

**IN THE MATTER OF AN INDEPENDENT REVIEW PROCESS
BEFORE THE INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

ICDR Case No. 01-18-0004-2702

AFILIAS DOMAINS NO. 3 LIMITED,
Claimant

v.

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS,
Respondent

**DECISION ON THE PARTIES' JOINT REQUEST FOR
CORRECTIONS TO THE PANEL'S FINAL DECISION**

15 July 2021

Members of the IRP Panel

Catherine Kessedjian
Richard Chernick
Pierre Bienvenu Ad. E., Chair

Administrative Secretary to the IRP Panel

Virginie Blanchette-Séguin

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I. OVERVIEW

1. In this decision, the Panel rules on a joint request by Claimant and Respondent for corrections to be made to clerical and typographical errors in the Final Decision of the Panel in this Independent Review Process.

II. BACKGROUND

2. On 20 May 2021, the Panel rendered its Final Decision in the present Independent Review Process (**Final Decision**).
3. On 21 June 2021, Claimant and Respondent filed a “Joint Request for Corrections by Afiliis Domains No. 3 Limited and the Internet Corporation for Assigned Names and Numbers to the Final Decision of the Independent Review Process Panel” (**Request**).
4. The Request asks that the Panel correct a number of clerical or typographical errors in the Final Decision pursuant to Article 33 of the ICDR Rules (2014). The Request also notes that pages 18 and 20¹ of the Final Decision mistakenly contain paragraphs numbered 60, 61 and 62, and asks that these paragraphs be renumbered, with paragraph 60 on page 20 being changed to paragraph 63, and the rest of the paragraphs be renumbered consecutively thereafter.
5. Article 33 of the ICDR Rules (2014) reads as follows:

1. Within 30 days after the receipt of an award, any party, with notice to the other party, may request the arbitral tribunal to interpret the award or correct any clerical, typographical, or computational errors or make an additional award as to claims, counterclaims, or setoffs presented but omitted from the award.

2. If the tribunal considers such a request justified after considering the contentions of the parties, it shall comply with such a request within 30 days after receipt of the parties’ last submissions respecting the requested information, correction, or additional award. Any interpretation, correction, or additional award made by the tribunal shall contain reasoning and shall form part of the award.

¹ The Request contains a typographical error at paragraph 2, which refers to page 21 of the Final Decision instead of page 20. The same error is carried at p. 2 of the Request, in the right hand column (but not in the left hand column), as can be seen in the table reproduced in paragraph 6 below.

III. REQUESTED CORRECTIONS

6. The corrections requested by the Parties are set out in the table below, extracted from the Request, the reason for each requested correction being indicated in the third column of the table:

Correction Location	Requested Correction	Reason for the Requested Correction
Page iv.	Change Cooperative engagement process invoked by Donuts on 2 August 2016 in regard to .WEB. to Cooperative e Engagement p Process invoked by Donuts on 2 August 2016 in regard to .WEB.	The original text contains a typographical error. The Final Decision consistently capitalizes “Cooperative Engagement Process” in all instances except on page iv.
Page 1, ¶ 3; Page 18, ¶ 60; and Page 125, ¶ 410(1).	Change Nu Dotco, LLC to Nu DoteCo, LLC	The original text contains a typographical error. The Final Decision consistently capitalizes “Nu DotCo, LLC” except in three instances.
Page 9, ¶ 39.	Change The Emergency Panelist presided over a focused document production process during which, on 18 December 2018, ICANN produced the Document Acquisition Agreement entered into between Verisign and NDC in connection with .WEB. to The Emergency Panelist presided over a focused document production process during which, on 18 December 2018, ICANN produced the Document <u>Domain</u> Acquisition Agreement entered into between Verisign and NDC in connection with .WEB.	The original text contains a clerical error. The document referred to in the sentence is titled the “Domain Acquisition Agreement”.
Page 20, ¶ 60 <i>et seq.</i>	Change paragraph “60.” to paragraph “63.” and accordingly renumber the following paragraphs.	As noted at the outset, the original text contains a clerical error. Both page 18 and page 21 of the Final Decision contain paragraphs numbered 60, 61, and 62. The paragraphs should be renumbered in order to avoid this repetition.

