Reconsideration Request

1. Requester Information

Name: Tencent Holdings Limited

Address: Tencent Building, Kejizhongyi Avenue, Hi-tech Park, Nanshan District, Shenzhen, 518057, China

Email Contact Information Redacted

Phone Number: Contact Information Redacted

C/O

Name: Zhou Liguo (jjjzhou), Legal Department, Tencent Holdings Limited

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Phone Number:

Name: Deborah M. Lodge, Patton Boggs LLP

Address Contact Information Redacted

Email: Contact Information Redacted

Phone Number: Contact Information Redacted

2. Request for Reconsideration of (check one only):

___ Board action/inaction

_X__ Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

- Tencent Holdings Limited (hereinafter, "Tencent" or "Respondent" seeks reconsideration of the Internet Corporation for Assigned Names and Numbers (ICANN)'s acceptance of the Expert Determination in LRO2013-0040 and LRO2013-0041 ("Decisions") pursuant to section 3.4.6 of the Applicant Guide Book ("AGB"). The Decisions are attached as Attachment

1. These Decisions also fail to follow ICANN guidelines for determining a Legal Rights Objection ("LRO") as suggested in the AGB.

- Tencent also seeks reconsideration of ICANN's inaction in providing clear and well-defined standard to the Dispute Resolution Service Providers ("DRSP"), which have resulted in inconsistent decisions from the DRSP panelists for Legal Rights Objections.

4. Date of action/inaction:

The Decisions were published on August 30, 2013.

5. On what date did you became aware of the action or that action would not be taken?

The Decisions were communicated from the World Intellectual Property Organization ("WIPO") to Tencent and its representatives by email on August 30, 2013.

6. Describe how you believe you are materially affected by the action or inaction:

Tencent's Weibo is one of China's most popular micro-blogging services, with over 373 million active users. Tencent is one of two applicants for the .微博 (Application ID: 1-1313-58483) and .weibo (Application ID: 1-1313-41040) top level domain (TLD) strings.

The Decisions will impact Tencent as follows:

1) Tencent will be denied the opportunity to be awarded and operate the .微博 and .weibo applied-for TLD strings, if applied-for TLD strings by Sina Corporation .微博 (Application ID: 1-950-28485) and .weibo (Application ID: 1-950-50638) are allowed to proceed to contracting with ICANN.
2) Tencent will suffer significant harm as it will be forced to forego its significant investments to date in the applied for .微博 and .weibo TLD strings.

3) If Tencent wants to use the .微博 and .weibo TLD strings in the manner that was specified in its response to question 18(a) in its applications ("Application"), (Attachment 2), then it will need to purchase a substantial number of second level domains from Sina Corporation, its direct competitor. This will require further significant investments from Tencent and could force Tencent to reveal important trade secret information regarding new products and services to its competitor. That is unjustified given ICANN's inaction in providing an automatic right of appeal for the DRSP panelist determinations. As noted below, Tencent submits that the Decisions were legally incorrect and should not be given effect by ICANN.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

Tencent believes that the Decisions also affect the following:

- Other similarly situated applicants/respondents across the various DRSPs, that have suffered inconsistent or erroneous decisions by panelists, including, but not limited to:
    - the applicant for the ".delmonte" gTLD in LRO2013-0001;
    - the applicant for ".pets" gTLD in 50 504 00274 13;
    - the applicant for ".cam" in 50 504 T 229 13;
    - the applicant for ".Hotel" in 50 504 T 00237 13; and
    - the applicant for ".SHOP" and ".通販" in 50 504 T 00261 13.

  These applicants will not have a uniform or clear forum to challenge these inconsistent and erroneous determinations; and

- Over 373 million plus Tencent micro-blogging consumers searching for legitimate Tencent products and services will be forced to navigate a number of disjointed second level domains to locate these products and

services. There is a danger that these consumers will be misled and confused.

- Internet users will be adversely affected as there may be less competition at a TLD level as well as fewer TLDs targeted at non-English speaking communities.

