

# **Exhibit A**

## John M. Genga

---

**From:** Don Moody  
**Sent:** Monday, November 16, 2015 7:51 AM  
**To:** Wendy Miles; John M. Genga; Kate Wallace; jlevec@JonesDay.com; Khurram A. Nizami; Charlotte S Wasserstein; Crystal Ondo  
**Cc:** Contact Information Redacted ; Don Moody  
**Subject:** RE: Corn Lake, LLC V. ICANN - Case 01-15-0002-9938 - ICANN's Objs and Resps to Corn Lake's Document Requests  
**Attachments:** 20151106\_CHARITY\_Doc\_Req\_Ltr.pdf

Members of the Panel,

Per request, please find the attached document request letter of 06 November 2015.

Thank you.

**Don C. Moody, J.D., M.S.**

The IP & Technology Legal Group P.C.  
Registered USPTO  
15260 Ventura Blvd., Suite 1810  
Sherman Oaks, CA U.S.A. 91403  
Tel: +1-818-444-4582 | Cell: Contact Information Redacted  
eFax: +1-818-474-7070 | Skype: Contact Information Redacted

---

**From:** Wendy Miles Contact Information Redacted  
**Sent:** Monday, November 16, 2015 1:57 AM  
**To:** John M. Genga Contact Information Redacted; Kate Wallace <kwallace@JonesDay.com>; Don Moody Contact Information Redacted ; jlevec@JonesDay.com; Khurram A. Nizami Contact Information Redacted; Charlotte S Wasserstein <cswasserstein@jonesday.com>; Crystal Ondo Contact Information Redacted  
**Cc:** Contact Information Redacted  
**Subject:** RE: Corn Lake, LLC V. ICANN - Case 01-15-0002-9938 - ICANN's Objs and Resps to Corn Lake's Document Requests

Dear Parties

The Claimant is requested please to send its 6 November 2015 Request to the Panel as a matter of urgency.

Many thanks

Wendy Miles QC  
On behalf of the Tribunal

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**From:** John M. Genga Contact Information Redacted  
**Sent:** 14 November 2015 21:10  
**To:** Kate Wallace; Wendy Miles; Contact Information Redacted  
**Cc:** Don Moody; [jlevec@JonesDay.com](mailto:jlevec@JonesDay.com); Khurram A. Nizami; Contact Information Redacted; Charlotte S Wasserstein; John M.

Genga; Crystal Ondo

**Subject:** Re: Corn Lake, LLC V. ICANN - Case 01-15-0002-9938 - ICANN's Objs and Resps to Corn Lake's Document Requests

Dear Panel and others,

Please see the attached correspondence, addressing ICANN's response to Corn Lake's document requests. Thank you.

*John M. Genga*

Genga & Associates, P.C.

15260 Ventura Blvd., Suite 1810

Sherman Oaks, CA 91403

Phone: +1-818-444-4580 | Fax: +1-818-444-4585

Direct: Contact Information Redacted Cell Contact Information Redacted

---

**From:** Kate Wallace <[kwallace@JonesDay.com](mailto:kwallace@JonesDay.com)>

**Sent:** Tuesday, November 10, 2015 5:17 PM

**To:** Wendy Miles; John M. Genga; Contact Information Redacted

**Cc:** Don Moody; [jlevee@JonesDay.com](mailto:jlevee@JonesDay.com); Khurram A. Nizami; Contact Information Redacted; Charlotte S Wasserstein

**Subject:** Corn Lake, LLC V. ICANN - Case 01-15-0002-9938 - ICANN's Objs and Resps to Corn Lake's Document Requests

Dear Mr. Genga and Members of the Panel:

Please find attached ICANN's objections and responses to Corn Lake's document requests.

