Reconsideration Request Form

1. Requester Information

Name: Constantinos Roussos

Address: Contact Information Redacted

Email: Contact nformation Redacted **with a copy to counsel,** Contact Information Redacted

2. Request for Reconsideration of:

_X_ Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

DotMusic is challenging ICANN's inaction on 3 issues:

1) In not properly supervising and ensuring that appropriately qualified Expert candidates of the International Chamber of Commerce ("ICC") were a) selected; and b) adequately, trained to address the unique issues presented by Community Objections and the gTLD Program. The community expected that the ICC would be required to appoint and advise an appropriately qualified "expert," (not just an arbitrator) familiar with the unique needs and requirements presented in the gTLD Program, intellectual property and anti-competitive issues, and the needs and composition of the relevant community (e.g. a music or intellectual property expert for music-themed Objections)(Point 1);

2) In not recognizing the relevance and impact of the exceptional GAC Advice on the Community Objection process and Community Applicants, and in not advising the ICC and Community Objection Panelists on the GAC Beijing Communique of April 11, 2013 and subsequent GAC related issues: Responses to GAC Advice, Board Resolutions, Material Changes in Applicant positions through their GAC Advice Category 2 Exclusive Access Responses, and revisions to the new gTLD Registry Agreement[1] that addressed GAC

[1] 3(c) and 3(d) of Specification 11 provided that: (c) Registry Operator will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies. (d) Registry Operator of a "Generic String" TLD may not impose eligibility

Concerns pertaining to exclusive access which were directly related to the anti-competitive issues raised in Community Objections. (Point 2); and

3) In not creating an appropriate appeal process for Community Objections and denying parties procedures to protect their fundamental rights and legitimate interests (Point 3).

4. Date of action/inaction:

The relevant Expert Determinations EXP_461_ICANN_78 (c EXP_479_ICANN_96 EXP_480_ICANN_97) were published on December 9, 2013 (See Annex 1).

5. On what date did you became aware of the action or that action would not be taken?

The Decisions were presented to Objector and made public on December 9, 2013.

6. Describe how you believe you are materially affected by the action or inaction:

DotMusic Limited is a privately-held Cyprus limited liability company representing Community Objectors and Related-Objector Entities in Community Objections. Objector and/or Related-Objector Entities constitute a significant portion of the music community.[2]

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criteria for registering names in the TLD that limit registrations exclusively to a single person or entity and/or that person's or entity's "Affiliates" [. . .]. "Generic String" means a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those others" (New gTLD Registry Agreement, July 2nd, 2013, https://www.icann.org/en/groups/board/documents/resolutions-new-gtld-02jul13-en.htm#1.d).

[2] Objector Associate members include Pandora (http://a2im.org/groups/pandora), the world's largest streaming music radio with over 72 million active members (http://investor.pandora.com/phoenix.zhtml?c=227956&p=irol-newsArticle&id=1860864) and Apple iTunes (http://a2im.org/groups/itunes). iTunes accounts for 63% of global digital music market (http://appleinsider.com/articles/13/04/16/apples-itunes-rules-digital-music-market-with-63-share) – a majority - with 575 million active global members (http://appleinsider.com/articles/13/06/14/apple-now-adding-500000-new-itunes-accounts-per-day) abiding to strict terms of service and boundaries (http://www.apple.com/legal/internet-services/itunes/ww/index.html) have downloaded 25 billion songs from iTunes catalog of over 26 million songs, available in 119 countries, regardless whether artist is independent or in a major label (http://www.apple.com/pr/library/2013/02/06iTunes-Store-Sets-New-Record-with-25-Billion-Songs-Sold.html). Related Objector Entities include: an international federation of nearly 70 government ministries of culture and arts councils, music distributors that distribute over 70% of global music on retailers such as iTunes and Amazon (e.g. Tune core, with over 500,000,000 sales, distributes more music in one month than all major labels have combined in 100 years, http://blog.tunecore.com/2012/02/what-the-riaa-wont-tell-you-tunecores-response-to-the-ny-times-op-ed-by-the-riaa-ceo-cary-h-sherman.html), an international association of music information offices from over 30 countries, music coalitions from leading music territories such as Canada, Brazil, France and others, music communities representing over 3 million musicians, industry professionals and organizations, the national association of recording industry professionals and others (http://music.us/supporters.htm).

The American Association of Independent Music is a non-for profit company representing its Members (both Labels and Associates), the U.S. Independent label music community, the World Independent Network, the Association of Independent Music, the Independent Music Companies Association (IMPALA) and the Merlin Network who collectively constitute a majority of the music community (emphasis added) to which the string is explicitly or implicitly targeted. (the "Affected Parties").

On the 13th of March, 2013 Objections (cases EXP_461_ICANN_78 (c EXP_479_ICANN_96 EXP_480_ICANN_97) were filed against Amazon EU S.A.R.L in connection with music-themed Applications to run an exclusive access registry for .music, .song and .tunes (the "Objections"). The Objections raised concerns, among other things, about Applicant's Applications to run exclusive-access registries thereby controlling the most semantically significant music-themed-strings and an entire scarce vertical for the distribution and monetization of music.

As to Point 1 – Lack of adequate supervision to ensure appropriately qualified Expert candidates of ICC were selected and adequately trained.

a) According to the "Selection of Expert Panels" Section 3.4.4 of the new Applicant Guidebook[3], the Objector(s) relied upon specific language that the "panel will consist of appropriately qualified experts (emphasis added) appointed to each proceeding by the designated DRSP." This is also consistent with ICC's language that "the ICC will constitute a pool of qualified candidates (emphasis added) who can be appointed as experts in the new gTLD proceedings.[4]"

The expert appointed to render decisions in EXP_461_ICANN_78 (c EXP_479_ICANN_96 EXP_480_ICANN_97) is not a music, intellectual property, competition regulator or cultural expert versed in the unique music, intellectual property, competition and cultural issues that strongly relate to the music community. The Determinations published on December 9, 2013 (the "Decisions"), demonstrated that the panelist had limited knowledge on the functions of the music community and was ill-prepared to understand and address these unique music community matters.