8. Detail of Board or Staff Action – Required Information

Even though the Expert Determinations for the Decisions were performed by a third party, the ICANN Board Governance Committee ("BGC") has determined that the "*Reconsideration process can properly be invoked for challenges of the third party's decisions where it can be stated that either the vendor failed to follow its process in reaching the decision, or that ICANN staff failed to follow its process in accepting that decision." (Attachment 3, Recommendation of the Board Governance Committee ("BGC") for Reconsideration Request 13-5 dated August 1, 2013, at Page 4).*

Additionally, section 3.4.6 of the AGB provides that "*findings of the [DRSP] panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process."* *(Attachment 4).* This advice to ICANN clearly indicates that the DRSP panels are only providing a recommendation to ICANN. ICANN created the DRSP process and makes the ultimate decision with respect to whether an application may proceed to delegation. Thus, ICANN's acceptance of the DRSP Expert Determinations also constitutes a staff action by ICANN.

Section 3.2 of the AGB also provides:

"a path for formal objections during evaluation of the applications. It allows a party with standing to have its objection considered before a panel of qualified experts... A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection…." Id.

Section 3.2.1 of the AGB further provides that a Legal Rights Objection ("LRO") may be filed where: *"[t]he applied-for gTLD string infringes the existing legal rights of the objector." Id.*

Section 3.2.3 of the AGB provides that to trigger an LRO, an objection must be filed with: *"[t]he Arbitration and Mediation Center of the World Intellectual Property Organization [, which] has agreed to administer disputes brought pursuant to legal rights objections." Id.*

As discussed further in question 10 below, the Majority has failed to apply the standards set forth by ICANN in reaching the Decisions. As a result, the Panel has failed to follow the ICANN dispute resolution procedure policies. ICANN's automatic acceptance of the DRSP panelist decisions, even those that are erroneous or inconsistent, is contrary to ICANN's mandate to act transparently and fairly. For the new ICANN gTLD program, the Generic Names Supporting Organisation's (GNSO's) stated that the:

*"evaluation and selection process [for the introduction of new top-level domains] should respect the principles of fairness, transparency and non-discrimination. Further, all applicants should be evaluated against transparent and **predictable criteria**, fully available before initiation of the process." (Emphasis added).* ***(Attachment 5, Paragraph 7 of the Summary of GNSO's Final Report on the Introduction of New Generic Top- Level Domains (gTLDs) and Related Activity)***

Thus, ICANN's actions above are also inconsistent with this guidance.

ICANN's Articles of Incorporation require it to act "*through open and transparent processes,*" and its Bylaws further provide that ICANN must "*operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness." (Articles of Incorporation, Art. 4; Bylaws, Art. III. sec. 1).* The Bylaws also require that ICANN "*mak[e] decisions by applying documented policies neutrally and objectively, with integrity and fairness." (Bylaws, Art. I, Sec. 2.8).* ICANN's Bylaws also prohibit discriminatory

treatment, *"ICANN shall not apply its standards, policies, procedures, or practices inequitably or single out any particular party for disparate treatment." (Bylaws, Art. II, Sec. 3).*

ICANN's failure to provide a mechanism for redress for erroneous and inconsistent DRSP Expert Determinations is contrary to ICANN's mandate to act with fairness and prevents Tencent and other applicants from challenging erroneous and inconsistent DRSP Expert Determinations in a non-arbitrary and non-discriminatory fashion.

DRSP panelists are taking *"diverse and sometimes opposing views in their decision-making." (Attachment 6).* For example, a panelist in *Charleston Road Registry* v. *Koko Castle*, ICDR Case No. 50 504 00233 13, August 7, 2013, decided that it was inappropriate to consider trademark law in his decision, while the panelist in *VeriSign Switzerland SA* v. *TV Sundram Iyengar & Son Limited,* ICDR Case No. 50 504 00257 13, August 8, 2013, gave trademark law considerable weight. *Id.* Other examples of this inconsistency are provided in the response to Question 10 below. Fundamental fairness requires that Panels apply the same standards and principles in their decision-making. These inconsistent positions by the Panels are hardly consistent with ICANN's mandate to act with fairness discussed above.

Background of Facts related to action/inaction of ICANN Staff or third party vendor

LRO2013-0040

On March 13, 2013, pursuant to the AGB and New gTLD Dispute Resolution Procedure ("Procedure"), SINA Corporation (hereinafter "Objector") filed LROs against Tencent's applied-for .微博 and .weibo TLDs with the WIPO Arbitration and Mediation Center (the "WIPO Center").

On March 26, 2013, the WIPO Center completed its administrative review of the Objection and determined it complied with the requirements of the Procedure.

WIPO notified Tencent's representatives on April 17, 2013, of the LRO.

Tencent timely filed its response on May 16, 2013.

