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January 14, 2014

VIA ELECTRONIC MAIL

ICANN
12025 Waterfront Drive
Suite 300
Los Angeles, California 90094-2536

Re: Public Comments Regarding New gTLD Auction Rules

We represent Karsten Manufacturing Corporation, the owner of the famous PING trademark and the parent company of one of the applicants to run a <.ping> registry. We appreciate the opportunity to participate in the public comment process concerning the proposed Auction Rules and Draft Auction Schedule. We hereby respectfully submit that the proposed finalization of the Auction Rules and Auction Schedule is premature, and that such efforts should not be undertaken until after ICANN has completed a public comment period on the public policy implications of holding auctions to resolve string contention.

Indeed, in the Governmental Advisory Committee's 20 November 2013 Buenos Aires Communique, the GAC formally requested a briefing on such public policy implications. It is imperative that a public comment period be opened regarding these public policy implications so that the ICANN community can inform the Board of its views on this subject and the Board, in turn, can adequately brief the GAC. For example, we believe that auctions are inappropriate in instances where there exists a *bona fide* trademark dispute between competing applicants. We hereby respectfully submit that ICANN should adopt a policy of automatically staying any such auctions in the event that trademark litigation involving competing strings is commenced prior to the auction date.

Adopting such a policy will permit competing applicants to resolve trademark claims through the courts without the parties having to name both

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ICANN and the auction provider in order to maintain the status quo. We thank ICANN in advance for its thoughtful consideration of this comment and we look forward to engaging in a productive dialogue regarding the important issues raised herein.

Sincerely,

WINSTON & STRAWN LLP

A handwritten signature in black ink that reads "Paul D. McGrady, Jr." in a cursive style.

Paul D. McGrady, Jr.

cc: Karsten Manufacturing Corporation