[3] http://newgtlds.icann.org/en/applicants/agb/objection-procedures-04jun12-en.pdf
[4] http://www.iccwbo.org/Products-and-Services/Arbitration-and-ADR/Expertise/ICANN-New-gTLD-Dispute-Resolution/Experts/

A glance at the Panelist Francisco Orrego Vicuna's qualifications[5] reveal that his specialties are: international law, international trade and investment. ICANN and the ICC failure to select qualified expert candidates (such as experts in competition regulation, intellectual property professors/judges/attorneys, or musicologists, ethnomusicologists, or music industry professors/attorneys), was a breach of the AGB and the obligation to create a meaningful evaluation of community concerns. The panelist, while being an arbitrator, was ill-equipped to address the unique issues presented and the Objectors relied to their detriment on the fact that the ICC would select an appropriate expert to review the Objections. Especially given the significant costs involved, it was reasonable to assume that the appropriate experts would be identified. These failures are evident, as follows:

First, the panelist agreed with Applicant's misleading statement that the music community does not rely on the DNS/Internet, holding that:

> It is thus not possible to conclude that there is in this case a likelihood of concrete or economic damage to the community or that the Applicant intends to act contrary to the interests of such community or interfere with its activities. The dependence of the community on the DNS for its core activities has not been proven (emphasis added)" (Expert Determination, Section 71, p.24)

Any reasonably qualified expert should have taken judicial knowledge of the indisputable fact that the music community is heavily dependent on the DNS for the core of its activities. It is publicly acknowledged and commonly-known that the community most affected and impacted by the DNS was the music community. The DNS has changed the structure of how music (both legal and illegal) is distributed, marketed and consumed (See Annex 2). The DNS has also contributed to massive illegal piracy (e.g. via search engines, P2P networks or sites such as PirateBay) financially harming the community.

Secondly, the panelist lacked qualifications as an expert to render an opinion on whether the Applicant would be anti-competitive, and in his own words, the panelist claimed that competition regulators were the ones qualified to make such a determination:

> Whether there is… anti-competitive behavior…is not something that can be established beforehand and is thus purely speculative... competition regulators will very well know how to address this problem (Section 70, Pg. 25)

[5] http://www.arbitration-icca.org/about/governing-board/MEMBERS/Francisco_Orrego_Vicuna.html

As such, the panelist declined to render an opinion on a key issue of alleged material harm concerning Applicant's exclusive access gTLD policies (an opinion that an appropriately-qualified expert with experience working with competition regulators would have been equipped to render). Similarly, the panelist also ignored Objector's request to review the overall context of the Applicant's strategy to register close over 60+ gTLDs, all of which were closed generic strings, including, not one, but three music related strings, which presents significant anti-competitive concerns and would warrant further investigation as they are likely to create harm to the community and others. Instead, the panelist treated each music-themed gTLD objection in a mutually exclusive manner contrary to how the cases where presented, calling the Objector's reasonable assertion of likelihood of harm with respect to the Applicant's anti-competitive behavior "speculative" (Section 70, Pg. 25). Notably, the GAC Advice, ICANN revisions to the Registry Agreement and the Applicant's own change of position (from exclusive access to open) – pertinent evidence -- was rejected by the panel. Such evidence - if it had been transmitted by ICANN to the ICC for all Community Objection Panelists to consider - would have required panelists to appropriately opine and address as to the merits of such actions.

The panelist also stated that support for pirate networks does not prove harm "that can be established beforehand and is purely speculative" (Section 70, p.24). This statement flies in the face of irrefutable evidence and knowledge that copyright infringement is illegal and it harms the music community's legitimate interests. Such evidence of the Applicant's activity in pirate networks was ignored without reason and referred to as "speculative."

b) The panelist also denied Objector's standing by ignoring the size, composition and breadth of the Related Objector Entities and by failing to consider the standing of an Objector consisting of globally-recognized Label Members and ignoring Associate Members altogether (who have formal membership boundaries with Objector) that cover hundreds of millions of music community members having formal boundaries with Objector's Members. Furthermore the panel disingenuously asserted without any concrete proof or evidence that independent musicians were not strongly associated with the string "music":

> While an association exists of course between the gTLD applied for and the term "music", this is by definition a generic term that might relate to music in general but not specifically to the "independent music community..." (Expert Determination, Section 66, p.24)

Objector Label Members include Labels representing the world's two best-selling artists of 2012, Adele and Taylor Swift,[6] who are globally recognized and distributed. Associate members, include Apple iTunes (the world's largest music retailer with majority market share), which formally requires hundreds of millions of music fans to create formal Apple accounts and abide to strict terms of service in order to consume music. This is because objector Associate Members providing legal music (e.g. Apple iTunes or Pandora, the world's largest music radio) must ensure that royalties are paid to the music community rights-holders using clearly delineated, organized systems that identify rights-holders corresponding to each song sold or streamed (See Annex 3).

It is a fact that nearly all musicians (over 99%) are considered "independent" i.e. not signed to a major label. In fact, "70% of new music being bought is from artists not tied into old industry[7]" (the non-independents referred to as major labels). If one removes independent musicians from the music community then 99% of all music created would not exist. This undeniably proves the panel's lack of qualifications and incontrovertibly disproves the panelist's disingenuous assertion that the independent music community is not strongly associated with the "term" music. According to the AGB, "Community" is defined as "meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest." The Independent Objector reiterates this definition "as a group of individuals who have something in common." (emphasis added). The common interest universally shared by the community is the "promotion and distribution of music." Furthermore, ICANN's definition of "Size" and "Substantial Opposition" relates to "a significant portion of the community[8]" – i.e. not the entire community. Substantial opposition should be taken within "context rather than on absolute numbers[9]" of a substantial portion of the community. The panelist did not follow the AGB language in regards to what constitutes a significant portion and that substantial opposition should be taken in "context rather than absolute numbers" i.e. not requiring "billions" of written expressions. However the panel curiously stated that "with billions of users the expressions of opposition would need to run in high numbers to meet this test." (Section 63, Pg.23). This clearly showed the panel's lack of understanding to these proceedings' rules that "opposition" relates to (i) opposition from the music community, (ii)

