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VIA E-MAIL

Flip Petillion
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Petillion
Guido Gezellestraat 126
B-1654 Huizingen
Belgium
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Re: *Namecheap, Inc. v. ICANN*, ICDR Case No. 01-20-0000-6787

Dear Mr. Petillion and Mr. Janssen:

As counsel to the Internet Corporation for Assigned Names and Numbers (“ICANN”), we write in response to your letter of 6 February 2023 to Mr. Sanchez and the ICANN Board Accountability Mechanisms Committee (“BAMC”) sent on behalf of your client Namecheap, Inc. (“Namecheap”) relating to the above-referenced Independent Review Process (“IRP”).

In response to your questions, ICANN can confirm that it is in the process of publishing your 18 January 2023 letter on ICANN’s website, and that it is in the process of reimbursing Namecheap in accordance with the IRP Panel’s Final Declaration.

With regard to Namecheap’s repeated baseless position that the IRP Panel’s recommendations are mandatory,¹ ICANN and the IRP Panel have already explained that Namecheap’s position is incorrect. Indeed, the IRP Panel expressly rejected this argument in the IRP and found that the Panel’s authority is limited “to recommending (not ordering) remedial action to the extent a violation is found.”² Even so, as previously stated, the Board takes IRP panel final declarations very seriously, including any recommendations contained therein.

The remainder of Namecheap’s letter comprises rehashed arguments, which were already addressed in the IRP, or proposed “advice” to the Board and/or its members regarding consideration of possible conflicts of interest. Regarding the latter, there is no need for Namecheap’s input on the manner in which Board members consider and comply with the

¹ Letter from F. Petillion to the ICANN Board (6 February 2023), at p. 2.

² *Namecheap, Inc. v. ICANN*, ICDR Case No. 01-20-0000-6787, Final Declaration (23 Dec. 2022) ¶ 482.

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Board's Conflicts of Interest Policy. Board members take actual or perceived conflicts of interest very seriously, and will take such actions as they deem appropriate.

With regard to the Final Declaration, pursuant to Board Resolution 2023.01.21.09, the BAMC is in the process of reviewing, considering and evaluating the IRP Panel's Final Declaration and recommendations, and will provide the Board with its recommendation(s) regarding next steps for the Board to consider.

Very truly yours,

Jeffrey A. LeVee

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