

Response to Documentary Information Disclosure Policy Request

To: Mathilde Frison

Date: 9 September 2013

Re: Request No. 20130810-1

Thank you for your Request for Information dated 10 August 2013 (the “Request”), which was submitted through the Internet Corporation for Assigned Names and Numbers’ (ICANN) Documentary Information Disclosure Policy (DIDP). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested

Your Request seeks the disclosure of the following items:

1. A copy of written exchanges and correspondence (Notification, Consultations, etc.) between ICANN and any registrar issued during the implementation of the “ICANN Procedure For Handling WHOIS Conflicts with Privacy Law” (<http://www.icann.org/en/resources/registrars/whois-privacy-conflicts-procedure-17jan08-en.htm>) if the procedure has been implemented since its creation in January 2008.
2. A copy of the 2013 Registrar Accreditation Agreements (and any legally binding attachments) signed during the ICANN 47 General Assembly opening ceremony in Durban, South Africa by GoDaddy.com, MarkMonitor, Inc., Momentous, Mailclub, and Kheweul.com.
3. The letter sent in April 2013 from Europol to the Governmental Advisory Committee (“GAC”) and ICANN Board expressing new demands from Law Enforcement agencies regarding the 2013 RAA, referenced at the GAC meeting with law enforcement in Beijing on 7 April 2013. (See <http://beijing46.icann.org/meetings/beijing2013/transcript-gac-law-enforcement-raa-07apr13-en.pdf>).

Response

The ICANN procedure referenced in Item No. 1 for handling Whois conflicts with privacy law was developed in January 2008 for situations where a registrar or registry indicates that it is legally prevented by local or national privacy laws or regulations from complying with the provisions of its ICANN contract regarding the collection, display, and distribution of personal data via Whois. The procedure is outlined at <http://www.icann.org/en/resources/registrars/whois-privacy-conflicts-procedure-17jan08-en.htm>. No registries or registrars have ever invoked the procedure since its adoption.

Therefore, no documents exist responsive to this portion of your Request.

With respect your request No. 2 for the 2013 Registrar Accreditation Agreements (“2013 RAA”) that were executed in Durban, South Africa, ICANN is in the process of finalizing the operational contracting details for the executed 2013 RAAs. ICANN is also developing a process for posting each executed 2013 RAA (and any legally binding attachments), including the 2013 RAAs identified in your Request. When the location for the posting of the 2013 RAAs has been finalized, ICANN will follow up with you to provide you the relevant link or links. With this posting, you will have access to all information sought within this portion of your Request.

With respect to Item No. 3, the draft letter from Europol to the Governmental Advisory Committee (“GAC”) and ICANN Board that was referenced at the GAC's 7 April 2013 meeting with law enforcement was neither finalized nor submitted to the ICANN Board. Therefore, ICANN is not in possession of and is unable to produce the final version of Europol’s letter. To the extent that there are drafts of the letter in existence, they are subject to the following DIDP Defined Conditions of Nondisclosure and are not appropriate for disclosure:

- 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.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

About DIDP

ICANN’s DIDP is limited to requests for 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, which is contained within the ICANN Accountability & Transparency: Framework and Principles 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.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.