Best,  
Kate

Kate Wallace  
Partner

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**(818) 444-4580 | FAX (818) 444-4585**

JOHN M. GENGA  
DIRECT DIAL Contact Information Redacted  
Contact Information Redacted

November 6, 2015

BY E-MAIL

Jeffrey A. LeVee, Esq.  
Jones Day  
555 South Flower Street  
Fiftieth Floor  
Los Angeles, CA 90071

Re: *Corn Lake, LLC v. ICANN*, ICDR Case No. 01-15-0002-9938

Dear Jeff:

Pursuant to Article 21 of the International Arbitration Rules of the ICDR, Corn Lake asks that ICANN produce the documents identified below in furtherance of the above-captioned Independent Review Process. We have tailored these requests narrowly to the specific issues raised by this IRP, and believe them necessary to accomplish meaningful review. Timing with respect to this request shall be as established by the Tribunal at the November 3, 2015 telephonic preliminary hearing in this matter.

To the extent that ICANN withholds documents covered by these requests on the basis of a privilege recognized by applicable law and asserted by ICANN, we request that ICANN reference the document in a privilege log, which describes as to each document withheld the type of document, the general subject matter thereof, the date on which it was created, the authors of the document, all parties who were intended to be recipients of the document, and the legal privilege being claims, referencing the law that recognizes such claim of privilege.

We do not wish to weigh these requests down with lengthy definitions of terms whose meanings you already know. We do wish to make clear, however, that “documents” and “communications” include those in electronic form such as email, text and “instant message” services such as Skype. Moreover, aware of other IRPs in which ICANN has taken an extremely narrow position as to what constitutes its “Board,” our references to the “Board” anywhere below means the ICANN Board and includes its members, committees (including the BGC and

Jeffrey A. LeVee, Esq.

November 6, 2015

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NGPC) and other configurations of less than the full Board. With these understandings, kindly produce the following:

1. All communications among, by or to the Board or ICANN staff in connection with Reconsideration Request 14-3 by Corn Lake, LLC.
2. All documents containing information considered by the Board or ICANN staff in connection with Reconsideration Request 14-3, other than those accessible at <https://www.icann.org/resources/pages/14-3-2014-01-30-en>.
3. All communications among, by or to the Board or ICANN staff regarding the applicability to a .CHARITY gTLD of "Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement," as appears in Attachment 5, Annex A of Corn Lake's Reconsideration Request No. 14-3.
4. All communications between ICANN and the Independent Objector related to .CHARITY.
5. All communications between ICANN, including the Board or its staff, on the one hand, and the ICC, Tim Portwood or either of them, on the other hand, concerning the community objections against any one or more of the following:
  - a. Application ID 1-961-6109 by Excellent First Limited for .慈善 (Charity IDN);
  - b. Application ID 1-1241-87032 by Spring Registry Limited for .CHARITY; or
  - c. Application ID 1-1384-49318 by Corn Lake LLC for .CHARITY.

I am happy to discuss any questions you may have concerning any of the foregoing, in an effort to get the requested documents promptly and to resolve any issues you may perceive with respect to any of them. Thanks.

Sincerely,

/jmg/

John M. Genga  
of The IP and Technology Legal Group, P.C.

cc: Don C. Moody, Esq.  
Crystal Ondo, Esq.

## **Exhibit B**

## John M. Genga

---

**From:** Kate Wallace <kwallace@JonesDay.com>  
**Sent:** Tuesday, November 10, 2015 5:17 PM  
**To:** Wendy Miles; John M. Genga; Contact Information Redacted  
**Cc:** Don Moody; jlevee@JonesDay.com; Khurram A. Nizami; Contact Information Redacted Charlotte S Wasserstein  
**Subject:** Corn Lake, LLC V. ICANN - Case 01-15-0002-9938 - ICANN's Objs and Resps to Corn Lake's Document Requests  
**Attachments:** ICANN's Resps. and Objs. to Corn Lake's Document Requests (Nov. 10).pdf

Dear Mr. Genga and Members of the Panel:

Please find attached ICANN's objections and responses to Corn Lake's document requests.

