its posting of the results of the String Similarity Review. We cited, among other things, that ICANN's delay in executing its String Similarity Review in a timely manner has the potential to prejudice applicants. We also pointed out that the March 13 objection deadline contravenes ICANN's Guidebook commitment to complete the Initial Evaluation Review before the objection period closes. We look forward to your response to our January 30 letter.

We also wish to take this opportunity to express our growing concern with other elements of the new gTLD program. On February 5, 2013, ICANN held a webinar during which ICANN announced a number of proposed changes to the Registry Agreement ("RA") to be executed by new gTLD registry operators. Later that day ICANN posted the proposed changes to the RA for an abbreviated 21-day comment period. As with the issues raised in our January 30 letter, we are concerned both with the timing and the substance of ICANN's proposed RA changes. ICANN's decision to propose these substantial changes now, after many years of multi-stakeholder comment, has the potential to disrupt the expectations of the parties and, in our view, undermine the multi-stakeholder model that ICANN has committed to uphold.

One problem with the timing of the proposed changes is that ICANN is also requiring applicants to formally submit public interest commitments on March 5, 2013, just a few days after the RA comment period closes on February 26. The March 5 date is too soon after the comment period closes in our view because we expect substantial comments to be made to the proposed public interest commitment section to the RA (Specification 11). Further, the March 5 submission date falls before the receipt of possible GAC objections, which Specification 11 seems designed in part to address. ICANN should not rush its review of the comments of this or any proposed changes and should change the March 5 date to permit a reasonable amount of time after the section is finalized and after possible GAC objections is received for parties to submit commitments.

Another timing concern is that applicants that wish to submit public interest commitments under ICANN's timeline will be forced to make such commitments *before* ICANN has disclosed the new dispute procedure it contemplates creating to resolve disputes under Specification 11. We cannot, nor should any careful applicant, decide to submit public interest commitments without knowing how, and especially who, will decide enforcement disputes that might arise. We do not believe that ICANN's timeline is consistent with ICANN's obligations under the Affirmation of Commitments. See, e.g., Affirmation of Commitments Section 9.1(d).

Further, some of the proposed substantive changes to the RA will upset the reasonable expectations of applicants. For example, ICANN's attempt to obtain a unilateral right to impose certain RA amendments (as proposed in Section 7.6) is particularly problematic because ICANN previously sought a similar right during the development of the RA in the draft application guidebook process. We remind you that in light of comments from the community, Version 4 of the draft application guide issued in May 2010 did not contain an amendment process that included such a right. ICANN appears to be revisiting, at this late date, what is, or should be, a settled issue and using the shortest possible public comment period to do so. Applicants, such as Verisign, have made significant investments in reasonable reliance that such unilateral amendment rights would not be part of the RA.

We have similar concerns with other proposed changes. For example, ICANN is seeking to broaden its assignment rights under Section 7.5 in a way that was already rejected through consensus by the community. In November 2012, in Version 5 of the draft application guide, ICANN agreed, in light of community comments, to add language to clarify that an assignment not requiring consent of Registry Operator pursuant to any ICANN reorganization would only be to an entity in the same jurisdiction in which ICANN is currently organized. ICANN's proposed changes to Section 7.5 remove this limitation thereby upsetting applicants' expectations. We believe this and other proposed changes undermine ICANN's credibility and is inconsistent with its obligations under the Affirmation of Commitments. See, e.g., Affirmation of Commitments, Section 7.

John Jeffrey, Esq.
February 15, 2013
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We trust that ICANN will carefully consider the implications of its proposed RA changes. We look forward to your response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tom Indelicarto" with a stylized flourish at the end.

Thomas C. Indelicarto
Vice President and Associate General Counsel



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January 30, 2013

SENT VIA FEDEX AND EMAIL

John Jeffrey, Esq
General Counsel and Secretary
Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Re: Delays to Key Milestones in the New gTLD Program

Dear John:

As you know, on January 11, 2013 the Internet Corporation for Assigned Names and Numbers ("ICANN") announced via webinar that the deadline by which it would post the results of its String Similarity Reviews for new gTLD applications would be delayed until March 1, 2013. This announcement is the most recent in a series of delays to important milestones in the new gTLD program, including failures to meet deadlines in the development, establishment and implementation of the Trademark Clearinghouse and Uniform Rapid Suspension program.

