

To: Arif Ali on behalf of dotgay LLC and DotMusic Limited

Date: 10 July 2017

Re: Request No. 20170610-1

Thank you for your request for documentary information dated 10 June 2017 (Request), which was submitted to the Internet Corporation for Assigned Names and Number's (ICANN) outside counsel on behalf of dotgay LLC (dotgay) and DotMusic Limited (DotMusic) (collectively Requestors). As the Request seeks the disclosure of documentary information, it is being addressed through ICANN's Documentary Information Disclosure Policy (DIDP). For reference, a copy of your Request is attached to the email transmitting this Response.

Items Requested

Your Request seeks the disclosure of the following information relating to the Board initiated review of the Community Priority Evaluation (CPE) process:

1. Confirm that FTI will review all of the documents submitted by DotMusic and dotgay in the course of their reconsideration requests, including all of the documents listed in Annexes A and B;
2. Identify ICANN employees, officials, executives, board members, agents, etc. who were interviewed by FTI for the purposes of completing its "first track" review;
3. Disclose the details of FTI's selection process, including the Requests for Proposals process, and the terms under which FTI currently operates for ICANN; and
4. Confirm that ICANN will disclose FTI's final report and findings to the CPE applicants, including DotMusic and dotgay, immediately after FTI completes its review.

Response

Your Request seeks information relating to the review of the CPE process initiated by the ICANN Board (the Review). ICANN's DIDP is intended to ensure that documentary information contained in documents concerning ICANN's operational activities, and within ICANN's possession, custody, or control, is made available to the public unless there is a compelling reason for confidentiality. The DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. As such, requests for information are not appropriate DIDP requests.

ICANN notes that it previously provided documentary information regarding the Review in response to the DIDP Requests submitted by DotMusic and dotgay. (See [Response to DIDP Request 20170505-1](#) and [Response to DIDP Request 20170518-1](#).) Rather than repeating the information here, ICANN refers to those DIDP Responses, which are incorporated into this Response.

Items 1 and 3

Item 1 seeks confirmation that FTI will review the materials submitted by DotMusic and dotgay in the course of their reconsideration requests, including all the documents identified in Annexes A and B to the Request. Item 3 seeks the disclosure of information regarding FTI's selection process and "the terms under which FTI currently operates for ICANN." The information responsive to Items 1 and 3 were previously provided in [Response to DIDP Request 20170505-1](#) and [Response to DIDP Request 20170518-1](#).

Items 2 and 4

Item 2 seeks the disclosure of the identities of "ICANN employees, officials, executives, board members, agents, etc. who were interviewed by FTI for the purposes of completing its "first track" review." Item 4 requests "[c]onfirm[ation] that ICANN will disclose FTI's final report and findings to the CPE applicants, including DotMusic and dotgay, immediately after FTI completes its review." As noted above, the DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. Notwithstanding this requirement, ICANN organization has provided significant information about the Review in the [26 April 2017 update from the Chair of the Board of the Governance Committee](#) and [2 June 2017 Community Priority Evaluation Process Review Update](#). This request for information is not an appropriate DIDP request. Moreover, while the first track which is focused on gathering information and materials from ICANN organization has been completed, the Review is still ongoing. This request is subject to the following DIDP Conditions of Non-Disclosure:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

- Information subject to the attorney– client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

Notwithstanding the applicable Defined Conditions of Nondisclosure identified in this Response, ICANN also evaluated the information subject to these conditions to determine if the public interest in disclosing them at this point in time outweighs the harm that may be caused by such disclosure. ICANN has determined that there are no circumstances at this point in time for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure.

About DIDP

ICANN's DIDP is limited to requests for documentary information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at ICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest. We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.