

SENT BY EMAIL

July 21, 2020

Göran Marby
President & CEO
ICANN
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Email: goran.marby@icann.org

Re: CommuniGal Communication Ltd. (GalComm)

Mr. Marby:

This firm represents ICANN-accredited registrar CommuniGal Communication Ltd., which does business as GalComm. Recently GalCom was targeted by a “report” from a firm named Awake Security, titled “The Internet’s New Arms Dealers: Malicious Domain Registrars” (Report), which expressly accuses GalComm of engaging in criminal activity by putting “malicious domains, malware, and exploitative content” on the internet.

Awake’s accusations are false. Aside from acting as registrar, GalComm has no involvement with, or responsibility for, any websites associated with the domains identified in the report. Awake’s claim that it sought to contact GalComm prior to publishing its report is also false.

I write to summarize Awake’s key accusations, why they lack merit, and the steps GalComm took upon receiving the report. A copy of GalComm’s letter to Awake with more details is enclosed.

- Awake's Report identifies several domains, including cdnus.com and cdneu.com, which it claims are linked to malware distribution. Those domains are registered to a GalComm registrant customer. GalComm has no involvement or relationship with the name aside from its role as registrar. Nonetheless, GalComm took immediate action following its receipt of Awake’s Report by contacting the registrants of the names above, as well as all of the registrants of the 152 domains listed in Appendix C of the Report. All but three of the domains are registered by the same registrant, who promptly reviewed and confirmed to GalComm that its domains are secured. One of the remaining three domains had already been taken down at the time GalComm was made aware of the Report. Another domain was taken down and then re-activated after Galcomm received confirmation from the registrant that the domain is secure. Galcomm took down the remaining domain after receiving no response from the domain holder.

- Awake's Report falsely suggests that GalComm is responsible for "malicious" domain parking pages allegedly used in connection with domains registered through GalComm. It is not. GalComm's only involvement is as the domain registrar. It does not host websites at these domains and has no other connection with them.
- Awake also questions the activities of entities associated with GalComm, without any valid basis for doing so. GalComm's connection with these entities is publicly available information and there is nothing nefarious about them. GalComm acquired BigNet Internet Solutions several years ago, Mobik is a related entity, and webhostingservices.info is simply one of GalComm's landing pages. The domains listed in Appendix D do not relate to any security issue. Nevertheless, GalComm has forwarded the domains to their respective registrants, and has subsequently cancelled all domains listed in Appendix D.

In sum, Awake's Report does not truthfully or accurately represent GalComm's registrar operations or business. GalComm has demanded that Awake retract its Report and provide a public statement correcting the misinformation.

GalComm takes its responsibilities as an accredited registrar seriously and will continue to do so. Please do not hesitate to contact us if you require any additional information about this matter.

Thank you.

NEWMAN DU WORS LLP



Derek A. Newman

Encl.

Attachment A

SENT BY EMAIL AND FEDEX

July 21, 2020

Rahul Kashyap, CEO
Gary Golomb, CTO
Awake Security, Inc.
2901 Tasman Dr., Suite 205
Santa Clara, CA 95054
Email: rahul@awakesecurity.com
gary@awakesecurity.com

Re: Demand to Cease and Desist False and Disparaging Statements about GalComm

Messrs. Kashyap and Golomb:

We represent Communigal Communication Ltd., which does business as GalComm, the largest Israel-based ICANN-accredited domain-name registrar.

GalComm recently discovered that Awake Security has published a series of false and defamatory claims about GalComm's registrar business, including in at least the following:

- Awake's report titled "The Internet's New Arms Dealers: Malicious Domain Registrars" (Report), which expressly accuses GalComm of engaging in criminal activity by putting "malicious domains, malware, and exploitative content" on the internet.
- Awake's YouTube video, presented by Mr. Golomb, titled "The New Rootkit: How Malicious Chrome Extensions Enabled a Global Surveillance Campaign," posted on June 25, 2020 (Webinar).¹

The false information about GalComm in Awake's publications has caused serious, ongoing harm to GalComm's business. GalComm is committed to protecting its clients and partners, and values cooperation with security regulations to affirmatively prevent malicious activity. Yet Awake's misrepresentations have resulted in clients, business partners, and reporters, unnecessarily calling into question GalComm's reputation.

GalComm demands that Awake retract the Report and the Webinar, make a public statement that corrects misrepresentations and provides GalComm's responses to the accusations raised in the Report, and issue a public apology to GalComm for the harm caused by the inaccurate publications.

¹ <https://www.youtube.com/watch?v=a9yaSz1aj2Q>

The corrective statement and apology should be issued publicly with at least the same reach as the Report and the Webinar. And GalComm demands that Awake directly notify all registered participants of the Webinar and Report, ICANN, and media reporters with whom Awake had been in contact regarding the Report and Webinar, of the statement and apology.

A. Awake’s claim that it attempted to contact GalComm prior to publication of its Report is false and harmful to GalComm.

Awake claims that prior to its publication of the Report, it repeatedly attempted to contact GalComm about the domains at issue and associated malicious activity, and to obtain answers to certain questions: “after sending notifications via email, web form, and phone on April 29, 2020, then resending the notification again nine days later, we have received no response from GalComm at publishing time of this paper.”² This is false. GalComm has no records of any form of communication, at any point in time, from Awake.

GalComm was not afforded the opportunity to address or respond to any of the accusations in the Report prior to its publication, and was thus deprived of the ability to preserve and protect its reputation. Additionally, the implication that GalComm ignored accusations that it was engaged in malicious criminal activity risks further serious harm to its reputation and registrar business.

