

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

September 17, 2010

Mr. Dennis Jennings, Chair
Board of Directors, Governance Committee
Internet Corporation for Assigned Names
and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292

Ms. Rita Rodin
Board of Directors, Governance Committee
Internet Corporation for Assigned Names
and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292

Mr. Raymond Plzak
Board of Directors, Governance Committee
Internet Corporation for Assigned Names
and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292

Mr. Ram Mohan
Board of Directors, Governance Committee
Internet Corporation for Assigned Names
and Numbers
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292

Re: .JOBS Charter Compliance Coalition Petition for Reconsideration of Board Action

Dear Members of the Board Governance Committee:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, supports the request for reconsideration filed by the .JOBS Charter Compliance Coalition on August 20, 2010.

Small businesses account for three-quarters of all new jobs in the United States and embody the spirit of innovation, entrepreneurship and individual initiative. Small businesses rely upon the Internet Corporation for Assigned Names and Numbers to carry out its responsibilities to coordinate management of the domain name system in an open, transparent, and predictable manner in order to operate their businesses and reach their customers online.

The Employ Media Phased Allocation Program would expand registrations in .JOBS in a manner that is inconsistent with the .JOBS Charter and ignores the myriad promises made by the registry operator in the application process. The Board's decision to permit this expansion without the appropriate process and due consideration of the views of affected stakeholders who have been denied a voice in the policy development process raises grave concerns about ICANN's willingness to enforce registry agreements in general.

First, the expanded use of the .JOBS top level domain is contrary to the fundamental expectations established by Employ Media in its application and reflected in the charter and the

registry agreement for the sponsored TLD, which limited registration in the sTLD to a narrow category of registrants for a specific purpose. Despite clearly established expectations, the Board approved the expansion just three days after the staff posted a cursory summary of public comments that, in the words of an independent review, “does not reflect the depth of comments provided by a large number of organizations and ... [i]n some cases, complex arguments are reduced to single lines of text; in others, omitted altogether.” As the reviewer concluded, the staff summary “fails to adequately account for either the breadth or depth of comments. It boils down complex argument to a form that loses most if not all of its meaning. It fails to investigate beyond the comments themselves the serious concerns of hundreds of professional organizations.”

Second, the approval process failed to consider the need for mechanisms to prevent abusive registries in connection with the expansion. While the expansion eliminates the protections built-in to a system where registrations are limited to a company’s trade or commonly known name, the Board has not called on Employ Media to provide any tools to facilitate rights protection and prevent abusive registrations. This failure is particularly inappropriate in light of ICANN’s parallel efforts to enhance IP protection mechanisms under its new generic TLD program, as reflected in the Draft Applicant Guidebook version 4 (“DAG IV”). DAG IV includes, for instance, improvements to the Uniform Rapid Suspension, the Trademark Clearinghouse, the Post-Delegation Dispute Resolution Proposal, and implementation of a Registry Restrictions Dispute Resolution Procedure. None of these mechanisms have been put in place for the .JOBS registry, rendering Employ Media’s Phased Allocation Program wholly inconsistent with ICANN’s approach to rights protection in new gTLDs.

Third, the approval process undermines confidence in ICANN’s ability to undertake the new gTLD round in accordance with community-developed and Board-approved policy. By permitting fundamental alterations in the character and operation of a sponsored domain following launch without appropriate deliberation, ICANN is signaling to prospective applicants that they need not take their commitments seriously, and to affected stakeholders that they should not take an applicant’s commitments seriously.

Whatever the merits of Employ Media’s Phased Allocation Program may be, the process by which it was reviewed and approved undermines confidence in ICANN’s ability to expand the domain name space in an orderly, timely, and predictable way in keeping with the organization’s policy and mandate. On behalf of the members of the U.S. Chamber of Commerce, I urge ICANN to reconsider its approval of the .JOBS expansion and to develop appropriate mechanisms for considering changes of this sort in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

R. Bruce Josten

Cc: Rod Beckstrom, CEO
John Jeffrey, Esq.