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October 14, 2009

VIA E-MAIL & FEDERAL EXPRESS

Hon. Stephen M. Schwebel
1501 K Street N.W., Suite 410
Washington, D.C. 20005

Hon. Dickran M. Tevrizian (Ret.)
JAMS
707 Wilshire Boulevard, 46th Floor
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Re: ICM Registry, LLC v. ICANN, ICDR Case No. 50 117 T 00224 08

Dear Members of the Panel:

This letter responds, briefly, to the Post-Hearing Submission and accompanying appendices that ICM Registry, LLC (“ICM”) submitted late last night in the above-referenced matter.

ICM’s submission consists of a 74-page recitation and summary of its case (as amended from ICM’s earlier submissions), together with over 60 pages of appendices. ICANN understood that this is exactly what the Panel did not invite.¹ In fact, in response to ICM Counsel’s request that the parties be permitted to file comprehensive post-hearing submissions, Judge Schwebel stated that the parties were not to file such submissions but should, instead, file “relatively short, pithy statements.” (Hearing Transcript at 1203:9-10.)

Given the unambiguous mandate of the Panel, we do not believe that ICM’s submission(s) are appropriate.² Moreover, ICM presumably expected that ICANN would follow the Panel’s guidelines and submit a short post-hearing brief consistent with the Panel’s instructions, which is precisely what ICANN did. As a result, ICANN did not provide a

¹ See Hearing Transcript at 1202:21-1203:1 (“We do not invite comprehensive post-hearing briefs which would review the case, restate the arguments that we’ve had.”) (Judge Schwebel); *id.* at 1204:21-22 (“[P]lease bear in mind that we’re not looking for comprehensive briefs.”) (Judge Schwebel); *id.* at 1204:17-18 (“Make it look more like a catalog than a novel.”) (Mr. Paulsson).

² See Hearing Transcript 1203:9-14 (Judge Schwebel directing the parties to submit concise, specific articulations of “what one side perceives as the defects in the argument of the other and vice versa based on the record”).

Mr. Jan Paulsson, Esq.
Hon. Stephen S. Schwebel
Hon. Dickran M. Tevrizian (Ret.)
October 14, 2009
Page 2

comprehensive discussion of each issue addressed at the hearing and did not provide an index of the evidence.

Notwithstanding the inappropriateness of ICM's submission, now that we have had the opportunity to review it, we do not believe that it is necessary for ICANN to file a response. Of course, if the Panel wishes us to file a response, either with respect to specific issues or with respect to ICM's entire brief and lengthy appendices, ICANN would be pleased to do so.

Very truly yours,

A handwritten signature in cursive script that reads "Jeffrey A. LeVee".

Jeffrey A. LeVee
Counsel for Respondent ICANN

cc: Arif Ali, Esq.