

## Response to Documentary Information Disclosure Policy Request

To: Shaul Jolles on behalf of Dot Registry, LLC

Date: 21 October 2016

Re: Request No. 20160922-1

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Thank you for your Request for Information dated 22 September 2016 (Request), which was submitted through the Internet Corporation for Assigned Names and Numbers (ICANN) Documentary Information Disclosure Policy (DIDP) on behalf of Dot Registry, LLC (Dot Registry). For reference, a copy of your Request is attached to the email forwarding this Response.

### Items Requested

Your Request seeks the disclosure of:

1. “a list of all people present and in attendance at the August 9, 2016, September 15, 2016, and September 17, 2016 ICANN Board meetings;”
2. “a list of all Board members who voted on resolutions 2016.08.09.11, 2016.80.09.12, 2016.08.09.13 at the August 9, 2016 meeting, resolution 2016.09.15.15 at the September 15, 2016 meeting, and resolution 2016.09.17.01 at the September 17, 2016 Board meeting;”
3. “any and all ICANN Board Briefing materials related to the Board’s deliberations on the Dot Registry, LLC v. ICANN IRP determination;”
4. “any and all communications between the ICANN Board, ICANN staff, and the ICANN CEO related to the September 17, 2016 ICANN Board meeting agenda item ‘*President and CEO Review of New gTLD Community Priority Evaluation Report Procedures*’;”
5. “Any and all documents or communications about ICANN’s scope, purpose, timing, methodology, and/or intentions about or related to the ICANN ‘*President and CEO Review of New gTLD Community Priority Evaluation Report Procedures*’; and”
6. “Any and all documents or communications regarding how the ICANN President and CEO, or his designee(s), intends to perform an independent evaluation of the CPE Provider’s CEP reports when they are employees of ICANN and not independent.”

### Response

Your Request seeks the disclosure of information and documents related to the August 9, 2016, September 15, 2016, and September 17, 2016 ICANN Board meetings (Board Meetings).

A principal element of ICANN’s approach to transparency and information disclosure is the commitment to make publicly available on its website a comprehensive set of materials concerning ICANN’s operational activities as a matter of course. Bylaws Section 3.5 (see <https://www.icann.org/resources/pages/governance/bylaws-en/#article3>) sets forth the timing requirements for posting Board meeting Preliminary Reports, Minutes, and briefing materials. As a

result, many of the items sought in the Request are already publicly available on ICANN's website or will be publicly posted on ICANN's website pursuant to the timing set forth in ICANN's Bylaws.

Item Nos. 1 through 3 seek information and documents regarding the attendance at the Board Meetings, Board member voting on certain Resolutions at the Board Meetings, as well as certain Board briefing materials. The attendance and Board member voting is already publicly available as part of the Preliminary Reports for these Board Meetings, which were published on ICANN's website in accordance with ICANN's Bylaws and are available at <https://www.icann.org/resources/board-material/prelim-report-2016-08-09-en>, <https://www.icann.org/resources/board-material/prelim-report-2016-09-15-en>, <https://www.icann.org/resources/board-material/prelim-report-2016-09-17-en>. Similarly, the Minutes and any Board briefing materials will be published on the 2016 Board Meetings webpage (<https://www.icann.org/resources/pages/2016-board-meetings>) for each of these Board Meetings once the Board formally approves the Minutes, as set forth in the Bylaws.

To the extent there are other documents that may be responsive to Item No. 3, they are subject to the following DIDP Defined Conditions for Nondisclosure:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Item Nos. 4 through 6 request documents and communications regarding “the September 17, 2016 ICANN Board meeting agenda item ‘*President and CEO Review of New gTLD Community Priority Evaluation Report Procedures*.’” The Preliminary Report and the Adopted Resolutions for the 17 September 2016 Board meeting are already publicly available on the 2016 Board Meetings webpage, available at <https://www.icann.org/resources/board-material/prelim-report-2016-09-17-en> and <https://www.icann.org/resources/board-material/resolutions-2016-09-17-en>. As explained above, the Minutes and any Board briefing materials for the 17 September 2016 meeting will be publicly posted once the Board formally approves the Minutes, as set forth in the Bylaws. To the extent there are other documents that may be responsive to Item Nos. 4 through 6, they are subject to the following DIDP Defined Conditions for Nondisclosure:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Notwithstanding the applicable Defined Conditions of Nondisclosure identified in this Response, ICANN also evaluated the documents subject to these conditions to determine if the public interest in disclosing them outweighs the harm that may be caused by such disclosure. ICANN has determined that there are no particular circumstances for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure.

### **About DIDP**

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest because, as we continue to enhance our reporting mechanisms, reports will be posted for public access.

We hope this information is helpful. If you have any further inquiries, please forward them to [didp@icann.org](mailto:didp@icann.org).