

June 22, 2006

Via FedEx

Mr. Vinton G. Cerf
Chairman of the Board
ICANN
c/o Google
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Via FedEx

Dr. Paul Twomey
President and CEO
ICANN
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Re: The purpose of Whois and of the Whois contacts

Dear Mr. Cerf and Dr. Twomey:

I am writing to you on behalf, and in my capacity as chair, of the Hotel Consumer Protection Coalition (“HCPC”), an organization described in more detail below whose current members are Global Hyatt Corporation; InterContinental Hotels Group; Marriott International, Inc.; and Starwood Hotels & Resorts Worldwide, Inc. Collectively, our companies include more than 6,600 hotels in more than 100 countries.

I am writing with regard to the ongoing debate about the “purpose of Whois and of the Whois contacts” and, in particular, the two formulations that have been offered by the ICANN GNSO’s preliminary task force (<http://gns0.icann.org/issues/whois-privacy/prelim-tf-rpt-18jan06.htm>).

The HCPC addresses industry-wide problems arising from e-commerce practices that harm or mislead consumers, and in turn damage the reputation of coalition member companies, their brands and the hospitality industry as a whole. Coalition activities focus on the research and resolution of unfair, false, misleading or deceptive online practices and marketing-related activities. The coalition also intends to educate consumers on such practices and how to protect themselves and to work with government authorities and other appropriate entities to reduce harmful e-commerce-related activities.

The HCPC strongly supports “Formulation 2” for the purpose of Whois and of the Whois contacts, which states:

The purpose of the gTLD Whois service is to provide information sufficient to contact a responsible party or parties for a particular gTLD domain name who can resolve, or reliably pass on data to a party who can resolve, technical, legal or other issues related to the registration or use of a domain name.

The addition of the word “legal” to Formulation 2, which is missing from Formulation 1, is a key difference that is of vital importance to our hotel consumers, the general public and the companies we represent.

To protect our hotel consumers, members of the HCPC use Whois repeatedly on a daily basis to identify domain name registrants and website operators that are creating websites using our trademarks to mislead consumers. Given the large number of hotel consumers we serve and the well-known brands represented by members of the HCPC – including, among others, Holiday Inn, InterContinental, Crowne Plaza, Marriott, Ritz-Carlton, Sheraton, Westin, W Hotels, Hyatt and AmeriSuites – our hotel consumers and our companies are prime targets for cybersquatters, phishers, spammers and other bad actors on the Internet.

To help shield our hotel consumers from such illegal activities on the Internet, all members of the HCPC have filed complaints under ICANN’s Uniform Domain Name Dispute Resolution Policy (“UDRP”) to obtain the transfer of domain names that were being used by others in bad faith. For example:

- To protect hotel consumers from viewing a pornographic website using its famous Holiday Inn trademark in a domain name, Six Continents Hotels, Inc. (“SCH”) (an InterContinental Hotels Group company), recently obtained the transfer of the domain name <holidayinnmanassas.com>. *Six Continents Hotels, Inc. v. CredoNIC.com / Domain For Sale*, WIPO Case No. D2005-0755. SCH has also obtained the transfer of numerous other domain names through the UDRP process and in other ccTLDs.
- To protect hotel consumers who use its popular frequent traveler program known as Marriott Rewards, Marriott International, Inc., obtained the transfer of the domain name <marriottreward.com>. *Marriott International, Inc. v. Thomas, Burstein and Miller*, WIPO Case No. D2000-0610.
- To protect hotel consumers from being misled by a website that used its well-known Hyatt Regency trademark in the domain name and redirected visitors to hotel and travel services in competition with its hotel and travel services, Hyatt Corporation obtained the transfer of the domain name <hyattregency.com>. *Hyatt Corporation v. NA*, WIPO Case No. D2005-0419.

- To protect hotel consumers from a single registrant who used multiple domain names that all contained the names of its hotel brands, Starwood Hotels & Resorts Worldwide, Inc., obtained the transfer of 28 domain names that were used in connection with competing services. *Starwood Hotels & Resorts Worldwide, Inc. v. Domaincar*, WIPO Case No. D2006-0136.

In addition to using Whois to identify the domain name registrants in the UDRP cases listed above, members of the HCPC also regularly use Whois to contact domain name registrants and successfully negotiate the voluntary transfer of problematic domain names without incurring the time and expense of the UDRP process. Furthermore, members of the HCPC also regularly use Whois for other legal purposes, such as to identify copyright infringers and others who are violating our companies' legal rights.

Without the benefit of unrestricted access to a database of information about, and contact information for, domain name registrants, we would find it difficult, if not impossible, to protect the public and enforce our rights on the Internet as we currently do. Any effort to reduce the amount of information in the Whois database or to limit our access to it would undermine our ability to assert our legal rights; consequently, our consumers would be harmed by, for example, being led to pornographic and inappropriate websites. Furthermore, our consumers might be forced to bear the burden of the increased financial expenses we would have to incur to identify website operators through court proceedings and private investigations if the Whois database were modified.

At the very least, we believe that accessibility to the existing types of information in the Whois database should remain as-is. We also have serious doubts about the existing accuracy and reliability of this database and its abuse by domain name registrants. For example, in one UDRP case filed (and won) by HCPC member InterContinental Hotels Group's Six Continents Hotels, Inc., the registrant was listed in Whois as, literally, "Sdf fdgg" – an obvious random typing of characters on a computer keyboard. (The domain name was being used in connection with a website that automatically redirected users to a site that contained pornographic images of partially clothed people urinating, and links to other pages, including those labeled "Rape Site" and "Incest & Mature Site.") *Six Continents Hotels, Inc. v. Sdf fdgg*, WIPO Case No. D2004-0384.

We have heard concerns that publicly available information in the Whois database should be limited to safeguard the privacy of domain name registrants. However, existing systems already exist for this purpose, through the so-called "domain proxy" or "domain privacy" services offered by many registrars that mask the true identify of their registrants. Therefore, no change to the Whois system is necessary to safeguard the privacy of domain name registrants, as such a system already exists.

In light of the above, for the protection of our consumers, the public and our companies – as well as for **the overall integrity of the Internet** – the Hotel Consumer Protection Coalition strongly encourages you to support Formulation 2 for the purpose of Whois and of the Whois contacts, to



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ensure the continued unrestricted access to the Whois database and to take all steps practical to improve the accuracy and reliability of Whois data.

We greatly appreciate your consideration of our views, and we would welcome the opportunity to discuss this issue further with you in any appropriate forum.

Sincerely,

FOR THE HOTEL CONSUMER PROTECTION COALITION

Eric Pearson
Senior Vice President, Global Distribution Marketing, InterContinental Hotels Group
Chair, Hotel Consumer Protection Coalition