[6] International Federation of the Phonographic Industry, http://ifpi.org/content/library/dmr2013.pdf, P.11
[7] http://blog.tunecore.com/2012/02/what-the-riaa-wont-tell-you-tunecores-response-to-the-ny-times-op-ed-by-the-riaa-ceo-cary-h-sherman.html
[8] https://community.icann.org/display/newgtldrg/community+objection+grounds
[9] http://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf, Module 4-11

not generically by Internet users, and (iii) be taken "within context" not literally. With such an unreasonable and unjustified statement the panel set an impossible threshold for any Objector to meet since using the number "billions" as a reference point to prove "substantial opposition" is irrational, unfair and ensures that any Objector would fail to meet such a standard (emphasis added). In context, in 2012 there were 42,100 employed musicians[10] in the U.S, a country which represents 58% of the global digital music market[11] and 27% of the global music market share.[12] In this context, some Objector U.S Label Members alone represent a significant portion of the global community. As such, denying the Objector standing leads to serious procedural and fairness questions. If the panelist's statements are taken literally no objector would ever qualify to have their concerns be heard since according to the panelist, **"music" is a generic term and can never have a shared, common interest, nor can a generic term be dependent on the DNS for core activities:**

> A broad community may exist at the generic level… but this is not conducive to the clear delineation envisaged under this standard (Section 60, Pg.21)
>
> While an association exists of course between the gTLD applied for and the term "music", this is by definition a generic term that might relate to music in general but not specifically to the "independent music community" (66, Pg. 22)
>
> The dependence of the community on the DNS for its core activities has not been proven (Section 71, Pg.24)

These statements run contrary to the Independent Objector who states there are many cases of strictly delineated communities and even filed many new gTLD Community Objections (.charity, .healthcare, .hospital, .indians, .med and .medical)[13] based on his own definition of "community":

> It can include a community of interests, as well as a particular ethnical, religious, linguistic or similar community… a community can be defined as a group of individuals who have something in common … or a common characteristic … or share common values, interests or goals.[14]

[10] U.S Department of Labor, http://www.bls.gov/oes/current/oes272042.htm
[11] http://www.billboard.com/biz/articles/news/digital-and-mobile/1556590/ifpi-2013-recording-industry-in-numbers-global-revenue
[12] http://www.ifpi.org/content/section_resources/rin/RIN_Contents.html
[13] http://www.independent-objector-newgtlds.org/home/the-independent-objector-s-objections/
[14] http://www.independent-objector-newgtlds.org/home/the-issue-of-closed-generic-gtlds/, Community Objections, Section 3

While “music” is a generic term, it is dependent on a clearly delineated community which shares the common interest of promoting and distributing unique “music” through clearly delineated systems to compensate music community rights holders attributed to each song (emphasis added).

ICANN’s lack of action in ensuring appropriate selection and training of experts created a material harm to Objectors and the community proceedings.

As to Point 2: lack of consideration of the relevance and impact of the GAC Advice on the Community Objection process and failure to advise the ICC and Community Objection Panelists on the GAC Advice.

The Community Objection filing pre-dated the Beijing Communique and raised the same concerns set forth by the GAC and subsequently recognized by ICANN NGPC Resolutions and actions. After the Community Objection proceedings commenced, GAC and ICANN called into question Applications that were filed to run generic gTLDs as exclusive-access registries. This very question was presented by Objector at Objector’s significant expense. ICANN should have either advised the ICC and Panelists or required the ICC and Panelists to review and evaluate the impact and relevance of GAC Advice, Board Resolutions, and Applicant Responses to Category 2 on Exclusive Access, and revisions to the Registry Agreement to address these concerns.

When extremely significant, indeed program wide, issues were raised, the Board should have taken appropriate measures to either: a) suspend the proceedings to avoid further waste of resources addressing Applications that were called into question by GAC Advice; b) ensured that the ICC and Panelists were appropriately advised and educated regarding the importance and effect of the GAC Advice; and/or c) provided clear guidelines to address these issues without harming Objector(s).

As to Point 3: lack of an appeal process for Community Objections thereby denying parties procedures to protect their fundamental rights.

The failure of the Board to address a chorus of voices that called for an appeal mechanism to allow appropriate review of cases has prejudiced Objector’s ability to protect their members’ fundamental and legitimate rights.

ICANN's lack of action forced the parties to: a) bear significant expense; b) detrimentally rely on ICANNs stated policies and procedures for Community Objections; c) led to a breach of process; d) has resulted in Applicants materially changing their positions (e.g. from an exclusive access registry to an open registry) in the middle of a proceeding; and e) resulted in the selection and appointment of an expert that was not prepared to address the unique issues presented.

As a result of the Decisions, the Affected Parties suffered direct financial harm in order to prepare and file the Objections. The Affected Parties will also suffer financial harm, and their members will be globally affected should Applicant ultimately be awarded the most semantic music themed gTLDs, effectively controlling an entire music-related space on the Internet with unclear and unspecified polices, while disallowing the community from their legitimate right to registering their names under a public-resource gTLD.

The Affected Parties suffered a breach of due process in the proceedings because in the middle of the proceeding the Applicant was allowed to seemingly materially change (make a 180-degree shift) their Application from applying to run an exclusive-access registry to accepting GAC Advice on Category 2 Advice to intentionally open its registries. Affected Parties further suffered a breach in the proceedings when the panel, incredulously, refused to evaluate and consider relevant GAC Advice and other pertinent evidence presented.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

Other groups adversely affected by the inaction are community applicants who have serious concerns about the unintended consequences and precedents created in the new gTLD Program in relation to Material Changes[15] which are inconsistent to the AGB.

ICANN has opened the floodgates for allowing material changes without any consequences or accountability mechanisms to protect community applicants in a contention set by permitting standard Applicants to submit material changes in their Applications in the form of Public Interest Commitments (PICS) to remedy any faults an Application may have. In context, Community Applications already abide to the Registry Dispute Resolution

[15] http://newgtlds.icann.org/en/applicants/customer-service/change-requests

Procedure (RRDRP) built-in accountability mechanism[16] while standard Applicants do not. Community Applicants also have appropriate restrictions, including policies relating to authentication, Eligibility, Name Selection, Content/Use, and Enforcement to safeguard their communities.