Correction Location	Requested Correction	Reason for the Requested Correction
Page 21, ¶ 64.	<p>Change</p> <p>The Claimant had filed with its original Request for IRP witness statements from three (3) fact witnesses, Messrs. John L. Kane, Cedarampattu “Ram” Mohan and Jonathan M. Robinson, as well as two (2) expert reports, one by Dr. George Sadowsky, the other by Mr. Jonathan Zittrain. Upon the filing of its Amended Request for IRP, on 21 March 2019, the Claimant withdrew the witness statements of its three (3) fact witnesses “[i]n light of ICANN’s disclosure of the August 2015 Domain Acquisition Agreement between VeriSign and NDC”.</p> <p>to</p> <p>The Claimant had filed with its original Request for IRP witness statements from three (3) fact witnesses, Messrs. John L. Kane, Cedarampattu “Ram” Mohan and Jonathan M. Robinson, as well as two (2)<u>one</u> expert reports, one by Dr. George Sadowsky, the other by Mr. Jonathan Zittrain. Upon the filing of its Amended Request for IRP, on 21 March 2019, the Claimant <u>filed one expert report, by Dr. George Sadowsky, and</u> withdrew the witness statements of its three (3) fact witnesses “[i]n light of ICANN’s disclosure of the August 2015 Domain Acquisition Agreement between VeriSign and NDC”.</p>	<p>The original text contains a clerical error. The Claimant did not submit the Expert Report by Dr. George Sadowsky with its Request for IRP. The Sadowsky Expert Report was first submitted with the Claimant’s Amended Request for IRP.</p>
Page 25, ¶ 83.	<p>Change</p> <p>Verisign identified .WEB as one business opportunities in the New gTLD Program.</p> <p>to</p> <p>Verisign identified .WEB as one business opportunity<u>ies</u> in the New gTLD Program.</p>	<p>The original text contains a typographical error.</p>

Correction Location	Requested Correction	Reason for the Requested Correction
Page 37, ¶ 132.	<p>Change</p> <p>The Respondent explains that, with the exception of approximately two weeks in June 2018, after Afilias' DDPD-related Reconsideration Requests were resolved and before Afilias initiated its CEP, the .WEB contention set has been on hold from August 2016 through today.</p> <p>to</p> <p>The Respondent explains that, with the exception of approximately two weeks in June 2018, after Afilias' DDPPD-related Reconsideration Requests were resolved and before Afilias initiated its CEP, the .WEB contention set has been on hold from August 2016 through today.</p>	The original text contains a typographical error.
Page 43, ¶ 153.	<p>Change</p> <p>In its Rejoinder Memorial dated 1 June 2020, the Respondent states that a feature that sets this IRP apart is that ICANN has not yet fully address the ultimate dispute underlying the Claimant's claims.</p> <p>to</p> <p>In its Rejoinder Memorial dated 1 June 2020, the Respondent states that a feature that sets this IRP apart is that ICANN has not yet fully <u>addressed</u> the ultimate dispute underlying the Claimant's claims.</p>	The original text contains a typographical error.
Page 81, ¶ 274.	<p>Change</p> <p>The Claimant commenced its CEP on 18 June 2018, eleven days after the removal of the .WEB contention set from its on-hold status.</p> <p>to</p> <p>The Claimant commenced its CEP on 18 June 2018, twelveeleven days after the removal of the .WEB contention set from its on-hold status.</p>	The original text contains a clerical error. As stated in the Parties' Joint Chronology, ICANN took the .WEB contention set off-hold on 6 June 2018. The Claimant initiated CEP on 18 June 2018, twelve days after 6 June 2018.

Correction Location	Requested Correction	Reason for the Requested Correction
<p>Page 82, ¶ 278; and Page 85, ¶ 286.</p>	<p>Change</p> <p>In sum, the Panel finds that the Claimant’s core claims against the Respondent, as summarized above in paragraph 251 of this Final Decision, only accrued on 8 June 2018.</p> <p>to</p> <p>In sum, the Panel finds that the Claimant’s core claims against the Respondent, as summarized above in paragraph 251 of this Final Decision, only accrued on 8 June 2018.</p> <p>and change</p> <p>While the Panel has found that the Claimant’s core claims against the Respondent crystallized on 8 June 2018, the Panel’s view is that a proper analysis of the Claimant’s claims requires an examination of the Respondent’s conduct – that of its Board, individual directors, Officer and Staff – against the backdrop of the entire chronology of events leading to the Respondent’s decision of 8 June 2018.</p> <p>to</p> <p>While the Panel has found that the Claimant’s core claims against the Respondent crystallized on 8 June 2018, the Panel’s view is that a proper analysis of the Claimant’s claims requires an examination of the Respondent’s conduct – that of its Board, individual directors, Officer and Staff – against the backdrop of the entire chronology of events leading to the Respondent’s decision of 8 June 2018.</p>	<p>The original text contains clerical issues regarding the date that the Claimant’s core claims crystallized.</p> <p>The Final Decision states that the “Claimant’s complaints about NDC’s conduct crystallized into a claim against the Respondent” when the Respondent removed the “on-hold” status from the .WEB contention set, which occurred on 6 June 2018.² Yet, the Final Decision later states that the Claimant’s core claims crystallized on 8 June 2018.</p> <p>Since 8 June 2018 has no significance to the factual history of the IRP, as seen by the Parties’ Joint Fact Chronology of 23 October 2020, the Parties presume that the Final Decision should state that the Claimant’s core claims crystallized on 6 June 2018.</p>

