

## **Afilias IRP – Basis for Redactions**

The Bylaws governing the Afilias Domains No. 3 Limited (Afilias) v. ICANN Independent Review Process (IRP) allow for the IRP Panel to agree that certain information can be held as confidential. (Bylaws, Art. 4, Section 4.3(u).) As agreed by the parties, and pending approval by the IRP Panel, ICANN and Afilias entered into a confidentiality agreement, which requires the parties to maintain the confidentiality of specific information produced during the Afilias IRP. Pursuant to the agreement, the parties exchanged information that was to be maintained as confidential and used only for purposes of the IRP. ICANN therefore has an affirmative obligation to redact the information designated as confidential in this IRP. The confidentiality agreement states, in relevant part:

Discovery in this [IRP] is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this IRP may be warranted.

In addition, third parties that provide materials submitted in the Afilias IRP may request that such materials remain confidential. In those instances, ICANN has an affirmative obligation to redact the information designated as confidential by the third party(ies) unless and until said third party authorizes the public disclosure of such information.