

Our ref FPE/mnc/107646.0000003  
Your ref

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To the attention of Mr. Bruce Tonkin,  
Chair, ICANN Board Governance Committee  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292

USA

**By regular mail and by e-mail: reconsideration@icann.org**

Dear Sir,

**Re: Request for Reconsideration - Request 13-6, Hotel Top Level Domain S.a.r.l.**

Reference is made to the Request for Reconsideration 13-6 by Hotel Top Level Domains S.a.r.l. on August 23, 2013.

The Requester alleges :

- 1) That the panelist failed to follow ICANN's process in reaching a decision in that he did not make an independent determination as he regarded ICANN's prior action ; namely, he found persuasive that ICANN did not put the applications for .HOTEL and HOTELS in the same contention set ; and
- 2) That ICANN staff failed to incorporate suitable quality control provisions and failed to follow the process in accepting the panel's decision.

We would like to point out the following :

- 1) As to the first allegation:
  - a. The decision by ICANN not to put the applications in the same contention set was based on a visual analysis only. The panelist was required to perform a more complex analysis, i.e., an analysis on visual, aural and conceptual aspects;

- b. The panelist was sovereign in his decision and it is not because he agreed with the analysis by ICANN on the visual aspects that he did not make his independent determination;
  - c. The panelist clearly made his own reasoning where he found the degrees of similarity and dissimilarity persuasive and where he stated, (referring to AGB, Sec. 3.5.1) : *"While it undisputed that the words "hotel" and "hotels" are similar, with only the addition of an "s" differentiating them visually, and one string may bring the other to mind, such "[m]ere association ... is insufficient to find a likelihood of confusion."* This paragraph was omitted in the Requester's statement of the facts.
  - d. The panelist also added that he agreed with the analysis and the conclusions of the independent expert Professor Piet Desmet, who had clear views on the overall (dis)similarity of the two extensions. The Requester also failed to mention this.
- 2) As to the second allegation, Requester does not produce any proof of any violation of the process by ICANN's staff.

There is no indication that either the Panelist or ICANN staff violated any established ICANN process in reaching a decision on the non-placement of .hotels and .hotel in a non-exact contention set.

Therefore we request the BGC to conclude, based on the foregoing, that the Requester has not stated proper grounds for reconsideration and we therefore recommend that Hotel Top Level Domain S.a.r.l.'s request be denied without further consideration.

Sincerely yours,



Flip Petillion