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26 June 2013

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By regular mail and by e-mail: didp@icann.org; reconsideration@icann.org

DIDP Request 20130328-1 and Reconsideration Request

Dear Sirs,

I write you this letter as counsel to Booking.com B.V., the applicant for the gTLD ‘.hotels’ (Application ID 1-1016-75482), (hereinafter ‘Booking.com’) in response to ICANN’s communication of 7 June 2013 that it had posted a process description of the evaluation panels. ICANN accorded Booking.com a 30-day period to amend its Request for Reconsideration of ICANN’s decision to put .hotels and .hoteis in a contention set.

The process description lacks an articulated basis for ICANN’s decision. Specifically, the generalized information ICANN thus far has provided does not explain a rationale or analysis for the decision to put .hotels and .hoteis in a contention set and, therefore, does not allow Booking.com to appropriately amend its Request for Reconsideration. Considering ICANN’s obligations of transparency and accountability as found in its Bylaws and Articles of Incorporation, ICANN must provide additional particularized information, as discussed in further detail below. Booking.com also requests an explanation as to why the posting of the process description of the evaluation panels was delayed.

Indeed, on 27 April 2013, ICANN issued a response to Booking.com’s DIDP request, in which ICANN had indicated that it would be posting the SSP’s String Similarity Process and Workflow shortly.

On 9 May 2013, we wrote to ICANN noting that it had failed to provide any additional information or address any of Booking.com’s concerns as conveyed in its DIDP Request or Request for Reconsideration.

On 14 May 2013, ICANN responded that it intended to post the String Similarity Process and Workflow by 17 May 2013. On 7 June 2013, ICANN finally posted a process description of the String Similarity new gTLD Evaluation Panel (hereinafter, the “Process Description”). ICANN also indicated that, as from the posting of the Process Description, Booking.com had a 30-day period to amend its Request for Reconsideration.

However, the Process Description gives only a general overview of the process of the String Similarity Review Panel. Even through today, ICANN has not given *any* information on how the string similarity review between the .hotels string and other strings was assessed, using this Process (*e.g.*, What visual assessment did the operations manager make in its initial assessment?, How did ICC/UCL evaluators evaluate the .hotels string?, etc.). In other words, ICANN has not provided any particularized rationale or analysis for putting .hotels and .hoteis in a contention set.

Booking.com does not understand why it took ICANN so long to publish a Process Description that merely outlines the general workflow and that does not include any string specific information. This is all the more bizarre given the fact that the Process Description itself indicates that the string similarity evaluation has been documented in so-called evaluation workbooks. Was the string similarity evaluation process designed as specified by the Process Description before the start of the evaluation or has it been adapted over time? If this process was adapted, why was it adapted, how was it adapted and how did it influence the evaluation results? And why was the publication of the Process Description delayed?

Booking.com respectfully requests an answer to these questions along with a detailed overview of how the .hotels string has been evaluated and including a response to the following questions:

- How has the .hotels string been evaluated, according to which criteria (*e.g.*, what was included in the standard checklist to ensure consistency) and by whom?
- What were the qualifications of the project manager, evaluator(s) and core team members that evaluated the .hotels string?
- What did the “evaluation workbook” contain for the .hotels string? Who had access to the “evaluation workbook” for .hotels during the evaluation process?
- What was the advice that the Operations Manager provided to ICANN re .hotels? Did that advice ever change throughout the evaluation process? How and when did ICANN check that the .hotels string evaluation was performed in accordance with the process described in the Process Description?
- The document titled the “String Similarity new gTLD Evaluation Panel -- Process Description” included the heading: “New gTLD Program Evaluation Panels: Geographic Names”. Is this the description of the String Similarity Evaluation, or the Geographic Names Evaluation? Is this a mistake, or, were the evaluations combined?

Considering ICANN’s obligations of transparency and accountability, there cannot be any “compelling reason for confidentiality.” And, as mentioned above, there are numerous compelling reasons for publication of this information. Booking.com cannot appropriately amend its filings until it gains a better understanding of what was decided, why it was decided, by whom it was decided, and in what particular fashion it was decided. Booking.com therefore urges ICANN to publish the requested information.

Booking.com reserves the right to amend its Request for Reconsideration upon receipt of the requested information in due course.

Yours sincerely,



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