

**SUMMARY DISMISSAL
OF THE BOARD ACCOUNTABILITY MECHANISMS COMMITTEE (BAMC)
RECONSIDERATION REQUEST 20-3
24 NOVEMBER 2020**

The Requestor, Silver A Marketing, seeks reconsideration of certain actions taken by GoDaddy.com, LLC (GoDaddy) relating to the renewal of the following domain names: royalaffiliates.com, royalsports.net, royalsports.org, and crazyroyal.com.¹ The Reconsideration Request (Request 20-3) does not challenge any specific action or inaction of the ICANN Board or ICANN staff, but rather asks that ICANN “help and guide [the Requestor] to get [the] domain[s] back from Godaddy.”²

I. Brief Summary.

The Requestor alleges that it was the registrant of certain domain names (the Subject Domain Names) for “the last 15+ years.”³ GoDaddy is the registrar for the Subject Domain Names. According to the Requestor, the Subject Domain Names were removed from the Requestor’s account after the Requestor’s renewal payment for them failed “[d]ue to autorenewal” issues associated with its credit card. Thereafter, the Requestor alleges that it requested assistance from GoDaddy’s Support Team and that it has not received a response. The Requestor claims that it was harmed when its “digital property” was taken by GoDaddy without notice, that GoDaddy’s Support Team was unresponsive to its inquiries about the renewal status of the Subject Domain Names, and asks ICANN to “help in resolving this issue.”⁴

Article 4, Section 4.2(k) of the ICANN Bylaws provides that upon receipt of a

¹ Request 20-3.

² Request 20-3.

³ Request 20-3.

⁴ Request 20-3.

reconsideration request, ICANN’s Board Accountability Mechanisms Committee (BAMC) is to review the request “to determine if it is sufficiently stated.”⁵ The BAMC has evaluated Request 20-3 under this standard and concludes that it is not sufficiently stated because the Requestor is not challenging any action or inaction of the ICANN Board or Staff. The BAMC therefore summarily dismisses Request 20-3.⁶

II. Facts.

A. Background Facts.

The Requestor states that it was the registrant of the Subject Domain Names for the “last 15+ years”⁷ and GoDaddy has been the registrar for the Subject Domain Names.

The Requestor claims that it attempted to renew the Subject Domain Names, but that its payment failed “[d]ue to autorenewal” issues associated with its credit card.⁸ On 28 October 2020, the Requestor contacted GoDaddy’s Support Team to request assistance, stating that the Subject Domain Names “are missing from our account” and requesting that they be returned “back to [the Requestor’s] account immediately.”⁹ According to the Requestor, it sent another email to GoDaddy’s Support Team on or about the same day, stating that “we didn’t get the response back to our issue” and advising GoDaddy that “you are not authorized to take our domain.”¹⁰ The Requestor claims that GoDaddy did not respond to these emails.

The Requestor submitted Request 20-3 on 28 October 2020, asserting that it was harmed when its “digital property” was taken by GoDaddy without notice, alleging that GoDaddy’s

⁵ ICANN Bylaws, Art. 4, § 4.2(k).

⁶ A substantive review of the merits of the Requestor’s claims is beyond the scope of this Determination. The BAMC’s conclusion is limited to only the preliminary procedural assessment of whether the Requestor’s claim meets the requirements for bringing a reconsideration request.

⁷ Request 20-3.

⁸ Request 20-3.

⁹ Request 20-3.

¹⁰ Request 20-3.

Support Team was unresponsive to its inquiries about the renewal status of the Subject Domain Names, and requesting that ICANN “help [the Requestor] in resolving this issue.”¹¹

B. Relief Requested.

The Requestor asks ICANN org to “help and guide [the Requestor] to get [the] domain[s] back from Godaddy.”

III. Issue.

The issue is whether Request 20-3 meets the requirements for bringing a reconsideration request in accordance with the reconsideration criteria set forth in the Bylaws.

