

# nameshop

Dear Christine Willett,

April 25, 2019

As a response to your letter dated April 5, 2019:

## 1. On your position that the ICANN does not see further avenues:

Your letter states:

*“the Applicant Guidebook does not provide further avenues for delegation of Nameshop’s application. As such, ICANN, including the ICANN Board Chair and the ICANN President and CEO, is unable to take any additional action.”*

I am surprised that you claim that there are no avenues for ICANN to revisit ICANN’s own omissions in evaluation and reconsideration. ICANN did NOT follow the avenues provided in 1) the Applicant Guide Book and that of the 2) Change Request process which amended the AGB. ICANN skipped provisions and processes to discriminate this application for .Internet, which has brought this application to its current status, which you see as a status that does not provide “further avenues”.

Nameshop filed an application in 2012 for a [New gTLD](#), first for .IDN as an English name bridge (ASCII layer) and pointer to the IDN web-spaces. The string .IDN was not allowed by a fine rule missed even by a very large applicant, and even by ICANN. By the Change Request process, which effectively amended the rules of the Applicant Guide Book in 2013 equally for all applicants, Nameshop applied to change the string to .Internet. The string .Internet equally represented the idea of expanding the reach of the IDN web-spaces across the Internet. The string .Internet is not a reserved string, not a string applied for by other applicants, not a geographical string or under contention in any other manner. As per rules of the change process, there were no restraints on the type of change to be asked for. Applicants could apply to change patterns of ownership, location, business plan, or anything else, as nothing was prohibited as a change request. ICANN is still blocking the change to .Internet, nor assigned reasons for denying this string change while other string change requests were approved. ICANN’s treatment of the change request for .Internet was thus discriminatory, and as a coincidence, Nameshop’s Application support request was denied, again without any explanation.

The visible unfairness of these action occurred and continues due to various conflicts of interest, present and past, in general in New gTLD decisions, which in the case of the application for .Internet appears to move towards a decision not to evaluate. In reconsideration, the design and process gaps of the Board Reconsideration of Board inaction, contravened “*nemo judex in causa sua*” which was not helpful; The Ombudsman process was both limited in scope and rushed to conclude without a hearing and without attention to the details of the case, with signs of a pre-determination.

Now, under Cooperative Engagement, if ICANN says that there are no processes to review the process stalemate that is ICANN's own creation, that amounts to a further obstruction. As stated in the Nameshop letter of July 31, 2007, "We are unable to understand what 'corporate' rigidity could possibly limit a global organization such as ICANN, with all of its evolved multi-stakeholder model Community processes, from acting swiftly on the Nameshop application."

Despite the history of issues, as outlined in the timeline <http://nameshop.in/progress>, Nameshop's focus has been on moving ahead only by assuring the ICANN Community that the string would be operated around its elaborate Public Interest Commitments, which far exceed in scope than that of many other applications. The TLD .Internet would be of immense value to the DNS including that of resolving a human-level "Universal Acceptance" problem, which concerns the difficulty for the global Internet user to read, write or use a domain string in an unfamiliar script. ICANN refuses to go into this and several other merits of the application and its other Public Interest Commitments, communicated ahead of ICANN's PIC process and reaffirmed thereafter, including that of operating this TLD with expertise and goodness from the DNS and to give away *at least* one quarter of its income for the good of Internet; The GDD hasn't looked into the contents of the application, but says that it followed all processes.

On its persistent refusal to evaluate the application for .Internet with the required thoroughness, the only response is that a process was followed (No, not even by the book) and that there is no process to review its own prejudicial rulings, no process to revisit its own gaps, no process to correct the course at least now.

The content of ICANN's responses has NOT been satisfactory, i.e., Nameshop's points have NOT been addressed or answered. Your rulings were arbitrary, with no reasons assigned, both on the request to change the string to .Internet and on the Applicant Support request. To our pointed questions, you responded partially with *ex-post-facto* rules that did not exist in the Applicant Guide Book or in the Change Request process, the responses from time to time were mixed, contradictory, superficial and did NOT amount to responses *satisfactory in substance and form*.

## **2. On some of obstructions to the fair progression of the application for .Internet**

You have again referred to the Nameshop application as an Application for .IDN instead of reflecting the current status by Change Request process as an Application for .Internet.

Nameshop letter dated July 31, 2017 pointed out "Nameshop asked ICANN either to process .IDN or to allow the string to be changed to .Internet; ICANN took a position as early as in 2013 to disallow .IDN and process the change request for .Internet instead. ... this information is hidden from the view of the larger public ... Furthermore, the string in question is misleadingly shown as .IDN on the ICANN website." The Nameshop Communication on .Internet continues to be wrongly characterized as Communications on .IDN.

