

## Response to Documentary Information Disclosure Policy Request

To: Kieren McCarthy

Date: 19 November 2011

Re: Request No. 20111020-1

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Thank you for your Request for Information dated 20 October 2011 (the "Request"), which was submitted through the Internet Corporation for Assigned Names and Numbers' (ICANN) Documentary Information Disclosure Policy (DIDP). Your Request is set forth in full below.

### **Items Requested:**

The Request states:

Thank you for your responses to my DIDP requests 20110920-1, 20110919-1 and 20110820-1, in particular clarifying what you feel the DIDP process itself is in a position to produce.

With your explanation that the DIDP process is "limited to requests for documentary information" in mind, could you please provide the following information listed below. I would appreciate it if you can answer the request using the same numbering system as the questions themselves below:

1. Copies of any and all emails sent through an [icann.org](http://icann.org) address in relation to DIDP request 20110820-1 (the request for information relating to any undisclosed meetings of Board members held between 29 July and 16 August 2011).
2. Copies of any and all notes of meetings taken in relation to DIDP request 20110820-1 (the request for information relating to any undisclosed meetings of Board members held between 29 July and 16 August 2011).
3. Copies of any documents, minutes, notes, email or other material that outlines the process used for processing DIDP requests, covering in particular:
  - a) The search and retrieval of emails in relation a DIDP request
  - b) The decision whether to contact other parties, including ICANN staff, ICANN Board members, and external third parties in relation to a DIDP request
  - c) The parameters and process used to decide whether material in ICANN's possession will be provided in response to a DIDP request
  - d) The parameters and process used to decide whether a DIDP request can be defined as "broad and undefined"
  - e) The parameters and process used to decide whether material located following a DIDP request represents sufficient "public interest" to be disclosed

4. Copies of any and all emails sent through an [icann.org](http://icann.org) address in relation to DIDP request 20110920-1 (the request for information regarding whether staff has contacted any Board members in relation to DIDP request 20110820-1, and a request for any emails sent through an [icann.org](http://icann.org) address between 28 July and 12 August 2011 that related to a meeting of Board members to be held between 8-12 August 2011).

5. Copies of any and all notes of meetings taken in relation to DIDP request 20110920-1 (the request for information regarding whether staff has contacted any Board members in relation to DIDP request 20110820-1, and a request for any emails sent through an [icann.org](http://icann.org) address between 28 July and 12 August 2011 that related to a meeting of Board members to be held between 8-12 August 2011).

6. Copies of any and all emails sent through an [icann.org](http://icann.org) address that concerned a teleconference to be held between Board members on 11 August 2011 that were sent between Monday 1 August 2011 and Wednesday 10 August 2011.

7. Any record, whether an email log, staff summary, statistical summary or any other form of electronic or physical record pertaining to emails collated in response to DIDP requests 20110920-1, 20110919-1 and 20110820-1.

#### **Response:**

Outside of information that is already publicly available, including information contained in prior responses the DIDP Requests mentioned above, to the extent that documents exist within ICANN that relate to your items 1, 2, 4, 5 and 7 above, those documents are not subject to disclosure pursuant to the following Defined Conditions of Non-Disclosure set forth in the DIDP:

- Confidential business information and/or internal policies and procedures.
- 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.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Outside of information that is already publicly available, including information contained in prior responses the DIDP Requests mentioned above, to the extent that documents exist within ICANN that relate to items 3 and 6 above, those documents are not subject to disclosure pursuant to the following Defined Conditions of Non-Disclosure set forth in the DIDP:

- 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.

- Confidential business information and/or internal policies and procedures.
- 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.

As ICANN noted in its response to Request 20110920-1, the ability for directors to have candid exchanges while they are considering what is in the best interest of the organization is not outweighed by the public interest in disclosing the broad category of information sought in your request. Further, ICANN continues to follow a process of seeking out all relevant documented information which is sought through a DIDP request and responds to that request in accordance with the standards clearly set forth in the DIDP.

### **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/transparency/acct-trans-frameworks-principles-10jan08.pdf>. 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](mailto:didp@icann.org).