

Mr Cherine Chalaby
Internet Corporation for Assigned Names and Numbers
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By E-Mail

19th November 2013

Dear Mr Chalaby

String Confusion Objections

We refer to United TLD's letter of 4th November 2013 to you.

We feel that there are a number of inaccuracies in the letter which should be brought to ICANN's attention.

First, we see no process flaw in this case. The guidebook was followed by the experts in both our case and in the United TLD case. United TLD complain that *"Use, operation, or registration of the string, or identity of the applicant, are wholly irrelevant to the expert's review and have no bearing on a string confusion analysis"*. However, both experts in the CAM/COM string confusion determinations considered the usage of the extension, and usage or meaning of the string has been considered in other string confusion determinations. In fact, United TLD itself opposed consolidation in a letter to the ICDR on 14th May 2013 on the following grounds:

Consolidation has the potential to prejudice the Applicants if all Applicants' arguments are evaluated collectively, without regard to each Applicant's unique plan for the .cam gTLD and their arguments articulating why such plans would not cause confusion. Moreover, consolidation could result in the disclosure of proprietary and confidential information among competitors. Although dot Agency Limited asserts that VeriSign's objections should be "identical in each case," each Applicant may have a different basis for responding to these objections.

Therefore United TLD's claim that *"Multiple applicants' reluctance to consent to consolidation was based on an expressed concern about having to share confidential business information with competitors and was not an opposition to having a uniform decision on the .CAM gTLD which we believe is the only proper result."* appears to be a carefully worded script to avoid admission that they themselves argued that usage was relevant and that their opposition to consolidation was based on usage as well as the sharing of confidential information.

Further, the various applicants' applications can be differentiated in a number of ways. For example, a registry operated by dot Agency Limited would be accompanied by a governance council in which camera industry representatives would participate and help shape acceptable use policies relating to the string. AC Webconnecting, the other prevailing applicant, is an operator of websites pertaining to webcams. On the other hand, United TLD's application makes little reference to cameras: indeed a quick review of the .CAM applicants applications reveals that United TLD only mentioned the word "camera" once, compared to the multiple times the word is mentioned in the prevailing applicants' applications.

Finally, United TLD claim that, if ICANN were to allow the United TLD application to proceed, *“the action is fair and does not prejudice VeriSign or the other applicants in any way. Because the other two .CAM applicants prevailed in the objections, VeriSign’s .COM string and .CAM will ultimately have to co-exist. Additionally, the other two .CAM applicants will have to proceed to auction to resolve contention. Adding another applicant to the auction process will not prejudice the other applicants.”* This is not the case. First, Verisign, the Objector may be prejudiced because United TLD may obtain the .CAM string. As mentioned above, their proposed use is not as tightly focussed on the camera related industry as the other two applicants, and this has been objectively determined by the expert in their case. Second, the other two applicants will be prejudiced because the greater the number of bidders in an auction, the greater the tendency for auction bids to be more competitive. Third, applicants are encouraged by the Guidebook to try and resolve the contention sets privately: ICANN auction is a last resort. That is much harder to achieve between three parties than two.

Accordingly, United TLDs claims must be rejected.

We thank you for your kind consideration of our views in this matter.

Yours sincerely



Peter Young

Chief Legal Officer, Famous Four Media Limited

cc Fadi Chehadé Esq, President/CEO ICANN