² *Aflias Domains No. 3 Limited v. Internet Corporation for Assigned Names and Numbers*, ICDR Case No. 01-18-0004-2702, Final Decision (20 May 2021), ¶ 273.

Correction Location	Requested Correction	Reason for the Requested Correction
Page 86, ¶ 293.	<p>Change</p> <p>Bearing the standards set out in those commitments and core values in mind, the Panel turns to consider the Respondent's conduct, beginning with the Claimant's complaints about the Panel's pre-auction investigation.</p> <p>to</p> <p>Bearing the standards set out in those commitments and core values in mind, the Panel turns to consider the Respondent's conduct, beginning with the Claimant's complaints about the Panel Respondent's pre-auction investigation.</p>	The original text contains a clerical error. We believe that the Final Decision is referring to the Respondent's pre-auction investigation.
Page 87, ¶ 295.	<p>Change</p> <p>As regards the Respondent's pre-auction investigation – on which, in the opinion of the Panel, very little turns insofar as the Respondent's core claims are concerned – the Panel accepts the evidence of Ms. Willet that prior to the auction, the Respondent was unaware of Verisign's involvement in NDC's application.</p> <p>To</p> <p>As regards the Respondent's pre-auction investigation – on which, in the opinion of the Panel, very little turns insofar as the Respondent's Claimant's core claims are concerned – the Panel accepts the evidence of Ms. Willet that prior to the auction, the Respondent was unaware of Verisign's involvement in NDC's application.</p>	The original text contains a clerical error. We believe that the Final Decision is referring to the Claimant's core claims in the IRP.

7. It is apparent, and the Panel so confirms, that all of the requested corrections are to errors that are clerical or typographical in nature and, as such, which fall within the scope of Article 33. The Parties have an interest in obtaining a corrected version of the Final Decision and, to that extent, the Request is justified.

IV. *DISPOSITIF*

8. For these reasons, the Panel hereby **grants** the Parties' Joint Request for Corrections to the Final Decision of the Independent Review Process Panel, and **decides** that the extracts of the Panel's Final Decision reproduced in the second column of the table below shall be corrected so as to read as the corrected version of the said extracts reproduced in the third

column:

Correction Location	Original Passage	Corrected Passage
Page iv	Cooperative engagement process invoked by Donuts on 2 August 2016 in regard to .WEB.	Cooperative Engagement Process invoked by Donuts on 2 August 2016 in regard to .WEB.
Page 1, ¶3; Page 18, ¶60; and Page 125, ¶410(1)	Nu Dotco, LLC	Nut DotCo, LLC
Page 9, ¶39.	The Emergency Panelist presided over a focused document production process during which, on 18 December 2018, ICANN produced the Document Acquisition Agreement entered into between Verisign and NDC in connection with .WEB.	The Emergency Panelist presided over a focused document production process during which, on 18 December 2018, ICANN produced the Domain Acquisition Agreement entered into between Verisign and NDC in connection with .WEB.
Page 20, ¶60 <i>et seq.</i>	Paragraph numbering as of paragraph 60.	Change paragraph “60.” to paragraph “63.” and renumber the following paragraphs accordingly.
Page 21, ¶64.	The Claimant had filed with its original Request for IRP witness statements from three (3) fact witnesses, Messrs. John L. Kane, Cedarampattu “Ram” Mohan and Jonathan M. Robinson, as well as two (2) expert reports, one by Dr. George Sadowsky, the other by Mr. Jonathan Zittrain. Upon the filing of its Amended Request for IRP, on 21 March 2019, the Claimant withdrew the witness statements of its three (3) fact witnesses “[i]n light of ICANN’s disclosure of the August 2015 Domain Acquisition Agreement between VeriSign and NDC”.	The Claimant had filed with its original Request for IRP witness statements from three (3) fact witnesses, Messrs. John L. Kane, Cedarampattu “Ram” Mohan and Jonathan M. Robinson, as well as one expert report by Mr. Jonathan Zittrain. Upon the filing of its Amended Request for IRP, on 21 March 2019, the Claimant filed one expert report, by Dr. George Sadowsky, and withdrew the witness statements of its three (3) fact witnesses “[i]n light of ICANN’s disclosure of the August 2015 Domain Acquisition Agreement between VeriSign and NDC”.

