

Subject: Re: [Reconsideration Request] Update on Reconsideration Request 16-3
Date: Thursday, April 5, 2018 at 1:02:50 PM Pacific Daylight Time
From: Wong, Rosey (sent by reconsider <reconsider-bounces@icann.org>)
To: reconsideration@icann.org
CC: Scott Seitz, Jamie Baxter, WAS DECHERT DOTGAY
Attachments: ATT00001.txt

Dear ICANN:

We write in response to your April 4, 2018 email on behalf of our client, dotgay LLC ("dotgay"). The email requests that dotgay respond to several invitations from the BAMC regarding Reconsideration Request 16-3, specifically whether (1) dotgay would like to make an additional submission to the BAMC, (2) dotgay's 31 January 2018 submission of Professor William N. Eskridge's Second Expert Report is its supplemental submission to the BAMC, and (3) dotgay wants to make a 30 minute telephonic presentation to the BAMC.

We have responded to the BAMC's invitations in our 23 March 2018 letter (<https://www.icann.org/en/system/files/files/reconsideration-16-3-et-al-dotgay-dechert-to-icann-board-bamc-redacted-23mar18-en.pdf>).

As we have previously made clear to the BAMC, dotgay rejects ICANN's attempt to impose artificial constraints on any additional submissions regarding Reconsideration Request 16-3. In order to provide ICANN with further substantive comments on the CPE Process Review, dotgay must have (1) an opportunity to review the underlying documents, and is willing to enter into a confidentiality agreement to achieve that end; (2) sufficient time (at least 3 months) to review those documents; and (3) a meaningful opportunity to submit additional materials without a 10-page limit. ICANN must bear the necessary costs and expenses for dotgay to review the documents and prepare additional submissions.

The BAMC must identify its specific concerns regarding Reconsideration Request 16-3 after reviewing dotgay's additional submission, and provide dotgay with the opportunity to make an *in-person* presentation that addresses those concerns. Furthermore, the BAMC's review of Reconsideration Request 16-3 must involve a substantive review of the merits of the .GAY CPE report, taking into account all of the submitted materials supporting the community priority application.

We would appreciate a response from the BAMC by noon on 6 April 2018.

Sincerely,
Rose Marie Wong

Rose Marie Wong
Associate

Dechert LLP

Contact Information Redacted

From: Reconsideration <Reconsideration@icann.org>
Date: April 4, 2018 at 7:27:00 PM EDT
To: Contact Information Redacted

Contact Information Redacted

Cc: Reconsideration <Reconsideration@icann.org>
Subject: Update on Reconsideration Request 16-3

Dear Messrs. Baxter and Ali,

We write to follow up on the email below, in which we noted that the BAMC invites you to submit additional information relating to Request 16-3, provided that the submission is limited to any new information/argument based upon the CPE Process Review Reports. Any such additional submission shall be limited to ten pages. The deadline to submit such additional submission is 2 April 2018. To date, we have not received a supplemental submission from you or heard from you otherwise. We note that following the publication of CPE Process Review Reports, on 31 January 2018, you submitted the "Second Expert Opinion of Professor William N. Eskridge, Jr., in Response to FTI Consulting, Inc.'s Independent Review of the Community Priority Evaluation Process." (<https://www.icann.org/en/system/files/correspondence/ali-to-icann-board-31jan18-en.pdf>). If you would like us to deem that as dotgay LLC's additional submission in response to the CPE Process Review Process pursuant to the BAMC's invitation, please advise. Or, if you intend to submit an additional submission, please advise.

In the email below, the BAMC also invited you to make a telephonic oral presentation to the BAMC in support of your reconsideration request and to let us know by 23 March if you would like to proceed with a telephonic presentation. We have also not heard from you on this issue.

Please advise by 6 April (1) whether you would like to treat the submission of 31 January 2018 as dotgay LLC's supplemental submission or if you intend to submit additional materials in support of Request 16-3 and if so, by when; and (2) whether you would like to proceed with a 30 minute telephonic presentation to the BAMC. Please include your availability for a 30-minute telephonic presentation in April and May with your response.

If we have not heard from you by 6 April 2018, we will presume that you do not intend to submit additional materials in support of Request 16-3 and that you do not wish to proceed with a telephonic presentation to the BAMC.

Best regards,
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

Dear Messrs. Baxter and Ali,

On 15 March 2018, in [Resolution 2018.03.15.11](#), the ICANN Board “directe[d] the Board Accountability Mechanisms Committee [BAMC] to move forward with consideration of the remaining Reconsideration Requests relating to the CPE process that were placed on hold pending completion of the [Community Priority Evaluation] (CPE) Process Review in accordance with the [Transition Process of Reconsideration Responsibilities from the BGC to the BAMC\[jicann.org\]](#) document.”

To ensure that the review of the pending Reconsideration Requests are conducted in an efficient manner, the BAMC has developed a [Roadmap\[jicann.org\]](#) for the review the requests. In accordance with the [Roadmap\[jicann.org\]](#), the BAMC invites you to submit additional information relating to Request 16-3, provided that the submission is limited to any new information/argument based upon the CPE Process Review Reports. Any such additional submission shall be limited to ten pages. The deadline to submit such additional submission is two weeks from today, which is 2 April 2018.

Additionally, accordance with the [Roadmap\[jicann.org\]](#), the BAMC invites you to make a telephonic oral presentation to the BAMC in support of your reconsideration request. Please note that the BAMC asks that any such presentation be limited to providing additional information that is relevant to the evaluation of Request 16-3 and that is not already covered by the written materials. If you would like to proceed with a telephonic presentation to the BAMC, please provide confirmation by 23 March 2018. Please include your availability for a 30-minute telephonic presentation in March and April with your response.

Best regards,
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094

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