Furthermore, Applicants with exclusive access Applications were also given the opportunity to respond to GAC Category 2 Advice. Nearly all exclusive access Applicants stated their intent to change their Applications to non-exclusive. Such public Responses negatively interfered with Community Objections since objected-to Applicants submitted GAC Category 2 Responses which directly contradict and are contrary to their Community Objection Responses. This is misleading and undermines the credibility of the new gTLD process. Objected-to Applications were given the opportunity to defend their exclusive access position – like they had in the Objection Responses – but decided against it since there are no repercussions for making inconsistent statements or any accountability mechanisms to prevent misleading the panelists. Also other Applicants used PICs – another form of material changes – in their Community Objection Responses which are not in their current Applications. Such changes of position occurring during Community Objection proceedings not found in current Applications indicates the procedural flaws of the Community Objection process and also vindicate Community Objectors' positions. ICANN has even took this issue a step further by revising the new gTLD Registry Agreement during Objection proceedings with language vindicating Objectors views. According to the AGB, any information that is deemed "false or misleading may result in denial of the application."

Such material changes, whether they are ones relating to changing a registry from "exclusive" to "non-exclusive" access or incorporating Public Interest Commitments (PICs) are clear, material changes, because they materially change an Applicant's business model and other critical components in their Application, such as financial statements and their Letter of Credit. Under the ICANN AGB rules such material "changes" will likely "involve additional fees or evaluation in a subsequent application round."

ICANN has introduced and allowed such procedural loopholes which objected-to Applicants have used to circumvent dispute resolution processes and the AGB, while

[16] http://www.icann.org/en/news/public-comment/rrdrp-15feb10-en.htm

Community Applicants with responsible and accountable Applications are not allowed to incorporate such public interest changes to meet the CPE threshold. Loopholes, including Responses to GAC Category 2 advice, PICs or new ICANN NGPC Resolutions materially change Applications, negatively affect contention sets, circumvent Community Objections and create material harm to Objectors and community applicants in a contention set. NGPC Resolutions and ICANN's actions have introduced a harmful precedent to the ICANN new gTLD Program without any repercussions, consistent standards followed or accountability. In some cases, Panels have used NGPC Resolutions, the registry agreement revision and PICs against Objectors to prove that with these new resolutions material harm is avoided. This precedent used is a clear loophole benefiting objected-to Applicants at the Objectors' expense as Applicants argued that accepting GAC advice, new NGPC resolutions, new registry agreement revisions and adding PICs – all material changes – prove there is no possibility of material harm. As such, the existing new gTLD process has lost meaning since any standard Applicant is now allowed to "shift" their position without accountability of any sort or ICANN action to prevent such violations. Furthermore, ICANN is also in the process of once again favoring standard Applicants by giving brands special exemptions.[17]

Furthermore, community applicants and objectors in general have been materially harmed financially and procedurally as the selection of Community Objection experts was inconsistent with the AGB and the published CPE Guidelines which clearly say that experts are "selected based on their knowledge of specific countries, regions and/or industries, as they pertain to Applications.[18] Community applicants have relied on the language of the AGB that experts selected would be appropriately qualified with some credible level of knowledge and expertise on the communities reflected in the Applications determined. In many cases, the ICC has selected Panelists with no clearly appropriate qualifications or credible experience with respect to communities reflected in the Applications determined, which is a clear violation of the AGB, Section 3.4.4 which states that the "panel will consist of appropriately qualified experts." As such, many Objectors were materially harmed by Determinations since Panelists lacked fundamental knowledge of community functions and such precedents might likely harm them in CPE Evaluation.

[17] http://www.icann.org/en/news/public-comment/spec13-06dec13-en.htm
[18] http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf, Pg.22

8. Detail of Board or Staff Action – Required Information

Provide the Required Detailed Explanation here:

On June 19th 2013, a letter was sent to ICANN and the Board which raised serious concerns that **"**the ICC has not identified expert Panelists that have expertise in music - the relevant subject matter of interest for the communities."

On June 24th, 2013 ICANN responded stating that "for the matter of the expertise of the panel members…Section 3.4.4 of the Applicant Guidebook" states:

> 3.4.4 Selection of Expert Panels - A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence; including procedures for challenging and replacing an expert for lack of independence…There will be one expert in proceedings involving a community objection.

ICANN further stated in their response that "ICANN has confidence that the ICC has followed the requirements as expressed by the AGB and has appointed experienced jurists with appropriate qualifications in mediation/arbitration to preside over objection proceedings." However, ICANN's response that the "appropriate qualifications" of an expert is in "mediation/arbitration" is not mentioned in the AGB. The definition of "expert" is "a person who has a comprehensive and authoritative knowledge of or skill in a particular area.[19]" Objectors reasonably relied on the fact that experts would be "appropriately qualified experts" pertaining to the Applications determined and have "comprehensive and authoritative knowledge" in that "particular area."

ICANN's correspondence opens up serious issues of lack of clarity, accountability and transparency in regards to the Community Objection process since the AGB clearly states the word "expert.", not the words "mediator" or "arbitrator" which would have been the appropriate words if ICANN's correspondence statements were applicable. This opens up new questions about the fairness of the process and the high probability of confusion based on the fact that ICANN did refer to the Panelists as "experts" not "arbitrators" or "mediators." This is aligned and consistent with the language used in another community-related

[19] Oxford Dictionary, http://www.oxforddictionaries.com/us/definition/american_english/expert

evaluation process where experts are used – the Community Priority Evaluation. Specifically, CPE Guidelines clearly state that "evaluators are selected based on their knowledge of specific countries, regions and/or industries, as they pertain to Applications"[20] which is consistent with the definition of "expert" not an arbitrator or mediator. There is no mention in the AGB that the expert's "appropriate qualifications" would be in "mediation/arbitration" because such qualifications would be inappropriate since they would directly harm Objectors given that Objectors would have the impossible burden of educating unqualified mediators/arbitrators on community specifics, how the community functions and other complexities requiring significantly more words than the maximum permitted in filing.

On July 30th an Additional Submission in light of GAC Advice/NGPC material change Resolutions and clarifications with respect to Amazon misleading Response statements about Objector's standing and material harm was submitted to Panelist:

> Per Ms. Košak's, message of July 30, 2013, we have been directed to confer directly with you. As you may be aware, yesterday we submitted Objector's Request for Leave to File an Additional Submission and Reply to Applicant's Response. Per the attached filing, this submission is made in accordance with Art 17 of the Attachment to Module 3 of the Applicant Guidebook.

