

## **Rebuttal to Reconsideration Request 17-1**

The reply I received is incomplete and designed to simply deny my reconsideration request rather than address the actual issue.

The issues are that either ICANN should compel all whois data be publicly available or, if there is a distinction about historical data, it should be explained on the whois section of the ICANN web site. However, in the “issues” section in section III the only issue was whether ICANN should compel the historical whois data. The issue of ICANN explaining the distinction between current and historical data disappeared from the reply in Section III.

Further, the rebuttal completely ignored the fact that ICANN staff is recommending user buy stolen black market whois data when access to historical whois data is requested. If it is actually the official position of ICANN to recommend users buy stolen data on the black market then that should be posted on the ICANN’s whois page.

**-Historical whois records:** Generally, when ICANN discusses whois data they make no distinction between current data and historical data. Therefore, any such discussion encompass both current and historical data as it is all “whois data.” The notion that because whois contains the word “is” and, therefore, does not contain historical data is a frivolous argument. Whois data is whois data. The fact that the whois data must be up-to-date does not mean that the historical whois data is not included when referencing “whois data.” Even if the various references to whois data is meant to be current data then ICANN should take steps to correct the wording in its various agreements and explanations to the public. Currently there is no mention of historical data on the ICANN web page about the whois system.

The failure of ICANN to properly explain the historical whois data distinction has led to Verisign making nonsensical claims to the public. Verisign claimed to me that historical whois data is “sensitive.” However, it is clearly nonsensical to claim that current whois data is public information yet if someone makes a change to their registration data then the records somehow transform to “sensitive” data not available to the public.

The purpose of this reconsideration request is to correct problems with the way ICANN presents explanations about whois data. Instead of addressing that issue ICANN has chosen to provide a litigious response that contains “cute” and frivolous arguments and ICANN is making no effort to correct the misleading explanations to the public. Access to historical whois data in the conduct of the UDRP is well within the mission of ICANN.

The recusal of the ombudsman is another problem with ICANN’s system. The ombudsman position is nothing more than a figurehead who searches out petty and unimportant issues to make it look like there is actually an ombudsman. Any substantive or important issue results in a recusal so the ombudsman position is currently useless to the majority of Internet users who have issues with ICANN.

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