Best,  
Kate

Kate Wallace  
Partner  
[JONES DAY® - One Firm Worldwide<sup>SM</sup>](#)  
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# JONES DAY

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DIRECT NUMBER: (213) 243-2536  
K WALLACE@JONESDAY.COM

*Via E-Mail*

November 10, 2015

John M. Genga, Esq.  
The IP and Technology Legal Group, P.C.  
15260 Ventura Boulevard, Suite 1810  
Sherman Oaks, CA 91403  
Contact Information Redacted

**Re: ICANN IRP 01-15-0002-9938  
(.CHARITY)**

Dear Mr. Genga:

I write in response to your requests for production of documents dated November 6, 2015. As you know, the IRP Panel constituted to hear Corn Lake, LLC's ("Corn Lake's") IRP Request permitted Corn Lake to submit "narrow and specific" document requests. Unfortunately, the document requests you propounded fail to meet either standard. Rather, the requests are broadly written, largely seek documents that are irrelevant to Corn Lake's claims in this proceeding, and purport to call for the production of privileged materials.

As a general matter, the requests broadly seek "all" communications or "all" documents with respect to each topic, leaving the requests open to a very broad interpretation that could encompass vast volumes of materials. To avoid such an unreasonable construction, ICANN understands the requests as seeking only documents sufficient to show the substantive matters raised in each. Furthermore, as noted below, ICANN has made some preliminary determinations as to the existence of responsive, non-privileged materials. However, because ICANN's search is in its preliminary stages, there is a possibility that the volume of potentially responsive documents that require review may be excessive, particularly in light of the short time within which the production must be completed. ICANN therefore reserves the right to object on the ground that the requests are unduly burdensome when taking into account the probative value of the documents sought.

I address each request more specifically in turn below.

**1. Request No. 1.**

This Request seeks: "All communications among, by or to the Board or ICANN staff in connection with Reconsideration Request 14-3 by Corn Lake, LLC."

John M. Genga, Esq.  
November 10, 2015  
Page 2

ICANN objects to Request No. 1 because it seeks documents that are neither relevant nor likely to lead to the discovery of admissible evidence, especially insofar as Corn Lake's IRP Request does not challenge ICANN's response to Reconsideration Request 14-3. Moreover, ICANN objects on the ground and to the extent that Request No. 1 seeks the production of documents that are protected from disclosure by: (a) the attorney-client privilege; (b) the attorney work product doctrine; and/or (c) any other applicable privilege or doctrine. ICANN also objects to Request No. 1 because it is vague and ambiguous with respect to the phrase "in connection with." ICANN is construing Request No. 1 as seeking documents only concerning Reconsideration Request 14-3 itself, not all documents related to any matter referenced therein.

Notwithstanding the above, ICANN has determined preliminarily that no responsive, non-privileged documents exist with respect to Request No. 1. ICANN will confirm that this is the case, or produce responsive, non-privileged documents by the production deadline of December 4, 2015.

**2. Request No. 2.**

This Request seeks: "All documents containing information considered by the Board or ICANN staff in connection with Reconsideration Request 14-3, other than those accessible at <https://www.icann.org/resources/pages/14-3-2014-01-30-en>."

ICANN objects to Request No. 2 because it likewise seeks documents that are neither relevant nor likely to lead to the discovery of admissible evidence, especially insofar as Corn Lake's IRP Request does not challenge ICANN's response to Reconsideration Request 14-3. Moreover, ICANN objects on the ground and to the extent Request No. 2 seeks the production of documents that are protected from disclosure by: (a) the attorney-client privilege; (b) the attorney work product doctrine; and/or (c) any other applicable privilege or doctrine. ICANN also objects to Request No. 2 because it is vague and ambiguous with respect to the phrase "in connection with." ICANN is construing Request No. 2 as seeking documents only concerning Reconsideration Request 14-3 itself, not all documents related to any matter referenced therein.