On August 20th, the Panelist completely ignored material changes to the Program by GAC Advice, NGPC Resolutions and Applicant misleading statements and rejected the Additional Submission referring to its content as "not exceptional" despite the material changes' influential impact on all new gTLDs and rule changes exceptionally affecting all Applicants:

> Having examined the file... the Expert is of the opinion that it contains all the necessary elements required to reach a Determination on this dispute. Accordingly the Expert considers that there is no need to invite additional submissions as envisaged under Article 17 (a) of the Procedural Rules governing these proceedings. The Expert further notes the Applicant's comment to the effect that under Article 18 of the Procedural Rules production of documents is limited to exceptional cases. No such exceptional case exists at this time. On the basis of these considerations the Request is denied and its contents are not to be included in the file of this case.

In regard to GAC Advice, ICANN solicited responses from applicants for the strings identified by the GAC regarding whether they planned to operate the applied-for TLDs as exclusive access registries (defined as a registry restricted to a single person or entity and/or

[20] http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf, Pg.22

that person's or entity's Affiliates" (as defined in Section 2.9c of the Registry Agreement). The responses were submitted to the New gTLD Program Committee (NGPC) of the ICANN Board. On 28 September 2013, the NGPC adopted a Resolution on GAC Category 2 Advice[21] allowing applicants not planning to operate as exclusive access registries, and that are prepared to enter the Registry Agreement as approved, to move forward to contracting.

On October 8th, .MUSIC (DotMusic) sent written correspondence to ICANN[22] in relation to Applicant Responses:

> We write as a follow-up to our most recent Letter to ICANN (October 8th)[23] to formally record and publish our concerns about new material changes arising from ICANN NGPC Resolutions and their impact on the current Community Objection process. Specifically, we would like to highlight the effect of potentially prejudicial "exceptions" through the acceptance of certain GAC advice and ICANN NPGC resolutions.

On October 10th, 2013 .MUSIC followed up its email after the release of GAC Category 2 Advice Form Responses:

> … it has come to our attention that two of the Applicants we have mentioned in our Letter (who are subject to community objections) have materially changed their opinion and clearly stated that their generic string application(s) for music-themed TLDs will no longer be operated as "exclusive" TLDs, a clear statement of admittance that their original applications' "exclusive" access music-themed TLDs create a strong likelihood of harm.
>
> This is exactly the kind of issues on material changes our Letter has been trying to illustrate in light of ongoing Community Objections on the subject matter which now have no other predictable and consistent recourse but to be upheld given the transparent admittance by these Applicants: Amazon,[24] Far Further/ .music LLC.[25] We kindly request these statements by these two Applicants and our Letter be forwarded to the ICC Panelists since they are crucially pertinent to the cases at hand. We also kindly request some clarification statements from both ICANN and the ICC how such material changes will be addressed and handled since these Applicants' community objection responses were inconsistent with these GAC Category 2 Advice statements they have just made. It is clearly evident that (i) their original application submission was not done in error and such material changes and GAC Category 2 Advice statements: (i) affect third-parties materially, especially objectors and applicants in contention set, (ii) create

[21] http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-28sep13-en.htm#2.a
[22] http://www.icann.org/en/news/correspondence/roussos-to-crocker-et-al-08oct13-en.pdf
[23] http://www.icann.org/en/news/correspondence/roussos-to-crocker-et-al-12jul13-en.pdf on the 12th, July 2013 with ICANN response at http://www.icann.org/en/news/correspondence/willett-to-roussos-14aug13-en.pdf on 14th August, 2013
[24] http://newgtlds.icann.org/sites/default/files/applicants/09oct13/gac-advice-response-1-1316-18029-en.pdf
[25] http://newgtlds.icann.org/sites/default/files/applicants/09oct13/gac-advice-response-1-959-51046-en.pdf

> unfairness to both objectors and applicants in contention set, (iii) are material, and (iv), if allowed, create a precedent with unintended consequences to the new gTLD Program.

ICANN responded on October 22nd, 2013.[26] On October 10, 2013 another email was sent to the Expert and the ICC pertaining to Amazon's GAC 2 Response material change and position change in relation to their exclusive access applications for music-themed .music, .song and .tunes alerting GAC of their intentions to change their registries from exclusive to non-exclusive:

> As you may not yet be aware, on October 9, 2013 (yesterday), ICANN published a submission by the Objected-to Applicant that materially affects the instant proceedings. Accordingly, Objector respectfully submits that these statements, and proposed sweeping changes to the Applicant's Applications be considered in connection with the instant matter.
> As set forth below, to avoid further conflict with the Beijing Communiqué -- addressing concerns about Category 2 closed generic strings (and the same arguments asserted by Objector and under consideration in the instant proceedings) -- Applicant advised ICANN that it will materially change its position from running the .music, .tunes and .song TLDs as closed exclusive registries to open registries.
>
> Accordingly, the Objector respectfully submits that the instant proceedings must now include an evaluation and consideration of the following ICANN publications dated October 9th, 2013 whereby Applicant states that it will change its Applications from "closed" and "exclusive" to "open."
>
> Through these submissions the Applicant is attempting to circumvent this Objection and other criticism levied against it by "agreeing" to open its exclusive music-themed Registries. See New gTLD GAC Advice: Category 2 Safeguards and Applicant Responses Published October 9, 2013[27] and Applicant's Response to GAC Advice Category 2: Exclusive Access.[28]
>
> These newly-published statements by the Objected-to Applicant (published last night by ICANN) are contrary and inconsistent with the Applicant's Responses to the instant Community Objections. The foregoing submissions establish that the Applicant's originally-exclusionary polices in the objected-to Application(s) are not in the global public interest and would create a certainty of material harm to the legitimate interests of the music community and the global public interest.
>
> Amazon has materially changed its stance with a new statement that their generic string application(s) for music-themed TLDs will no longer be operated as "exclusive" registries even though their current application(s) squarely state that "the TLD(s) will be operated as an exclusive registry." It is evident that Amazon's original position in relation to "exclusive" registry access has changed. Amazon's

[26] http://www.icann.org/en/news/correspondence/willett-to-roussos-22oct13-en.pdf
[27] http://newgtlds.icann.org/en/applicants/gac-advice/cat2-safeguards
[28] http://newgtlds.icann.org/sites/default/files/applicants/09oct13/gac-advice-response-1-1316-18029-en.pdf

proposed reverse in course is not yet approved and provides new evidence that Objector's concerns - which were raised prior to any public discussion about the harm of closed generics - should be upheld.