On May 23, 2013, the WIPO Center acknowledged the receipt of the mutual agreement between the Objector and Tencent to the appointment of a three-member Panel. Both Parties separately submitted to the Center the names of three candidates from the Center's List of Experts.

The WIPO Center appointed Dr. Hong Xue as the Presiding Panelist and Mr. Matthew Harris and Ms. Susanna H.S. Leong as the Co-Panelists in this matter on June 15, 2013.

On July 14, 2013, the Objector filed Additional Submissions and Supplemental Evidence to the WIPO Center.

On July 18, Tencent filed the Response to the Objector's Additional Submissions with an Annex.[1]

On August 30, 2013, the Panel notified the parties' representatives of their Expert Determination, a split decision overlooked key aspects of trademark law.

9. What are you asking ICANN to do now?

- Tencent is asking ICANN to reject the Decisions and allow the .微博 and .weibo TLDs, which are part of contention set nos. 6 and 226, to proceed to string contention and eventually delegation.

- In the alternative, Tencent is also asking ICANN to provide applicants of inconsistent or erroneous DRSP panel determinations, such as Tencent, with an avenue for redress that is consistent with ICANN's mandate to act with fairness.

- In the event that ICANN will not immediately reverse the Decisions,

[1] On August 18, Tencent re-filed its Response to the Objector's Additional Submissions with an Annex explaining that the initial Response filed within the designated period was not sent via its email system. The Panel accepted this response.

Tencent requests that it be provided with an opportunity to respond before the BGC makes a final determination.

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

DRSP panelists have an obligation to apply the standards for the Procedure set forth in the AGB. For an LRO, in determining whether an Objector in an LRO may prevail, section 3.5.2 of the AGB provides that the Panel **<u>must</u>** determine whether the potential use of the applied-for gTLD: *(i) takes unfair advantage of the distinctive character or the reputation of the objector's registered or unregistered trademark or service mark ("mark"); or (ii) unjustifiably impairs the distinctive character or the reputation of the objector's mark; or (iii) otherwise creates an impermissible likelihood of confusion between the applied-for gTLD and the objector's mark. (Attachment 4).* Additionally, in *Right at Home* v. *Johnson Shareholdings, Inc.*, WIPO Case No. LRO2013-0030, the presiding panelist in the decision, indicated that the language of section 3.5.2 of the AGB created a **very-high burden for trademark-based objections** because: *"the use of the terms 'unfair,' 'unjustifiably,' and 'impermissible' as modifiers, respectively, of 'advantage,' 'impairs,' and 'likelihood of confusion' in Section 3.5.2 suggests* ***that there must be something more than mere advantage gained, or mere impairment, or mere likelihood of confusion for an Objection to succeed under the Procedure. It seems, rather, that there must be something untoward- even If not to the level of bad faith - in the conduct or motives of Respondent, or something intolerable in the state of affairs which would obtain if the Respondent were permitted to keep the String in dispute.****" (Emphasis Added). (Attachment 7).* This decision was also followed by a number LRO panels, including the panels in subsequent LRO decisions, such as: *Canadian Real Estate Association* v. *Afilias Limited*; *Pinterest, Inc.* v. *Amazon EU S.a.r.l*; and *Defender Security Company* v. *Lifestyle Domain Holdings, Inc. Id.*

Section 3.5 of the AGB also states that "*[t]he panel may also refer to other relevant rules of international law in connection with the standards… [and] [t]he objector bears the burden of proof in each case.*" *(Attachment 4).*

Here, as discussed further below, the Panel majority ("Majority") has substituted a different standard, *i.e.*, its incorrect understanding of Chinese Trademark law, rather than the one stated above from section 3.5.2, to make its erroneous determination. The Majority has also failed to use relevant rules of international trademark law in its erroneous decision. Further, the Objector failed to meet its very high-burden as discussed above. Finally, ICANN has failed to explicitly define the Objector's burden of proof for the DRSP panels, *e.g.*, Preponderance of the Evidence, Clear and Convincing Evidence, *etc.* This has resulted in different panelists using different standards for the Objector's burden of proof.

a) The Panel majority's reliance on the Objector's Chinese Trademark Registration (No. 7649615) for the mark 微博 is flawed.