ICANN has determined preliminarily that no responsive, non-privileged documents exist with respect to Request No. 2. ICANN will confirm that this is the case, or produce responsive, non-privileged documents by the production deadline of December 4, 2015.

**3. Request No. 3.**

This Request seeks: "All communications among, by or to the Board or ICANN staff regarding the applicability to a .CHARITY gTLD of "Category 1 Safeguards as Public Interest Commitments in Specification 11 of the New gTLD Registry Agreement," as appears in Attachment 5, Annex A of Corn Lake's Reconsideration Request No. 14-3."

John M. Genga, Esq.  
November 10, 2015  
Page 3

ICANN objects to Request No. 3 on the ground and to the extent it seeks the production of documents that are protected from disclosure by: (a) the attorney-client privilege; (b) the attorney work product doctrine; and/or (c) any other applicable privilege or doctrine. ICANN also objects to Request No. 3 because it is vague and ambiguous with respect to the phrase “as appears in[.]”

ICANN has determined preliminarily that no responsive, non-privileged documents exist with respect to Request No. 3. ICANN will confirm this is the case, or produce responsive, non-privileged documents by the production deadline of December 4, 2015.

**4. Request No. 4.**

This Request seeks: “All communications between ICANN and the Independent Objector related to .CHARITY.”

ICANN objects to Request No. 4 on the ground and to the extent it seeks the production of documents that are protected from disclosure by: (a) the attorney-client privilege; (b) the attorney work product doctrine; and/or (c) any other applicable privilege or doctrine. ICANN will produce non-privileged documents responsive to Request No. 4.

**5. Request No. 5.**

This Request seeks: “All communications between ICANN, including the Board or its staff, on the one hand, and the ICC, Tim Portwood or either of them, on the other hand, concerning the community objections against any one or more of the following: (a) Application ID 1-961-6109 by Excellent First Limited for .慈善 (Charity IDN); (b) Application ID 1-1241-87032 by Spring Registry Limited for .CHARITY; or (c) Application ID 1-1384-49318 by Corn Lake LLC for .CHARITY.”

ICANN objects to Request No. 5 on the ground and to the extent it seeks the production of documents that are protected from disclosure by: (a) the attorney-client privilege; (b) the attorney work product doctrine; and/or (c) any other applicable privilege or doctrine. ICANN will produce non-privileged documents responsive to Request No. 5.

Further with respect to Request No. 5, you propounded a request for documents that was substantively similar in *Donuts, Inc. v. ICANN* (“*Donuts*”), seeking communications between the ICC and ICANN related to the objection determinations you challenged in that matter. Among other documents, ICANN produced to you weekly emails sent from the ICC to ICANN that attached spreadsheets detailing the administrative progress for each objection determination. You later criticized ICANN for producing these documents, as they presumably did not advance your position. ICANN is proceeding under the assumption that you do not want to receive the same types of documents in this matter redacted to show only information relevant to

John M. Genga, Esq.  
November 10, 2015  
Page 4

.CHARITY (whereas the documents produced in *Donuts* contained unredacted information related only to the strings at issue there) unless you promptly inform us otherwise.

**6. Confidential and Proprietary Information**

Some of the requests call for the production of confidential and proprietary business information. Where appropriate, ICANN may designate certain documents as “Confidential.” ICANN requests that such documents be subject to restricted access, such that only the parties, their respective counsel, and the members of the IRP Panel have viewing privileges. In the event that any Confidential documents are submitted in support of any brief or other filing by either party, such Confidential documents will not be publicly posted or disseminated. Please let us know if you object to this type of designation and treatment of ICANN’s sensitive business information.