On the date that the instant Objections were filed, Applicant's music-themed applications (.music, .song and .tunes) created a certainty of material harm and were against the global public interest. The Applicant's proposed changes to its Applications are not yet approved and final by ICANN and thus the material harm still exists. Therefore, the only remedy is for this Panel to move to protect the community and public interest.

Objector also notes that ICANN's New gTLD Program Committee's (NGPC) Scorecard Resolution No. 10 dated September 28th, 2013[29] pertaining to the "Registry Agreement as approved by the NGPC, prohibits exclusive registry access for generic strings (emphasis added)." Here too, the NGPC resolution "is consistent with the GAC advice." The NGPC has directed ICANN "staff to move forward with the contracting process for applicants for strings identified in the Category 2 Safeguard Advice that are prepared to enter into the Registry Agreement as approved." Essentially, the NGPC and the objected-to Applicant have agreed with Objector's concerns that closed, exclusive registries for .music, .song and .tunes are improper and harmful.
If an expert determination has already been made that is contrary to upholding the Community Objection against the Applicant, we respectfully request the case be re-opened to address these new contradictory statements by the Applicant and to render a determination that: (i) is consistent with the Applicant's newly published conflicting statements; and (ii) is aligned with GAC advice and ICANN NGPC Resolutions on the issue of exclusive registry access for generic strings.
Applicant is free to respond to these points and defend its material changes to open these strings in the midst of this Objection.

For the instant Community Objections to have meaning, and this process to maintain integrity, the matter must be re-opened and the issue be submitted for re-evaluation by the Expert.

On October 11, 2013, the Community Objection panelist in relation to Amazon's closed .music, .tunes and .song applications, Francisco Orrego Vicuña, responded:

I am in receipt of the parties' respective communications dated 10th and 11th October, 2013 in respect of the submission of new information in these cases. The Expert must inform the parties that no such new information can be considered at this stage in the context of the decisions on the cases noted…. under Article 21 of the Dispute Resolution Procedure the Expert is directed to submit its Determination within 45 days of the constitution of the panel. This date has passed…The Objector's request in his communication of 10th October is accordingly not accepted.

[29] http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-1-28sep13-en.pdf

On November 26th, 2013 the ICC replied to our correspondence and informed in an email that such new information can be considered by the Expert:

> …the Centre has also taken note of the exchange of e-mails between the parties and the Expert with regard to the request for re-opening the case following the Applicant's changes in its Applications. The Centre also notes the Objector's request that the ICC "*review this issue, allow discussion and provide clarification on these points*". The Centre would like to draw your attention to the fact, that the procedure for changing Applications, including the obligation of the Applicant to provide the explanations thereof, is governed by ICANN's rules… please be informed that the decision to re-open the case, should the need arise, and to take into account new or amended documents, is taken by the Expert (emphasis added) based on the information available and nature of the cases in question.

On November 26th, 2013 a response was sent to the ICC and Panelist:

> After carefully reviewing the public Expert Determinations,[30] it is apparently clear that Experts have appropriately used the Applicant Guidebook as a strong reference for their Determinations and rules which makes this issue relevant and procedural in nature. As you have indicated, the procedure for changing Applications is governed by ICANN rules… The Centre also clearly noted that… "the decision to re-open the case, should the need arise, and to take into account new or amended documents, is taken by the Expert based on the information available and the nature of the cases in question.
>
> The rules that the Expert must abide to are governed by ICANN rules and procedures, most notably the language contained in the Applicant Guidebook (AGB). There are specific provisions in regards to Material Changes found in the AGB[31] to which all Applicants – including both Amazon (.music 1-1316-18029, .song 1-1317-53837, .tunes 1-1317-30761) and .music LLC/Far Further (.music 1-959-51046) must abide to, especially if their position is one of "exclusive access." However, they have publicly responded to GAC with a position which is 180 degrees different to their Responses to the ICC and different to their Application. This is misleading, inconsistent and legitimate grounds for concern with respect to procedures. If both Applicants' Responses and "original" Applications were so strong, they did have the option to defend their position with respect to GAC advice - as they did in their Objection Responses - but have now conveniently chosen a different direction, which is misleading and creates a harmful precedent in the ICANN process governing dispute resolution procedures.
>
> It is reasonable to assume that in any proceeding – whether it is one conducted in a court of law or under an ICANN's dispute resolution procedure – that any inconsistencies or changes in position not reflected in the original testimony – the original Application (without any PICs or GAC Advice Category 1 or 2 material

[30] http://www.iccwbo.org/products-and-services/arbitration-and-adr/expertise/icann-new-gtld-dispute-resolution/expert-determination/
[31] http://newgtlds.icann.org/en/applicants/customer-service/change-requests

changes) or their Responses to Objections - should be investigated by the Expert so that the procedures followed by the Expert are compliant with the Applicant Guidebook and no harmful precedent, unintended consequences or loopholes are created.

The ICANN Guidebook's section on "Material Changes" is clear that any information that is deemed "false or misleading may result in denial of the application" (AGB). We strongly believe that many – if not all - music-themed Applicants have provided misleading information in their Responses to the Community Objections because such Responses are not made public by the Centre (emphasis added). As such, there is no Applicant accountability towards the ICANN dispute resolution process or transparency with the Centre since the Applicants' Responses are not made public. We are deeply concerned with misleading music-themed gTLD Applicant Community Objection Responses especially those given to Experts that GAC Advice was "irrelevant." Such statements would not be seen under a positive light by both GAC or the ICANN NGPC if they were made public to them.

It is clear that if an Application is materially changed from "exclusive" to "non-exclusive" (by incorporating Category 2 safeguards) or incorporating Category 1 enhanced safeguards, it will affect its business model, its financial statements and its Letter of Credit. Under the ICANN AGB rules such "changes" will likely "involve additional fees or evaluation in a subsequent application round" (AGB) because the entire premise of the Applicant's Application has changed materially.