Correction Location	Original Passage	Corrected Passage
Page 25, ¶83.	Verisign identified .WEB as one business opportunities in the New gTLD Program.	Verisign identified .WEB as one business opportunity in the New gTLD Program.
Page 37, ¶132.	The Respondent explains that, with the exception of approximately two weeks in June 2018, after Afilias’ DIDP-related Reconsideration Requests were resolved and before Afilias initiated its CEP, the .WEB contention set has been on hold from August 2016 through today.	The Respondent explains that, with the exception of approximately two weeks in June 2018, after Afilias’ DIDP-related Reconsideration Requests were resolved and before Afilias initiated its CEP, the .WEB contention set has been on hold from August 2016 through today.
Page 43, ¶153.	In its Rejoinder Memorial dated 1 June 2020, the Respondent states that a feature that sets this IRP apart is that ICANN has not yet fully address the ultimate dispute underlying the Claimant’s claims.	In its Rejoinder Memorial dated 1 June 2020, the Respondent states that a feature that sets this IRP apart is that ICANN has not yet fully addressed the ultimate dispute underlying the Claimant’s claims.
Page 81, ¶274.	The Claimant commenced its CEP on 18 June 2018, eleven days after the removal of the .WEB contention set from its on-hold status.	The Claimant commenced its CEP on 18 June 2018, twelve days after the removal of the .WEB contention set from its on-hold status.
Page 82, ¶278; and Page 85, ¶286.	<p>In sum, the Panel finds that the Claimant’s core claims against the Respondent, as summarized above in paragraph 251 of this Final Decision, only accrued on 8 June 2018.</p> <p>AND</p> <p>While the Panel has found that the Claimant’s core claims against the Respondent crystallized on 8 June 2018, the Panel’s view is that a proper analysis of the Claimant’s claims requires an examination of the Respondent’s conduct – that of its Board, individual Directors, Officers and Staff – against the backdrop of the entire chronology of events</p>	<p>In sum, the Panel finds that the Claimant’s core claims against the Respondent, as summarized above in paragraph 251 of this Final Decision, only accrued on 6 June 2018.</p> <p>AND</p> <p>While the Panel has found that the Claimant’s core claims against the Respondent crystallized on 6 June 2018, the Panel’s view is that a proper analysis of the Claimant’s claims requires an examination of the Respondent’s conduct – that of its Board, individual Directors, Officers and Staff – against the backdrop of the entire chronology of events</p>

Correction Location	Original Passage	Corrected Passage
	leading to the Respondent’s decision of 8 June 2018.	leading to the Respondent’s decision of 6 June 2018.
Page 86, ¶293.	Bearing the standards set out in those commitments and core values in mind, the Panel turns to consider the Respondent’s conduct, beginning with the Claimant’s complaints about the Panel’s pre-auction investigation.	Bearing the standards set out in those commitments and core values in mind, the Panel turns to consider the Respondent’s conduct, beginning with the Claimant’s complaints about the Respondent’s pre-auction investigation.
Page 87, ¶295.	As regards the Respondent’s pre-auction investigation – on which, in the opinion of the Panel, very little turns insofar as the Respondent’s core claims are concerned – the Panel accepts the evidence of Ms. Willett that prior to the auction, the Respondent was unaware of Verisign’s involvement in NDC’s application.	As regards the Respondent’s pre-auction investigation – on which, in the opinion of the Panel, very little turns insofar as the Claimant’s core claims are concerned – the Panel accepts the evidence of Ms. Willett that prior to the auction, the Respondent was unaware of Verisign’s involvement in NDC’s application.

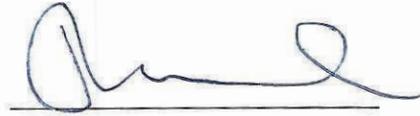
9. The whole without costs.
10. For the Parties’ convenience, a version of the Final Decision, corrected as per the corrections set out above and identified on the cover page as “FINAL DECISION–Corrected version dated 15 July 2021”, is attached as an Addendum to the present Decision.

11. This Decision may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

Place of the IRP: London, England



Catherine Kessedjian



Richard Chernick



Pierre Bienvenu, Ad. E., Chair

Dated: 15 July 2021