In its response to question 18(a) for the .微博 and .weibo TLD Applications, Tencent states *inter alia* that:

The .weibo gTLD will create a new generation gTLD serving the interests of end users by enabling internet users to better communicate with each other and the world, utilising its micro-blogging functionality. (Attachment 2)

The .微博 gTLD will create a new generation gTLD serving the interests of end users by enabling internet users to better communicate with each other and the world, utilising its micro-blogging functionality. (Attachment 2)

Based on the above, Tencent's intention to use the .微博 and .weibo TLD strings for its micro-blogging functionality is clear. Micro-blogging is defined as "*a form of blogging that allows users to write brief text updates (usually less than 200*

characters) and publish them, either to be viewed by anyone or by a restricted group which can be chosen by the user." (Attachment 8).

China does not permit multi-class trademark registrations and thus an applicant for a trademark in China must register it in each and every class where they require trademark protection. (Attachment 9, International Trademark Association's Single Class vs. Multi-Class TM Applications Chart). Under Article 52 of the trademark law of the People's Republic of China, an ordinary trademark registration provides the trademark owner with protection against identical or similar trademarks in the **same** class of goods or services. Clause 2, article 13 of the trademark law of the People's Republic of China, provides that for a well-known trademark, Chinese Trademark Law not only prohibits the registration and use of an identical or similar trademark on identical or similar goods or services, but also on non-identical or dissimilar goods or services, if such use misleads the public and is likely to cause prejudice to the interests of the well-known trademark owner. (See also Attachment 10, Presentation on "Well-Known Trademark Protection in China" by Haochen Sun, Assistant Professor of Law, University of Hong Kong).

Here, the record does not support the Majority's erroneous conclusion that the Objector's Trademark Registration (No. 7649615) has acquired the status of a "well-known" trademark under Chinese law. In fact, the record demonstrates that several entities that provide micro-blogging tools, including Tencent have been granted trademarks with the phrase 微博 under Chinese Trademark laws. (Attachment 1, Pages 2 and 4). Further, the Objector failed to provide any evidence that its Trademark Registration (No. 7649615) had been identified on any list of well-known Chinese trademarks that are released by the State Administration for Industry and Commerce and the Supreme People's Court. If Trademark Registration (No. 7649615) were a well-known mark, it would have been on such a list by law.

In the Decisions, the Majority stated that the Objector's Trademark Registration (No. 7649615) is registered in Class 35 for the following services: services of "advertising, online advertising on data communication network, exhibiting goods on communication media for retailing, market analysis, public opinion poll, data retrieval (for others) in computer files, computer database information enrollment, computer database information classification and computer database information systemization." (Attachment 1, P.3). Trademarks in Class 35 are related to advertising and business and include mainly services rendered by persons or organizations principally with the object of: (i)help in the working or management of a commercial undertaking; or (ii) help in the management of the business affairs or commercial functions of an industrial or commercial enterprise, as well as services rendered by advertising establishments primarily undertaking communications to the public, declarations or announcements by all means of diffusion and concerning all kinds of goods or services. (Attachment 11, Nice Agreement Tenth Edition - General Remarks, Class Headings and Explanatory Notes - Version 2012).

Tencent plans to use the .微博 and .weibo TLDs in an entirely different class, Class 38. Class 38 includes mainly services allowing at least one person to communicate with another by a sensory means. Such services include those which: (1) allow one person to talk to another, (2) transmit messages from one person to another, and (3) place a person in oral or visual communication with another (radio and television). *Id.* Micro-blogging tool related trademarks are mostly registered in classes 9 and 38. For example, the original trademark application, for the micro-blog tool, Twitter, has the following description for its goods and services in Class 38:

IC 038. Telecommunication services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via

email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for registered users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking.

IC 041. Providing on-line journals, namely, blogs featuring user-defined content in the field of social-networking.

IC 045. Providing a website on the internet for the purpose of social networking. (Attachment 12).

Here, as Tencent indicated in its response to the LROs (Attachment 13), Tencent's services do not fall into class 35 and as discussed above, Tencent provides "micro-blogging functionality." It does not provide "advertising, online advertising on data communication network, exhibiting goods on communication media for retailing, market analysis, public opinion poll, data retrieval (for others) in computer files, computer database information enrollment, computer database information classification and computer database information systemization." Therefore, contrary the Majority's erroneous conclusion that:
"the Applicant planned use of the new gTLD <.微博> directly conflicts with the Objector's trademark registration 微博 (Registration No. 7649615) [because]...the Objector's mark 微博 is registered on the services, inter alia, data retrieval (for others) in computer files, computer database information enrollment, computer database information classification and computer database information systemization [, and]...[t]he Applicant's planned running for the new <.微博> name space involves the above-mentioned services," (Attachment 1). As discussed above, classes 35 and 38 are considered distinct and separate.