Last Thursday at the ICANN Public Forum in Buenos Aires/Argentina, we publicly informed the ICANN Board of these types of procedural loophole concerns which objected-to Applicants can use to circumvent the dispute resolution process. We have also met with the ICANN Ombudsman to express these same concerns and he recommended to reach out to the ICC and the Expert Panelist. The fact that the Centre agrees that "ICANN's new gTLD dispute resolution procedure does not provide for any specific provision in this regard" is clear evidence of procedural loopholes that Objected-to Applicants could use to their benefit to circumvent the Community Objections.

Our objective is that Objections are treated in a transparent and accountable manner, consistent with the Applicant Guidebook and rules contained in the AGB in regards to Material Changes or with respect to a change of position that was not in the original Application. We hope that the Experts acknowledge the issues at hand and the harmful precedent as illustrated in the Material Changes section of the AGB… music-themed gTLD Objectors' arguments, whether on the issue of "exclusive access" or "enhanced safeguards," were based on the Applicant's stated positions found in their Applications… Ultimately, the Expert should rule on the Applicant's stated Policies as found in their Applications taking into consideration any relevant new statements by the Applicant as well as new, pertinent ICANN NGPC Resolutions with respect to "exclusive access" or lack of "enhanced safeguards." Otherwise, the process has no meaning, and as long as a party can "shift" position to avoid scrutiny, there is no accountability.

> Allowing inconsistent statements to be a justification for avoiding an adverse verdict would create a scenario that obviates the need for the Panel in the first place. We agree with the ICANN Resolutions and they provide additional evidence from ICANN - who, as the ICC agrees, writes the Rules - on the obvious harm created by music-themed Applications that do not have "adequate safeguards" or have "exclusive access." We hope that the Expert Determinations are consistent and do not allow process loopholes for Objected-to Applicants to circumvent the process and the new ICANN NGPC resolutions which have vindicated the concerns presented in the music-themed Community Objections.

On December 3rd, 2013 the ICC responded to our correspondence:

> The Centre carefully considered your comments regarding the above-mentioned case and the provisions of the Procedure and the Rules in this regard. Further, we have communicated your concerns to ICANN. However, at this point the Centre can only proceed pursuant to the current version of the Procedure which does not provide for the possibility of an amendment of the Objection in the course of the proceedings, unless permitted by the Expert (Emphasis Added). Accordingly, it is in his discretion to decide whether to take into account additional submissions...

There is also a lack of clarity with regard to the rules and procedures followed by the ICC and the panelist which are contradictory. On one hand the ICC states that Additional Submissions or amendments due to material changes at any stage of the proceedings can be "permitted by the Expert" and that "it is in his discretion to decide whether to take into account additional submissions", while on the other hand the Expert denies having this power claiming that "no such new information can be considered at this stage in the context of the decisions on the cases noted" because "under Article 21 of the Dispute Resolution Procedure the Expert is directed to submit its Determination within 45 days of the constitution of the panel."

It is noted that the ICANN Board and the NGPC responded to the GAC Advice and called for public comment and input regarding "closed generic" Category 2 Applications and took action to materially change how such gTLDs are to be operated and allowed Applicants to intentionally materially change their Applications, in some cases from an exclusive access registry to an open access registry – allowing substantial amendments to Applications during proceedings. During this process ICANN failed to respond to Objector's stated concerns about the effect of GAC Advice on the proceedings and failed to advise the ICC and panel about the decisions made by ICANN. Moreover, at any point ICANN could have suspended

the Community Objection proceedings to allow for a reasoned review and consideration of the impact of such material changes on the wider gTLD process and Community Objections.

The Affected Parties believe that there was inaction by ICANN:

1) in failing to adequately train, advise, and instruct the ICC allowing the ICC to appoint an expert who was unqualified to address the specific issues related to music community presented by the Objector. The panel's unfamiliarity with the music community, its cultural composition, its strict delineation and a host of intellectual property issues it faces on the DNS (such as rampant piracy_ as well as the unique impact of the gTLD program on worldwide distribution of music, resulted in a fundamentally flawed decision that is a reversible error (emphasis added);

2) by refusing to present to the ICC and the panelist, GAC-related issues and new NGPC Resolutions: Responses to GAC Advice, Board Resolutions, Changes in Applicant positions through the GAC Advice Category 2: Exclusive Access Response Form for Applicants, and revisions to Registry Agreement that addressed GAC Advice allowed the Objection to proceed without consideration of the effect and importance of these exceptional developments that occurred after the Objections were filed;

3) by allowing a process to facilitate modifications and material changes to Applications are facilitated in response to GAC Advise on Category Exclusive Access Applications permitted Applicant's to fundamentally change positions in the middle of the proceedings without ramifications to the material detriment of Objector;

4) in creating a process by which exceptional modifications and material changes to Applications in response to GAC Advise on Category Exclusive Access Applications can be facilitated. Failing to address the effect of such actions to on-going Objections violated Article 4 of the Articles of Incorporation and Article 1, Section 2, 7, 8, and 9 of the ICANN Bylaws resulting in a breach of process and calls into question the legitimacy of the program; and

5) by failing to offer an appropriate appeal mechanism to address clear procedural issues and AGB violations pertaining to Objections especially in cases of unqualified panels and factually incorrect and inconsistent statements.

6) by harming applicants in a contention set as well as Community and Legal Rights Objectors against Amazon for the same strings that relied on the AGB's language. Amazon's position change in regards to exclusive-access, affects both Community Objections and Legal Rights Objections since they vindicate Objectors' arguments on the material harm test.

7) in failing to ensure there were no conflicts of interest and bias in panels relating to the new gTLD Objection process as whole. The Applicant's general counsel Doug Isenberg representing Amazon in these new gTLD Community Objections was also a Panelist determining a decision against another Objector (Food Network) in a new gTLD Legal Rights Objection proceeding. DotMusic has been involved in both Community Objections and Legal Rights Objections against Applicant for the same objected-to music-themed strings and such panel selection conflicts violate the AGB and introduces unintended precedents in that other panels may rely on for their determination. This compromises the credibility of the new gTLD program and sheds light on how Objections were mishandled by ICANN without any accountability on the selection of panels even if there was a clear conflict of interest.

