



The Internet Corporation for Assigned Names and Numbers

TRANSMITTED VIA FACSIMILE, ELECTRONIC MAIL, AND COURIER

8 October 2013

Kim Story  
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New Zealand

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**RE: NOTICE OF BREACH OF REGISTRAR ACCREDITATION AGREEMENT AND  
NOTICE OF SUSPENSION OF REGISTRAR'S ABILITY TO CREATE NEW  
REGISTERED NAMES OR INITIATE INBOUND TRANSFERS OF REGISTERED  
NAMES**

Dear Ms. Story,

Please be advised that as of 8 October 2013, Pacnames Ltd. ("Pacnames") is in breach of its Registrar Accreditation Agreement ("RAA") with the Internet Corporation for Assigned Names and Numbers ("ICANN") dated 26 February 2012 ("RAA"). These breaches result from:

1. Pacnames' failure to maintain registration records as required by Section 3.4.2 of the RAA; and
2. Pacnames' failure to make available to ICANN data and records for the 25 domains in Exhibit A of the Notice of Breach dated 5 August 2013, for the period 5 August 2010 to present, as required by Section 3.4.3 of the RAA.

Please refer to the attachment for details regarding these breaches. ICANN requests that Pacnames cure the breaches by 29 October 2013, 15 working days from the date of this letter, by taking the following actions:

Los Angeles Offices: 12025 Waterfront Drive, Suite 300 • Brussels • Los Angeles, CA 90094 • Istanbul • USA • Montevideo • T +1 310 301 5800 • Singapore • F +1 310 823-8649 • Washington

<http://icann.org>



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For the 25 domains in Exhibit A, for the period 5 August 2010 to present, provide ICANN with the following:

1. For each domain name registration, the data elements listed in Sections 3.3.1.1 through 3.3.1.8 of the RAA and the name and (where available) postal address, e-mail address, voice telephone number, and fax number of the billing contact; and any other Registry Data that Pacnames has submitted to the Registry Operator or placed in the Registry Database under Section 3.2 of the RAA;
2. The submission date and time, and the content, of all registration data (including updates) submitted in electronic form to the Registry Operator(s);
3. All written communications constituting registration applications, confirmations, modifications, and terminations and related correspondence with Registered Name Holders, including registration agreements; and
4. Records of the accounts of all Registered Name Holders with Pacnames, including dates and amounts of all payments and refunds.

Failure to cure the outstanding breaches by 29 October 2013 may result in RAA termination.

### **Suspension of Registrar's Ability to Create New Registered Names or Initiate Inbound Transfers of Registered Names**

ICANN sent Pacnames Notices of Breach on 10 June 2013 and 5 August 2013. The current breach is the third breach for Pacnames within a twelve-month period. Accordingly, Pacnames' ability to create new Registered Names or initiate inbound transfers of Registered Names is suspended for 90 days pursuant to Section 2.1 of the RAA.

The suspension is effective 18:00:00 (UTC/GMT) 1 November 2013 through 18:00:00 (UTC/GMC) 30 January 2014. Consistent with Section 2.1 of the RAA, during the suspension period, Pacnames must not:

1. Create new Registered Names for any Top Level Domain ("TLD"); or
2. Initiate or accept inbound transfers of Registered Names for any TLD.



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The three breaches were primarily for (1) the failure of Pacnames to timely provide ICANN with copies of data and records and (2) the failure of Pacnames to timely provide Registered Name Holders (RNH) with access and information to manage their domain names.

To demonstrate compliance during the suspension, Pacnames must:

1. For those domains in Exhibit A still registered with Pacnames, provide ICANN with monthly updates for items 1-4 above. This should be provided on the 1st of the month for November 2013, December 2013, and January 2014; and
2. Timely and fully respond to all ICANN notices and RNH inquiries;

Failure to demonstrate compliance during the suspension may result in RAA termination and an extension of Pacnames' suspension pending final termination.

