



10 June 2009

Mrs. Manita Malik
Lead Networks Domains Pvt. Ltd.
707/C Neptune Apts, 4th Cross Lane Lokhandwala Complex, Andheri (West)
Mumbai Maharaashtra 400053
India

RE: NOTICE OF BREACH OF REGISTRAR ACCREDITATION AGREEMENT

Dear Mrs. Malik:

Please be advised that as of 10 June 2009, Lead Networks Domains Pvt. Ltd. (“Lead Networks”) is in breach of the Internet Corporation for Assigned Names and Numbers (“ICANN”) Registrar Accreditation Agreement (“RAA”) for failure to comply with the RAA and Uniform Domain Name Dispute Resolution Policy (“UDRP”).

This letter highlights some of the many instances in which Lead Networks engaged in business conduct that failed to comply with the UDRP. More specifically, this letter provides clear examples that demonstrate when and how Lead Networks failed to comply with the following provisions of the UDRP and RAA:

1. RAA Section 3.4 (Retention of Registered Name Holder and Registration Data); and
2. Rules for UDRP, Rule 16(a) (Communication of Decision to Parties).

Failure to comply with the provisions of the UDRP is a breach of Section 3.8 of the RAA.

ICANN Investigation Summary

As Lead Networks is aware, in April 2009, ICANN commenced an investigation of Lead Networks’ business conduct concerning compliance with the UDRP. ICANN’s investigation focused on 61 UDRP proceedings in which prevailing complainants alleged Lead Networks failed to implement provider decisions as required under paragraph 4.k. of the UDRP. The cases involved domain names such as:

- **boyscoutofamerica.com**
- **baylormedicalhospital.com**
- **bankofamerica.comwwwcitibankonline.com and**
- **itunesdownload.com.**

During our investigation, ICANN determined that Lead Networks engaged in business conduct that demonstrates a lack of cooperation with ICANN, a pattern of questionable practices and noncompliance with the UDRP and disregard for the protection of registrants.



Lead Networks failed to cooperate with ICANN's investigation in good faith. ICANN granted Lead Networks an extension to provide records by 5 May 2009. Lead Networks is required to maintain records and data pursuant to RAA Section 3.4. As of 8 June 2009, an entire month after the deadline, Lead Networks had not provided any records or an explanation for its failure to do so. ICANN found this particularly disconcerting considering Lead Networks' RAA expires 15 June 2009, coupled with the accusations regarding Lead Networks' conduct as described in a letter to ICANN from the World Intellectual Property Organization and complaints voiced by various members of the ICANN community.

ICANN received data from Lead Networks on 9 June 2009. This data arrived one month after the deadline, one week before an ICANN meeting and nearly one week before Lead Networks' RAA expires. However, ICANN believes that reviewing the data Lead Networks provided is in the best interests of protecting registrants and thus will extend Lead Networks' current RAA for 30 days while ICANN reviews the data and makes a final determination.

Failure to comply with RAA Section 3.4.2 (Retention of Registered Name Holder and Registration Data)

Lead Networks failed to comply with its contractual obligation to maintain data and produce it upon ICANN's request pursuant to RAA section 3.4.2. This section requires registrars to maintain all related correspondence with Registered Name Holders. The section reads;

3.4.2 During the Term of this Agreement and for three years thereafter, Registrar (itself or by its agent(s)) shall maintain the following records relating to its dealings with the Registry Operator(s) and Registered Name Holders:

3.4.2.1 In electronic form, the submission date and time, and the content, of all registration data (including updates) submitted in electronic form to the Registry Operator(s);

3.4.2.2 In electronic, paper, or microfilm form, all written communications constituting registration applications, confirmations, modifications, or terminations and related correspondence with Registered Name Holders, including registration contracts; and

3.4.2.3 In electronic form, records of the accounts of all Registered Name Holders with Registrar, including dates and amounts of all payments and refunds.

On 16 April 2009, ICANN requested that Lead Networks provide all data required under section 3.4.2 for each domain name subject to our investigation. This data should include (though is in no way limited to) official documentation received from Registered Name Holders challenging UDRP panel decisions. Lead Networks did not provide this data for any of the domain names identified, nor did Lead Networks provide an explanation for failing to comply with ICANN's request.



Pursuant to section 3.4.3, Lead Networks is required to make these records available to ICANN upon reasonable notice. Lead Networks' failure to provide the registrant data to ICANN is a separate and independent breach of the RAA.

Because Lead Networks failed to cooperate with this aspect of the investigation, ICANN can only determine that Lead Networks failed to maintain the registration data as required under RAA Section 3.4.2. ICANN deems this conduct a breach of Lead Networks' obligations under Section 3.4.2 a separate and independent breach of the RAA.

UDRP Rule 16(a)

Lead Networks has admitted that it has never complied with UDRP Rule 16(a). Rule 16(a) requires the 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 registrars to communicate how they intend to implement Provider decisions in every case.

ICANN staff reviewed its records to locate Lead Networks' 16(a) notifications to ICANN and the parties concerning the 61 cases within ICANN's investigation, and could not locate a single instance in which Lead Networks communicated plans to implement the Provider decisions. Further, in an e-mail transmission from Lead Networks to ICANN, dated 29 May 2009, a Lead Networks representative indicated that Lead Networks was not aware of its obligations pursuant to Rule 16(a) prior to ICANN's investigation. The Lead Networks representative further admitted that because Lead Networks was unaware of the contractual obligation, Lead Networks has not engaged in the practice of communicating plans to implement Provider decisions as required by the UDRP.

Based on Lead Networks' willful and consistent failure to immediately communicate to each Party, the Provider, and ICANN the date for the implementation of the decision in accordance with the UDRP, ICANN deems Lead Networks in breach of UDRP Rule 16(a) and by extension the Lead Networks RAA.

ICANN has previously expressed the importance of the notification required by UDRP Rule 16(a); it was one of the grounds for the notice of breach issued to Red Register, Inc. in May 2008 <<http://www.icann.org/correspondence/burnette-to-sundin-15may08.pdf>>. Again, the seriousness of this compliance issue is magnified in this case by the accusations regarding Lead Networks' conduct as described in

- a letter to ICANN from the World Intellectual Property Organization dated 9 April 2009 <<http://www.icann.org/correspondence/wilbers-to-jeffrey-09apr09-en.pdf>> (asserting that Lead Networks' conduct "undermines the efficacy of the UDRP in both spirit and letter."); and
- complaints voiced by various members of the ICANN community.

Conclusion



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ICANN deems Lead Networks to be in breach of Sections 3.4 and 3.8 of the RAA, and UDRP rule 16(a). To protect registrants and assist in an orderly transition of domain names that Lead Networks sponsors, ICANN will extend Lead Networks RAA for 30 days to allow ICANN to review the data provided by Lead Networks on 9 June 2009. Should Lead Networks have questions or require assistance, please feel free to have representatives contact me at stacy.burnette@icann.org.

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.

Very truly yours,

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

Stacy Burnette
Director, Contractual Compliance
stacy.burnette@icann.org