Because the Majority's Decisions were premised on the erroneous and unsupported findings that 微博 was "well-known," the Majority's decisions were fundamentally flawed. Indeed, given the Majority's position on factors "c" and "f" of the eight factors under section 3.5.2 of the AGB, it is difficult to comprehend how the Majority could conclude that the Objector's trademark registration 微博 (Registration No. 7649615) was a "well-known" distinctive mark associated with the Objector. Simply having a symbol well known as associated with a particular good or service is insufficient because a generic could be "well known." In fact, the Panel's minority ("Minority") dissent also identified flaws in the Majority's rationale based on a derogation of the AGB standards. For example:
"[m]y understanding of my fellow panelists' position is that they say this case can be decided in the Objector's favour without having to form a view on who is right on this issue of whether these terms are generic. Their position appears to be that the Objector has at least one prima facie valid trade mark in China for the term "微博", that it is in China that the Applicant has conducted most of its business in the past and that it is to the Chinese market (albeit as part of a slightly larger Chinese speaking market) that the Applicant intends to direct its services under the <.微博> gTLD. Given this (if my understanding of the argument is correct) the use of the gTLD will infringe and/or unduly impinge on that mark… I am not so sure that this case can be decided on this basis... ***I am un-persuaded by the [Majority] argument that it is not necessary to decide the question of whether "weibo" and "微博" are descriptive of micro-blogging because the Objector has a mark that extends to, for example, "computer database information systemization" and that the Applicant's provision of micro-blogging services will involve such database activities.**" (Emphasis Added). (Attachment, 1).*

b) Tencent's potential use for the <.weibo> and <.微博> TLD applications does not unjustifiably impair the distinctive characteristic of the Objector's Trademark Registration (No. 7649615).

As discussed above, section 3.5.2 of the AGB provides a very-high burden for trademark based objections. Here, as noted above, the Objector has failed to meet its burden. A Respondent's business model does not automatically translate into a finding of bad intent. See *Express, LLC* v. *Sea Sunset, LLC*, WIPO Case No. LRO2013-0022; and *Limited Stores, LLC* v. *Big Fest, LLC*, WIPO Case No. LRO2013-0049. Indeed, as the Panel found in the *Express, LLC* case, this risk is an inherent function of the Objector's decision to use a dictionary word as its brand name. Here, the Majority's view of Tencent's business model was not only inconsistent with decisions from other LRO panels, it was just erroneous.

c) <.weibo> and <.微博> are generic terms.

In the Decisions, the Minority suggests that:

"it is reasonable to say that it is [an] internationally recognised principle of trade mark law that generally the use of a term which has a descriptive meaning in a manner that is consistent with its descriptive meaning should not infringe a trademark for that term. That use is unlikely to take unfair advantage of, or unjustifiably impair any distinctive character of, or create impermissible likelihood of confusion with a trademark. That is because in such circumstances the mark is unlikely to have any distinctive character in respect of that activity and/or the law considers any advantage gained, impairment caused or confusion incurred, as neither unfair, nor unjustified nor impermissible. ***Therefore, if "weibo" and "微博" are descriptive of micro-blogging and the Applicant intends to use [it] for micro-blogging services, then it will be difficult for the Objector to succeed in these proceedings.****" (Emphasis Added). (Attachment 1).*

Here, according to Wikipedia, "Wei boke" (微博客) and "weixing boke" (微型博客), commonly abbreviated as "weibo" (微博), are Chinese words for "microblog." (Attachment 14). Further, as Tencent's responses to the LROs demonstrate, the term "微博" is used to describe the phenomenon of micro-blogging in China and

is used by many micro-blog service providers. (Attachment 1). Additionally, the term "微博" is often used in a descriptive manner and there are various market players who are using the term "微博". (Attachment 1). Thus, Tencent merely applied for a very descriptive and generic term, which is part of several of its trademarks, and which it has used for at least 3 years. LRO panels, such as the panel in Express, LLC v. Sea Sunset, LLC, WIPO Case No. LRO2013-0022, regard this as permissible.