9. What are you asking ICANN to do now?

The Affected Parties respectfully request that ICANN:

1) Reimburse or order the ICC to reimburse the Objector for all of its expenses, including but not limited to attorney fees, administrative expenses and Expert fees associated with cases: EXP_461_ICANN_78 (c EXP_479_ICANN_96 EXP_480_ICANN_97); and

2) Allow for new Community Objections to be filed for these Applications with the appointment of an appropriate Expert (noted as an expert in music/intellectual property/competition regulation);

3) Determine that Applicants that have made public statements intending to substantially amend their Applications by responding to GAC Advice be deemed material and inconsistent with their position in Community Objection Responses and rule in favor of Objectors given that it is admission of their harmful policies; or

4) Allow for a Reconsideration of the Decisions by an appropriate and qualified expert and with instruction regarding the GAC Advice and changes made by Applicants

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

DotMusic Limited (.MUSIC) is a new gTLD Applicant for the .music music-themed community application. The new gTLD Applicant and Objector(s)/Related-Objector Entities are entitled to a fair and appropriate evaluation of the AGB policies and procedures. Moreover, DotMusic as a competing applicant is adversely affected by ICANNs granting of modifications and changes to Applications in response to GAC Advice on Category 2 Exclusive Access Applications publicly stating Applicant's intention to fundamentally amend Applications and change positions without consideration on how such action affected other Applicants or the Community Objection process.

Furthermore, such panel decisions and false statements not based on facts pertaining to Objector's standing as a clearly delineated community (See Annex 3) or the music community's dependence on the DNS for activities (See Annex 2) can adversely affect the Community Priority Evaluation (and DotMusic as a community applicant) since EIU Evaluators could use the expert's factually incorrect opinion as precedent and fail Community Applicants in general (emphasis). DotMusic has spent over 8 years, significant resources and millions of dollars building the .music brand and receiving support from a significant portion of the community to pass CPE. If CPE fails, DotMusic will be subject to expensive auctions which were designed to favor deep pocketed standard Applicants – such as Amazon and Google – not community applicants.

The Objector and Related Objector Entities were entitled to a fair and appropriate management of the Objection proceedings in accordance with the AGB. By providing inadequate training and guidance to the ICC, ICANN allowed the ICC to appoint an unqualified expert that resulted in fundamentally flawed proceedings, factually incorrect statements and a harmful determination which creates a harmful precedent.

Breach of Fundamental Fairness

Basic principles of due process to the proceeding were violated and lacked accountability by ICANN, the ICC and the Panel. ICANN failed to consider concerns about the selection of the panel and the ICC failed to follow the procedures the AGB set in relation to selecting an

appropriately qualified expert in the subject-matter reflecting the Applications despite the excessive costs and resources attributed to filing. The panel also selected not to hear legitimate concerns and striking evidence by the Objector which were crucially relevant even contradicting the ICC's clear statements that it was up to panel's discretion to do so.

Failure to Consider Evidence

The Panel failed to consider relevant evidence relating to: (i) The Applicant deciding not to defend their exclusive access position and making a complete position change in their GAC Category 2 Response public statements changing from exclusive-access to non-exclusive, proving that their current Application creates a likelihood of material harm leading to a ruling favoring Objector; (ii) The clear standing of Objector as a clearly, delineated community; (iii) The significant size and global breadth of the Objector Members; (iv) How the music community is dependent on DNS/Internet for core activities.

Violation of ICANN Articles of Incorporation

Article 4 calls for ICANN to operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law, and to the extent appropriate and consistent with its Articles and Bylaws, through open and transparent processes that enable *competition and open entry in Internet related markets.*

ICANN should have properly communicated and delegated functions to the ICC and failed to do so in violation of ByLaws Art. 1, Section 2, 3 *To the extent feasible and appropriate, delegating coordination functions to or recognizing the policy role of other responsible entities that reflect the interests of affected parties*.

ICANN or the NGPC should have properly communicated to the ICC and the Panelists the existence and effect of GAC Advice, PICs, NGPC Resolutions and Registry Agreement revisions on pending Objections. ICANN or the NGPC should have also considered the effect of allowing such substantial amendments to Applications and material changes to the gTLD Program (ByLaws Art. 1, Section 2, 7 *Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development*

process; ByLaws Art. 1, Section 2, 8 *Making decisions by applying documented policies neutrally and objectively, with integrity and fairness*.

Between April, 2013 and December 9, 2013 (the date of the Decision), ICANN could have acted to protect Applicants and Objector from material harm by properly addressing material flaws with the ICC Process and/or informing the ICC and Panelists regarding the GAC Advice and related issues (ByLaws Art. 1, Section 2, 9 *Acting with a speed that is responsive to the needs of the Internet while, as part of the decision-making process, obtaining informed input from those entities most affected*; ByLaws Art. 1, Section 2, 10 *Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness*; ByLaws Art. 1, Section 2, 11 *While remaining rooted in the private sector, recognizing that governments and public authorities are responsible for public policy and duly taking into account governments' or public authorities' recommendations*; and ByLaws Art. 3, Section 1 *ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness*.

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities?

X Yes

11a. If yes, Is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties?

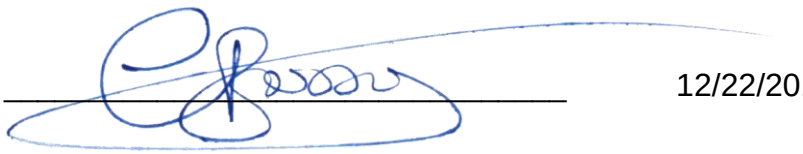
Yes, because the music community (i) has a shared, common interest - the legal distribution and promotion of music, (ii) is dependent on the DNS (where rampant piracy occurs) for core activities, and since (iii) Determinations of such significance pertaining to competition and exclusive access can create material detriment to the legitimate interests of a significant portion of the music community that is represented by the Affected parties. Failure of the panelist to understand that the music community is reliant on the DNS exhibits why this particular case requires someone familiar with music/intellectual property matters.

Do you have any documents you want to provide to ICANN?

Yes, please see Annex. Attached are the (i) 3 Expert Determinations for .music, .song, and .tunes (See Annex 1), (ii) Proof of evidence that the music community is reliant on the DNS/Internet for core activities (See Annex 2), and (iii) Proof of evidence that the music community is clearly and strictly delineated (See Annex 3), which was mentioned in the Additional Submission.

Terms and Conditions for Submission of Reconsideration Requests

The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar. The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious. Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing. The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC. The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.



12/22/2013

Constantinos Roussos

Date

DotMusic (.MUSIC)