



The Internet Corporation for Assigned Names and Numbers

**TRANSMITTED VIA FACSIMILE, ELECTRONIC MAIL & COURIER SERVICE**

20 April 2011

Mr. Xavier Buck  
EuroDNS S.A. (Registrar ID 1052)  
2 rue Leon Laval Leudelange, L3372  
Luxembourg

**RE: NOTICE OF BREACH OF REGISTRAR ACCREDITATION AGREEMENT**

Dear Mr. Buck:

Please be advised that as of the date of this letter EuroDNS S.A. ("EuroDNS") is in breach of the Registrar Accreditation Agreement between the Internet Corporation for Assigned Names and Numbers ("ICANN") and EuroDNS dated 16 September 2009 ("RAA"). These breaches result from EuroDNS' failure to comply with its obligations under the Uniform Domain Name Dispute Resolution Policy ("UDRP") and the Rules for the Uniform Domain Name Dispute Resolution Policy ("UDRP Rules"), which are incorporated into the RAA by reference (see Section 3.3.4 of the RAA). Unless otherwise defined in this letter, capitalized terms have the meanings given to them in the RAA, UDRP or UDRP Rules.

These breaches arose from EuroDNS' activities related to the UDRP administrative proceeding (WIPO case no. D2010-1247) involving the domain name <facebok.com>. The Parties to the administrative proceeding were Complainant, Facebook, Inc. and Respondent, Franz Bauer. The Provider was the World Intellectual Property Organization ("WIPO") and EuroDNS was the Registrar of record. The WIPO Panel decision of 3 September 2010 ordered EuroDNS to transfer the domain name to Facebook, Inc. To date, EuroDNS has failed to communicate its plans to implement the Panel decision and to actually implement the decision in accordance with the RAA, UDRP and UDRP Rules. ICANN had multiple communications with EuroDNS on 31 March 2011, during which time ICANN informally encouraged EuroDNS to comply with the Panel decision and warned EuroDNS of the consequences of not doing so.

Below, please find further detail of these breaches and a request that EuroDNS cure each of these breaches within fifteen (15) working days from the date of this letter. If

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EuroDNS fails to cure these breaches within fifteen (15) working days, ICANN may commence the termination process as set forth in Section 5.3.4 of the RAA.

#### Failure to Comply with UDRP Rule 16.a. (Communication of Decision to Parties)

Rule 16.a. requires the concerned Registrar to, “immediately communicate to each Party, the Provider, and ICANN the date for the implementation of the decision in accordance with the Policy.” This rule places an affirmative obligation on the concerned Registrar to communicate how they intend to implement the Panel’s decision.

The Provider sent EuroDNS the decision on 17 September 2010 ordering the transfer of the domain name. According to ICANN’s records, to date, it appears that there is no evidence that EuroDNS communicated its plans to implement the Panel decision as required by UDRP Rule 16.a. Thus, based on EuroDNS’ failure to immediately communicate to each Party, the Provider, and ICANN the date for the implementation of the decision, we reasonably conclude that EuroDNS failed to comply with UDRP Rule 16.a. in violation of the RAA.

#### Failure to Comply with Paragraph 4.k. of UDRP (Mandatory Administrative Proceeding, Availability of Court Proceedings)

Paragraph 4.k. of the UDRP requires a Registrar to implement a UDRP decision, unless it receives official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) within ten business days after the Panel rendered the decision. The official documentation must prove that the Respondent has commenced a lawsuit against the Complainant alleging that the Respondent has a right to continue to use the domain name. Further, the Respondent must have commenced the lawsuit in a jurisdiction where the Complainant has submitted under paragraph 3(b)(xiii) of the UDRP Rules.

Absent documentation that Franz Bauer commenced a lawsuit against Facebook, Inc. pursuant to the UDRP; EuroDNS had an obligation to implement the decision within ten business days of 17 September 2010. Although given the opportunity, EuroDNS has not provided any proof to ICANN that the Respondent, Franz Bauer, commenced a lawsuit challenging the Panel decision pursuant to the UDRP. And, as of the date of this letter, EuroDNS has not implemented the decision. Therefore, we determine that EuroDNS has failed to comply with paragraph 4.k. of the UDRP in violation of the RAA.



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### Conclusion

ICANN requests that EuroDNS cure all the breaches cited above within fifteen (15) working days. Please note, if EuroDNS fails to cure these breaches, including failing to implement the Panel's decision regarding the domain name <facebok.com> by 11 May 2011, ICANN may terminate EuroDNS' accreditation and RAA in accordance with Section 5.3.4 of the RAA.

ICANN specifically reserves the right to pursue any and all other breaches besides those enumerated above, and nothing herein shall be deemed a waiver of that right.

Please contact me at [stacy.burnette@icann.org](mailto:stacy.burnette@icann.org) at the telephone number below should you have any questions regarding the contents of this letter.

Very truly yours,

A handwritten signature in blue ink that reads "Stacy Burnette".

Stacy Burnette  
Director  
Contractual Compliance  
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