



United TLD Holdco Ltd.
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April 4, 2013

***Comment on the Public Interest Commitment Dispute Resolution Procedure
(PICDRP)***

United TLD Holdco, Ltd. (“United TLD”) thanks ICANN for the opportunity to submit this statement in response to ICANN’s request for comments on the PICDRP as described in Specification 11 of the proposed Registry Agreement.

While United TLD supports the concept of public interest commitments (PICs) and having a mechanism to ensure that registry operators meet these commitments; and while we also wish to highlight the fact that United TLD filed PICs for each of its 26 new gTLD applications, United TLD strongly recommends that ICANN make four important changes to the PICDRP as originally proposed.

First, with respect to complainant’s standing to bring an action under this procedure, we believe that the complainant should be required to show “material” harm rather than simply “measurable” harm. This standard would make the PICDRP standing requirement consistent with the Trademark Post-Delegation Dispute Resolution Procedure (Trademark PDDRP). Similarly, the standard of proof for such material harm should be “clear and convincing evidence” as required in the Trademark PDDRP rather than by a “preponderance of the evidence,” also to create consistency. Furthermore, the higher evidentiary standards are critical to insuring that claims brought to the panel are supported by solid facts and are not unsubstantiated allegations.

Second, the fee for filing a PIC dispute, though “reasonable,” should not be insignificant. Again, this will deter the filing of frivolous complaints which we have seen filed in other contexts. As corollary to this recommendation, the Registry Operator (or the “Respondent” to the complaint) should not be required to put up any fees to the Panel in order to respond to the complaint filed.

Third, the Expert Panel should not be given the right to recommend termination of the Registry Agreement. Only ICANN has the authority to decide whether termination is an appropriate remedy based upon specific conditions and circumstance cited in the Registry Agreement including the application of required notice breach and cure provisions. Additionally, the

PICDRP should include language that grants the Registry Operator reasonable time to implement any recommended remedy.

Finally, any decision from the Expert Panel should be dispositive of the PIC. For example, if a complaining party files a complaint and the Expert Panel determines that no violation of the PIC has occurred, that decision should preclude another party from bringing an action against the Registry Operator on that same PIC.

United TLD appreciates the opportunity to provide comment on the PICDRP and hopes that ICANN will incorporate these suggestions into the next version of the document.

Should you have any questions regarding these recommendations, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "A. Statton Hammock, Jr." The signature is written in black ink and is positioned above the typed name.

A. Statton Hammock, Jr.
Vice-President, Business & Legal Affairs
United TLD Holdco, Ltd.