KIRTON | McCONKIE

March 11, 2014

Christine Willett
Vice President, New gTLD Operations
ICANN
12025 Waterfront Drive
Suite 300
Los Angeles, CA 90094-2536
Via email: newgtld@icann.org

Re: Comments by DOT Registry

Dear Ms. Willett,

This letter is a response to comments submitted by DOT Registry on 5 March 2014. In a nutshell, DOT Registry has asked that the CPE Panels assigned to evaluate its community applications for the new gTLDs .INC, .LLC, and .LLP disregard as irrelevant reasoned opposition submitted by several parties. The Applicant Guidebook and CPE Guidelines do not authorize CPE Panels to disregard opposition without detailed consideration.. For that reason and the reasons explained below it would be a serious mistake to grant DOT Registry's request.

Before proceeding, I want to emphasize the narrow focus of this letter. It is not directed at the substance of DOT Registry's community applications. Its sole purpose is to call attention to the reasons why the comments and letters opposing community priority for DOT Registry's community applications should be treated as relevant to the "opposition" criterion of the CPE process. Because this letter is directed only at DOT Registry's comments—which themselves were filed late on 5 March—it would be grossly unfair if, in giving it the last word, DOT Registry succeeds in convincing the CPE Panels to disregard reasoned opposition to its own applications. Such a one-sided result would fundamentally contradict ICANN's established standards.

DOT Registry charges that formal opposition to its community applications "is neither relevant nor from the proposed community" and that "[a]ny correspondence from other applicants for these strings ... should be immediately dismissed by the evaluators due it being 'clearly spurious' and 'filed for the purpose of obstruction' ...."

DOT Registry's argument falters because not all opposition is "obstruction." Neither the Applicant Guidebook nor the CPE Guidelines—the standards the CPE Panels *must* apply—place any limit on who may submit opposition to a community

application. To the contrary, ICANN standards welcome "reasoned" objections to a claim of community priority. Multiple entities have provided sound and detailed reasons for the CPE Panel to deny community priority to DOT Registry's applications—information that the CPE Panel should be free to consider as relevant opposition, along with all the other information in the record. DOT Registry's appeals to emotion should not be permitted to silence relevant opposition to its requests for community priority.

Unlike DOT Registry, I fully anticipate that the EIU will "rigorously enforce" the Applicant Guidebook—but all of it, not merely those portions that DOT Registry prefers. Applied strictly, ICANN's standards for community priority set a high bar that DOT Registry's applications for .INC, .LLC, and .LLP do not come close to meeting.

Please publish this letter on ICANN's Correspondence page and permit the assigned CPE panels to consider this letter when evaluating community priority for DOT Registry's applications for .INC, .LLC, and .LLP.

Contact me at sgunnarson@kmclaw.com or at (801) 323-5907 if you have questions or concerns.

Sincerely,

R. Shawn Gunnarson

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Kirton McConkie