IV. The Relevant Standards For Reconsideration Requests.

Articles 4.2(a) and (c) of ICANN’s Bylaws provide in relevant part that any entity “may submit a request for reconsideration or review of an ICANN action or inaction . . . to the extent the Requestor has been adversely affected by:

- (i) One or more Board or Staff actions or inactions that contradict ICANN’s Mission, Commitments, Core Values and/or established ICANN policy(ies);
- (ii) One or more actions or inactions of the Board or Staff that have been taken or refused to be taken without consideration of material information, except where the Requestor could have submitted, but did not submit, the information for the Board’s or Staff’s consideration at the time of action or refusal to act; or
- (iii) One or more actions or inactions of the Board or Staff that are taken as a result of the Board’s or Staff’s reliance on false or inaccurate relevant information.”¹²

Pursuant to Article 4, Section 4.2(k) of the Bylaws, the BAMC reviews each reconsideration request upon its receipt to determine if the claims meet the requirements for bringing a reconsideration request.¹³ The BAMC may summarily dismiss a reconsideration

¹¹ Request 20-3.

¹² ICANN Bylaws, 28 November 2019, Art. 4 §§ 4.2(a) and (c).

¹³ *Id.* at § 4.2(k).

request if the BAMC determines the request: (i) does not meet the requirements for filing reconsideration requests under the Bylaws; or (ii) it is frivolous.¹⁴

V. Analysis and Rationale.

In evaluating whether a reconsideration request is sufficiently stated, the BAMC considers the following factors: (1) is the reconsideration request timely; and (2) do the requestor's claims "meet the requirements for bringing a reconsideration request"?¹⁵ The BAMC concludes that Request 20-3 does not meet the requirements for bringing a reconsideration request. The Requestor has not identified an action or inaction of the ICANN Board or Staff, and therefore has not sufficiently alleged and cannot allege that it has been adversely affected *by Board or Staff action or inaction*.¹⁶

Request 20-3 challenges an action or inaction by GoDaddy, the registrar for the Subject Domain Names. Specifically, the Requestor claims that GoDaddy improperly took the Subject Domain Names from the Requestor following issues the Requestor experienced in effectuating its renewal payment obligations.¹⁷ The relationship between a domain name registrant (here, the Requestor) and the ICANN-accredited registrar (here, GoDaddy) is governed by a Registration Agreement between the two parties. ICANN is not a party to the Registration Agreement and does not have the authority to transfer domain names, including expired ones, back to registrants. Accordingly, the Requestor's challenge is to actions taken by a third party, not ICANN Board or ICANN staff.

¹⁴ *Id.*

¹⁵ *Id.*, Art. 4, § 4.2(k); *see also id.* § 4.2(e)(ii) (the BAMC has the power to "[s]ummarily dismiss insufficient or frivolous Reconsideration Requests").

¹⁶ As noted above, in evaluating whether a reconsideration request is sufficiently stated, the BAMC may also consider whether the reconsideration request is timely. Here, the timing question need not be resolved because Request 20-3 is not otherwise sufficiently stated because it challenges certain actions taken by a third-party which do not fall within the scope of the Reconsideration process.

¹⁷ Request 20-3.

The Reconsideration process does not apply to actions (or inactions) taken by a third-party. To do so would undermine the purpose of the reconsideration process as set forth in Article 4, Section 4.2(a) of the Bylaws, which is to provide “a process by which any person or entity materially affected by an action or inaction *of the ICANN Board or Staff* [to] request . . . the review or reconsideration of *that action or inaction* by the Board, . . . to the extent that the Requestor has been adversely affected by” *Board or Staff action or inaction*.¹⁸

Because ICANN played no role in the actions or inactions of GoDaddy at issue in Request 20-3, there is no action or inaction that was taken by the ICANN Board or Staff for the BAMC to reconsider. Further, the Requestor has not been affected—materially, adversely, or otherwise—by a purported challenged action or inaction of the ICANN Board or Staff (because there has been no ICANN action or inaction). Accordingly, the Requestor’s request for reconsideration of actions or inactions by GoDaddy does not meet the requirements for bringing a request for reconsideration. If the Requestor feels that GoDaddy did not comply with its renewal obligations under the Registrar Accreditation Agreement, the Requestor may file a Domain Name Renewal Complaint with ICANN Contractual Compliance.

VI. Determination.

A substantive review of the merits of the Requestor’s claims is beyond the scope of the BAMC’s procedural evaluation. The BAMC’s conclusion is limited to the preliminary assessment of whether the Requestor’s claims meet the requirements for bringing a reconsideration request. For the foregoing reasons, the BAMC concludes that Request 20-3 does not meet the requirements for bringing a reconsideration request and therefore summarily dismisses Request 20-3.

¹⁸ ICANN Bylaws, Art. 4, § 4.2(a), (c) (emphasis added).