Changes to ICANN website over time, removed some records of the Nameshop change request and its Public Interest commitments on .Internet. Following this, on July 31, 2017 I requested you to:

“correct the public record and caption your responses as communications on .Internet and to also make the necessary changes on the ICANN website so as to correct the error. These omissions may be unintentional, but they nevertheless manifest as obstructions... it is difficult for other potential supporters to understand the issue when it is not stated plainly in the application record.”

More recently, Nameshop noticed that ICANN’s gTLD Communication portal has not retained a good part of all records of various nameshop communication on .Internet. Various threads and communication attachments were missing, and even the threads that remained in the archive did not amount to archives of the complete thread of the exchanges. This raises concerns that the archives are not complete enough to present the issue, the various points raised, and arguments, with the effect that the GDD, ICANN Executive, ICANN Board and the ICANN Community do not get a fair perspective; This suppresses facts and details of exchanges concerning ICANN’s omissions in evaluation and reconsideration. Also, it is not clear if any written/ verbal communication from ICANN to the Community on .Internet would have presented a fair and complete perspective. The GDD even changes the subject line of our email messages while replying and changes file names while publishing some of our correspondence, which also has the effect of sidelining .Internet.

### **3. On the duress of being asked to withdraw this application for .Internet**

Your letter suggests that I withdraw this application. This suggestion amounts to forcing the application for the string .Internet out by duress.

Your letter suggests the subsequent round. The omissions in evaluation and reconsideration ought not to be the cause for ICANN to force the Nameshop application for .Internet to the next round. Doing so would simply be unfair considering the history of this application to date.

### **4. On the suggestion of taking .Internet to the subsequent round**

As explained above this is unfair on several counts. In view of the light of your refusal to arrange a meeting, and in the light of repeated suggestions to defer it to a ‘subsequent round’ and the various unfair complications that such a subsequent round may subject this uncontended application.

Nameshop has objected to any suggestion of being pushed to the next round of new gTLD process on the grounds that:

1. The string .Internet has been applied for by Nameshop, revealed, uncontended, and merits process and delegation during this round rather than be taken to the next round;
2. A subsequent round, as pointed out during a meeting in 2014, during various meetings, and also on the letter dated 29 July 2017, would be at an indefinite date and further time delays on an application that has already suffered 7 years of process delays would be most unfair; and

3. Deferring the application to the next round causes extended expenditure and further prolongs the efforts of the applicant who has already voiced a need for some type of support. In addition, there would be unknown changes between this application round and the next across multiple factors, the effects of which are difficult to foresee. It would be fair if ICANN could examine the process limitations and expeditiously process the applications during this round.

#### **5. On various inexplicable actions and inactions on the Nameshop application:**

In the context of the GDD's response that tries to resolve the issue by causing duress, it is pertinent to revisit one of Nameshop's unanswered questions:

*Is .Internet reserved? Are you reserving it for anyone? [a Registry, a Corporation, an Organization? or an Individual?]*

#### **6. On our request for a meeting with the participation of Community Observers:**

The need to write to the Members of the Community to observe arose due to the inordinate delay in the process and the due to the helplessness in pursuing the matter through various roadblocks in the reconsideration processes. By refusing a meeting, ICANN further obstructs the application for .Internet from Community processes.

While I don't find it easy to agree that there are insurmountable constraints arising out of the limitations of the Applicant Guide Book or any other process guidelines that restrict the Global Domains Division from acting on the Nameshop application, Community advice and escalation to the Executive or the ICANN Board would be a way forward, which is obstructed by your refusal to facilitate a meeting at Marrakesh. Declining meeting requests, first at Kobe and then at Marrakesh, each time with conflicting rationale, amounts to the violation of the principle of fair hearing.

An opportunity as requested would reassure us that the ICANN processes are fair, while allowing us to present the issues in perspective, especially in view of the changes to the communication portal and various visibility issues concerning .Internet.

Please schedule a meeting with **the GDD President, ICANN CEO and the Board Chair** in Marrakesh and let me know what additional information Nameshop can provide to lead to a positive outcome at that meeting. In the meantime, I request you to publish this reply in the correspondence page in reference to your letter; Nameshop also hopes that the GDD investigates on the hurdles to .Internet not yet transparent.

Thank you.

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Contact Information Redacted