Additionally, the Minority notes that "*[t]here is also the fact that although the terms "weibo" and "微博" are already being used by Applicant as part of a larger term (for example, "Tencent 微博"), it would appear that no legal proceedings have been brought by the Objector against the Applicant in relation to that use." (Attachment 1).*

Finally, as discussed above, the Objector did not meet its burden under section 3.5.2 of the AGB. The Majority erroneously disregarded internationally recognized principles of trademark law because 微博 is a generic word used by many consumers and services to mean "microblog" in Chinese.

d) Tencent's use of <.weibo> and <.微博> will not confuse internet users. As discussed above, contrary to the incorrect assertion by the Panel, Tencent and other providers of micro-blogging tools in China, have used the phrase 微博, since at least 2010. The Panelist, Robert Badgley, noted in his dissent in Del Monte Corporation v. Del Monte Int'l GmbH, WIPO Case No. LRO2013-0001, "[t]he fact that multiple entities have been using the same mark in the same general area of commerce (food) for many years suggests that the consuming public has not been too troubled or confused by this state of affairs." Here, both Tencent and the Objector have used the phrase "微博" for over 3 years in the micro-blogging sphere, and the consuming public does not appear to have been

confused. There is nothing in the record that would support a finding of confusion. The Majority's conclusions are unsupported and incorrect.

e) **Tencent will be injured if these erroneous Decisions are allowed to stand.**

Tencent has spent hundreds of thousands of dollars in attempting to secure the .微博 and .weibo TLDs for the purposes articulated in their applications. If the BGC chooses not to uphold the ICANN mandate of fairness by providing the remedy sought in response to Question 9, then the AGB only provides Tencent with the ability to obtain a $37,000 refund for each application, which is patently unfair.

f) **Conclusion:** The Majority violated ICANN's established policy with respect to: 1) applying the incorrect standards for the Decisions; and 2) applying an incorrect interpretation of Chinese trademark law, which is contrary to recognized international trademark law. Furthermore, ICANN failed to provide clear or complete guidance to panels in the DRSP as suggested by the Majority's comments that the ICANN "Guidebook does not provide how a panel draws the conclusion from the assessment of the eight factors."

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)

____ Yes

_X___ No

11a. If yes, Is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties? Explain.

Do you have any documents you want to provide to ICANN?

Attachment 1 – Signed Expert Determination from LRO2013-0040 and

Attachment 2 – ICANN New gTLD Application IDs: 1-1313-58483 and 1-1313-41040

Attachment 3 - Recommendation of the Board Governance Committee ("BGC") for Reconsideration Request 13-5 dated August 1, 2013

Attachment 4 – ICANN New gTLD Application Guidebook Version 2012-06-04

Attachment 5 - Summary of ICANN Generic Names Supporting Organisation's (GNSO's) Final Report on the Introduction of New Generic Top- Level Domains (gTLDs) and Related Activity

Attachment 6 - Interview: Atallah on new gTLD objection losers, available at http://domainincite.com/14208-interview-atallah-on-new-gtld-objection-losers (last accessed August 23, 2013)

Attachment 7 - ICANN Legal Rights Objections: What's Past Is Prologue I Bloomberg BNA, available at http://www.bna.com/icann-legal-rights-b17179875369/ (last accessed July 23, 2013)

Attachment 8 – September 26, 2007 article titled 10 Micro-Blogging Tools Compared by Aidan Henry available at http://readwrite.com/2007/09/06/10_micro-blogging_tools_compared (last accessed September 14, 2013)

Attachment 9 - International Trademark Association's Single Class vs. Multi-Class TM Applications Chart

Attachment 10 - Presentation on "Well-Known Trademark Protection in China" by Haochen Sun, Assistant Professor of Law, University of Hong Kong

Attachment 11 - Nice Agreement Tenth Edition - General Remarks, Class Headings and Explanatory Notes - Version 2012 available at http://www.uspto.gov/trademarks/notices/international.jsp (last accessed September 14, 2013)

Attachment 12 – US Trademark Registration No. 3, 619, 911

Attachment 13 – Tencent's Responses to LRO2013-0040 and LRO2013-0041 and associated Appendix 1-10

Attachment 14 – Wikipedia article on Microblogging in China

Terms and Conditions for Submission of Reconsideration Requests

The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

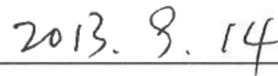
The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.

Tencent hereby requests a hearing for this matter.



Signature

Date