In regard to the String Similarity Review, this latest delay will mark seven months from the original August 2012 deadline set by ICANN for these Reviews to be completed. Moreover, as noted above, completion of the String Similarity Review is but one of several key milestones that ICANN has proven unable to meet and has thus required delay. Specifically, ICANN committed to complete Initial Evaluations of all applications by November 2012. As with the String Similarity review, ICANN has also announced numerous delays to this milestone which is now scheduled to be completed in August 2013, nine months from ICANN's original completion date.

In light of these substantial and continuing delays to important milestones in the new gTLD program, Verisign is concerned that ICANN is failing to concurrently adjust other critical aspects of the overall new gTLD program timeline in a manner that protects the integrity of the application review process as well as the expectations, rights and obligations of the many applicants participating in the program. For example, the deadline by which an objection to an application must be filed is March 13, 2013. This date is now just twelve days after ICANN intends to announce the results of its String Similarity Review. The information provided by the



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String Similarity Review will be for many a critical factor in determining whether to file objections. Despite the great importance the results will play in the objection process, ICANN has left only twelve days for objectors to access and prepare objection submissions. Further, to the extent the String Similarity Review panel will also announce on March 1, 2013 which applications strings are, in the review panel's view, substantially similar to current TLDs, registries such as Verisign will also have a mere twelve days to file objections to applications that are not denied by ICANN due to string similarity. In summary, the March 13 deadline provides little time for an objector to assess its objection options.

Moreover, ICANN's March 13 objection filing deadline is inconsistent with its own requirements set forth in the Application Guidebook ("AGB"). Section 1.1.2.6 of the AGB states:

The objection filing period will close following the end of the Initial Evaluation period...with a two-week window of time between the posting of the Initial Evaluation results and the close of the objection filing period.

The timing set forth in the AGB which provided for the String Similarity Reviews to be completed well before the Initial Evaluations, and the closing of the objection filing period no earlier than two weeks after the posting of the Initial Evaluation results, makes logical sense in that it provided the parties at least a month's time between these events. It ensured a party is not required to expend the resources necessary to prepare and submit an objection to an application that may not survive ICANN scrutiny in the first place. Therefore, consistent with the express terms of the AGB, ICANN must take appropriate steps to ensure the objection filing period remains open until two weeks following the close of the Initial Evaluation Period.

Verisign would also like to express its deep concern regarding certain statements made during the January 11 webinar by ICANN's representative Christine Willet. During the webinar, Ms. Willet stated that ICANN had reservations about the "clarity and consistency of the [String Similarity Review] process" and that current results of the Reviews are ones that Ms. Willet "can't stand behind" and that ICANN "cannot explain."

These revelations portend significant problems for applicants as well as current registry operators and are only exacerbated by a lack of transparency into the process ICANN is employing in its String Similarity and Initial Evaluation assessments. Indeed, absent a full disclosure of the issues ICANN is facing, any future results ICANN may obtain from a revised String Similarity



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assessment process are likely to only raise more questions and lack the necessary credibility required to successfully launch the new gTLD program. Thus, ICANN should disclose the method and manner by which it is performing these String Similarity assessments, including the makeup of the String Similarity Panel, the process by which applications are reviewed by the Panel, the standards and tools used to assess whether an application is “similar” enough to an existing TLD or applied-for-string to create “a probability of user confusion,” and the problems encountered by ICANN that has caused it to reassess the results of these yet-to-be disclosed assessments. Furthermore, ICANN should allow the community to participate in determining ways to remediate the problems that have been encountered in order to ensure the path forward is the right one for all stakeholders.

Verisign looks forward to working with ICANN constructively to resolve these issues.

Sincerely,

Jonathan Spencer
Vice President and Associate General Counsel
VeriSign, Inc.