**7. Privilege Log Request**

Finally, ICANN objects to your request for a privilege log. ICANN must work (and therefore correspond) with counsel in order to respond to reconsideration requests and other matters referenced in your document requests. To log each and every such correspondence would present a massive burden that outweighs any conceivable benefit such a listing would provide to Corn Lake. Moreover, producing such a log would be nearly impossible during the time limits agreed to during the recent administrative call, during which you did not raise the possibility that you would request one. Indeed, in *Donuts*, you did not request a privilege log, and we were surprised to see such a request included here. In short, we hope you will agree to eschew a privilege log in the interests of maintaining an expedient schedule for these proceedings, and in light of the limited utility such a document could provide to you.

Very truly yours,

*/s/ Kate Wallace*

Kate Wallace

cc: Members of the Panel (via e-mail)  
Don Moody, Esq. (via e-mail)

## **Exhibit C**

## John M. Genga

---

**From:** Charlotte S Wasserstein <cswasserstein@jonesday.com>  
**Sent:** Monday, November 30, 2015 4:25 PM  
**To:** John M. Genga  
**Cc:** Kate Wallace; Jeffrey LeVee; Don Moody  
**Subject:** Re: Charity  
**Attachments:** ICANN\_CHARITY001 DAT - Excel.xlsx

John,

The file I attached is similar to the ones that you pull down from your FTP site when we do the productions - it isn't meant to be opened but rather loaded to a review platform. We've put the revised data file that shows the parent relationships in metadata onto your FTP site - let me know if you continue to have these issues with our first production (we included parent/attachment metadata in our volume 2 so it shouldn't be an issue there). You should also be able to tell from the images of the parent email what the attachments are. Also, I attach here an Excel spreadsheet that should make the relationships clear - this may be the easiest option.

As for the issue of the correspondence regarding reconsideration requests, there simply are no communications (other than those we have produced or will produce) that were not either created by counsel or sent to or from counsel for the purpose of obtaining legal advice. The Panel has already ruled on the privilege log issue.

All best,

Charlotte Wasserstein  
Associate

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From: "John M. Genga" Contact Information Redacted  
To: Charlotte S Wasserstein <cswasserstein@jonesday.com>  
Cc: Jeffrey LeVee <jlevee@JonesDay.com>, Kate Wallace <kwallace@JonesDay.com>, "John M. Genga" Contact Information Redacted Don Moody Contact Information Redacted  
Date: 11/30/2015 09:10 AM  
Subject: Re: Charity

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Charlotte,

We cannot open your attachment and therefore cannot ascertain the redactions. If you could please print the file to PDF, that would help; thanks.

I am not sure why you continue to characterize our document requests as "belated" when the Panel has approved them and specifically ordered -- twice, in writing -- that you comply fully, timely and without

withholding on the asserted basis of confidentiality or an overly expansive view of the attorney-client privilege.

With regard to ICANN staff recommendations to the Board for Reconsideration Request, 14-3, those communications that do not involve attorneys certainly enjoy no privilege; nor do those where an attorney appears only incidentally or participates in a business, policy or other non-legal capacity. As to such matters, please note the Panel's admonition in its Procedural Order No. 2:

ICANN is reminded that the mere sending of a communication to or from an internal ICANN attorney does not render that communication privileged. The communication also must be made to facilitate the rendition of professional legal services to the client; therefore, the sending or receiving ICANN attorney must be functioning in the capacity of a lawyer (as opposed to Board Member or business advisor, for example) at the relevant time. Further, the mere fact that an in-house ICANN attorney is copied on an e-mail, including as one of many addressees, is insufficient by itself to establish the attorney-client privilege.

Although the Panel, "[a]t this stage," has made "no order ... for production of any privilege log," the broad manner in which your email suggests that you may interpret the privilege would make a log appropriate for those few documents coming within the narrow range of those constituting or pertaining to staff recommendations to the Board regarding Reconsideration Request 14-3. We would ask that ICANN agree voluntarily to produce such a log for those documents, so as to avoid having to involve the Panel in what should be a simple matter with which ICANN can comply easily.

Thank you for your consideration of this matter.