#### **Notice on Pacnames' Website**

During the suspension period, Pacnames must prominently display the following on its website on all pages where Registrar Services, as defined by the RAA, are offered:

**No new registrations or inbound transfers will be accepted from 1 November 2013 through 30 January 2014.**



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If you have questions or require assistance, please contact Owen Smigelski at [owen.smigelski@icann.org](mailto:owen.smigelski@icann.org).

Sincerely,

A handwritten signature in blue ink, appearing to read "MSerad".

Maguy Serad  
Vice President  
Contractual Compliance

Cc: John O. Jeffrey, General Counsel and Secretary  
VeriSign (.com, .net)  
Neustar (.biz)  
PIR (.org)  
Afilias (.info)



### Attachment

#### Failure to Make Data and Records Relating to Registered Name Holders Available to ICANN

Section 3.4.2 of the RAA requires Pacnames to maintain registration data and records relating to its dealings with RNHs and with the Registry Operator(s) for every domain name under Pacnames' management. Section 3.4.3 of the RAA requires Pacnames to make these data and records available to ICANN upon reasonable notice.

As detailed in the chronology below, ICANN sent a Notice of Breach on 5 August 2013 to Pacnames requesting registration data and records for the 25 domains listed in Exhibit A and monthly updates for domains still registered with Pacnames. To date, Pacnames has not provided these documents, data, or monthly updates.

#### Chronology:

Date of Notice	Deadline for Response	Details
5 August 2013	26 August 2013	ICANN sent a <a href="#">Notice of Breach</a> regarding <primarycaredoctors.com>, which included a request for data and records for 25 domains for data and monthly monitoring via email to <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> , fax to +1 303 278 8809, and courier.
6 August 2013	N/A	Registrar responded stating that the request for data and monitoring of the 25 domain names was an audit and burdensome.
7 August 2013	N/A	ICANN responded via email to <a href="mailto:compliance@pacnames.com">compliance@pacnames.com</a> and <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> , reiterating that in order for the registrar to maintain its accreditation, it must provide the requested data and records for review and monitoring. Failure



Date of Notice	Deadline for Response	Details
		to do so will result in an escalated enforcement action.
26 August 2013	N/A	Registrar responded via email providing data and records for <primarycaredoctors.com>, but did not provide data and records for the 25 domains for review and monitoring, contending that it was an audit.
27 August 2013	N/A	ICANN responded via email to <a href="mailto:compliance@pacnames.com">compliance@pacnames.com</a> and <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> acknowledging receipt of registrar's response.
30 August 2013	6 September 2013	ICANN responded to registrar via email to <a href="mailto:compliance@pacnames.com">compliance@pacnames.com</a> and <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> , providing an extension for providing data and records for review and monitoring in light of registrar's collaboration regarding <primarycaredoctors.com>.
6 September 2013	N/A	Registrar responded to ICANN via email, providing data and records for the domain <primarycaredoctors.com>, but did not provide the requested data and records for the 25 domains for review and monitoring contending the request was an audit.
19 September 2013	N/A	ICANN responded via email to <a href="mailto:compliance@pacnames.com">compliance@pacnames.com</a> and <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> acknowledging receipt of registrar's response and stating that a response would be sent once review was completed.



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Date of Notice	Deadline for Response	Details
25 September 2013	2 October 2013	ICANN responded via email to <a href="mailto:compliance@pacnames.com">compliance@pacnames.com</a> and <a href="mailto:kim.story@pacnames.com">kim.story@pacnames.com</a> to clarify and address: (1) the review and monitoring is pursuant to Section 3.4.3 and not an audit pursuant to Section 3.14 as claimed by the registrar, (2) ICANN makes similar requests to other registrars, and (3) failure to supply the requested data and records by the deadline would result in a notice of breach against the registrar. ICANN proposed 2 times for a telephone conference call to discuss this matter further.
3 October 2013	N/A	Registrar responded with regrets to the invitation for a telephone conference call. Registrar did not provide the requested data and records regarding the 25 domains.



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**EXHIBIT A - CONFIDENTIAL**

[REDACTED]