*John M. Genga*  
Genga & Associates, P.C.  
15260 Ventura Blvd., Suite 1810  
Sherman Oaks, CA 91403  
Phone: +1-818-444-4580 | Fax: +1-818-444-4585

Direct: Contact Information Redacted | Cell: Contact Information Redacted

---

**From:** Charlotte S Wasserstein <cswasserstein@jonesday.com>  
**Sent:** Tuesday, November 24, 2015 4:52 PM  
**To:** John M. Genga  
**Cc:** Jeffrey LeVee; Kate Wallace  
**Subject:** Charity

Hi John,

I'm writing to respond to your below email to Jeff. As to the first issue you raise, ICANN's legal department makes recommendations on reconsideration requests, and therefore any drafts or discussions related to those recommendations are privileged and will not be produced. To the extent there are any non-privileged staff communications regarding Request 14-3, they have been or will be produced (and as you know, the final determination is publicly available in any event).

As for the second issue, the redacted non-responsive documents you are referring to are attachments to emails that do contain responsive material. We are happy to provide you with metadata that will show which redacted documents are attached to which emails; I attach a revised load file with that data here, let me know if you have any issues opening it. You can also usually tell from the "parent" email how many attachments there are just by looking at the list on the header information, and the redacted material will correspond with the attachments that do not concern the string

.CHARITY.

For background, ICANN collected thousands of unique documents in the course of this document review, and Jones Day attorneys, as well as our production vendor, will be working through the holiday this week to ensure that all responsive, non-privileged documents are produced by the production deadline. We can assure you that this review comprises ICANN's good faith efforts to respond to your belated document requests.

Best

Charlotte Wasserstein  
Associate

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From: "John M. Genga"Contact Information Redacted  
To: Jeffrey LeVee <jlevee@JonesDay.com>,  
Cc: Charlotte S Wasserstein <cswasserstein@jonesday.com>, Kate Wallace <kwallace@JonesDay.com>, Don MoodyContact Information Redacted "John M. Genga" Contact Information Redacted  
Date: 11/24/2015 02:12 PM  
Subject: Re: Charity

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Actually, Jeff, I do want to meet and confer with you regarding the status of the production, and two issues in particular at this point.

First, I note that some of the production to this point includes what appear to be "communications among, by or to the ICANN Board or staff in connection with Reconsideration Request 14-3," responsive to request no. 1. Not knowing all of the additional documents that ICANN may have in response to this request that it may produce by December 4, we are aware that ICANN staff prepares an analysis of, and recommendations regarding, reconsideration requests to the BGC. We have not seen that document as it relates to the .CHARITY reconsideration request (No. 14-3), and do expect to see it by the time you complete the production. Kindly so confirm.

Second, we note that more than half of the approximately 760 pages of documents produced thus far have no content in them



whatsoever other than the notation "REDACTED -- NONRESPONSIVE INFORMATION." This raises the question of why the documents were produced in the first place if they are not responsive. We cannot tell, for example, if they are part of larger documents that were produced and DO contain SOME responsive information. Please clarify. If the redacted items are part of other documents, please identify them more clearly. If there is some other explanation, please provide it.

Thank you for your attention to these matters. If we can resolve them before Friday, we can send the update you describe. If not, we will need to include whatever remains disputed in our communication with the Panel. Thanks.

John M. Genga  
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Sherman Oaks, CA 91403  
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From: Jeffrey LeVee <jlevee@JonesDay.com>  
Sent: Tuesday, November 24, 2015 6:38 AM  
To: John M. Genga  
Cc: Charlotte S Wasserstein; Kate Wallace  
Subject: Charity

John:

I have noticed that the Panel's procedural order requires us to notify them on Friday of the progress of the document production and any meeting-and-conferring. We have already produced a chunk of documents to you, and the remainder of the production is now being reviewed. I am not aware of any other issues. If you concur, I would simply the Panel today and all is moving forward without any incidents thus far.

Jeff LeVee  
JONES DAY® - One Firm Worldwide  
Telephone: 213.243.2572

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