B. The Report falsely misrepresents GalComm’s responsibility for the alleged malicious activity.

Had Awake actually contacted GalComm prior to publication of its Report, it would have learned that many of the facts it intended to publish were false.

First, Appendix A of the Report lists 15,262 “GalComm registered” domains allegedly associated with malicious or suspicious activity. The list is inaccurate in that, as of June 18, 2020, 25% of the domains listed are not affiliated with GalComm in any way; these domains have either been transferred out, deleted, or registered with a different registrar. The remaining domains are not affiliated with GalComm beyond the fact that GalComm is solely the domain registrar—GalComm does not provide hosting or other services for these names. And GalComm’s role as the domain registrar does not implicate GalComm in any criminal or malicious activity attributable to the domains. Awake’s claims to the contrary are baseless.

Domain-name registrars, including GalComm, are neither expected nor required to evaluate the conduct of all of their registrant customers or the uses to which they put registered names. There is no requirement to do so in the standard Registrar Accreditation Agreement with ICANN. And registrars are similarly under no obligation to take any action—legal or otherwise—against their registrants except under particular circumstances involving a complaint about a particular registrant.

² Report at 25.

Second, the Report identifies several domains, including *cdnus.com* and *cdneu.com*, which it claims are linked to malware distribution.³ Those specific domains are registered to IronSource, a GalComm registrant customer. GalComm has no affiliation or connection to the IronSource domains. Its relationship to the domains is limited to its role as a registrar. The claims that the IronSource domains and subdomains are used to communicate with suspect or malicious domains, and that InstallCore is linked to malware, are inaccurate and do not implicate GalComm. However, GalComm took immediate action by contacting IronSource following its receipt of Awake's Report and, after performing manual and automated scans of the domains, IronSource has confirmed that the domains are secured. Similarly, GalComm has contacted all of the registrants of the 152 domains listed in Appendix C, 149 of which are registered to IronSource. As noted above, GalComm took immediate action and contacted IronSource, confirming that its 149 domains were secured. One of the remaining three domains had already been taken down at the time GalComm was made aware of the Report. Another domain was taken down and then re-activated after GalComm received confirmation from the registrant that the domain is secure. And GalComm took down the remaining domain after receiving no response from the domain holder.

Third, Chapter 3 of the Report focuses on "evasive techniques," including domain parking. The Report distinguishes between "malicious" parking pages and "benign" parking pages, and falsely suggests GalComm is responsible for the malicious parking pages. Whether a user is redirected to a malicious domain is in the control of the parking company hosting the domain web page, not the domain registrar. GalComm is simply the domain registrar for the parking pages. It does not host the domains and is not affiliated with any malicious activity attributable to the domains.

Fourth, Chapter 4 of the Report, titled "the GalComm Connection" is dedicated entirely to smearing GalComm's reputation with false, irrelevant, and out-of-context issues. For example, it states that, "unsurprisingly," reviews from GalComm registrants "trend towards significantly negative." The Report also points to a Notice of Breach of Registrar Accreditation Agreement sent by ICANN seven years ago. What the Report fails to note is that the notice was based on a misunderstanding that was resolved shortly thereafter. The Report also describes an unrelated complaint associated with a domain registrant whose actions are not attributable to GalComm, suggesting that "datapoints like this help paint a picture about the type of registrants (end users) seeking GalComm."⁴

Additionally, Awake questions the activities of three entities associated with GalComm, without any valid basis for doing so. GalComm's connection with these entities is publicly available information and there is nothing nefarious about them. GalComm acquired BigNet Internet Solutions several years ago, Mobik is a related entity, and *webhostingservices.info* is simply one of GalComm's landing pages. The domains listed in Appendix D do not relate to any security issue. Nevertheless, GalComm has forwarded the domains to their respective registrants, and has subsequently cancelled all domains listed in Appendix D.

³ *Id.* at 12.

⁴ *Id.* at 23.

C. GalComm’s responses to Awake’s questions posed in the Report.

Awake’s Report lists three questions it claims it attempted to ask GalComm prior to publication of the Report.⁵ While GalComm was never made aware of and has no records of any such attempts, it responds as follows:

1. “What is GalComm’s policy on taking down (or blocking) domains being used exclusively for malicious purposes?”

GalComm’s policies are available on its websites located at galcomm.com and galcomm.co.il. These policies include GalComm’s Registration Agreement⁶ and Abuse reporting tool⁷, which is designed to report complaints of abuse associated with a GalComm-registered domain name. The policies and abuse form are also linked in the footer of each webpage.

GalComm handles 100% of abuse complaints received, most of which tend to be unrelated to security issues. GalComm forwards all complaints to the respective domain owner, asking the domain owner to investigate the issue and provide a response within a reasonable time. If GalComm does not receive a response, it considers the extent of further action necessary. Where a complaint pertains to security and stability issues, the domain is likely to be taken down. If the registrant responds and describes affirmative actions that it has taken to address the complaint, then GalComm closes the complaint and takes no further action at that time. And if the domain is registered through a web-hosting company known to GalComm, GalComm notifies the appropriate entity of the complaint as well.

2. “How are the people behind these domains able to acquire so many of them through GalComm?”

As with other registrars, GalComm has a robust network of resellers and business partners that are granted API access to GalComm’s platform. Those resellers and business partners are able to register and manage domains through GalComm’s registrar platform consistent with ICANN’s policies.

3. “Given these domains account for approximately 60% of the total domains GalComm currently has on the internet, how could this go unnoticed by the company?”

The 60%—presumably referring to the 15,262 domains listed in Appendix A—is an inaccurate representation. Of the 15,262 listed domains, only 11,599 are registered at GalComm as of June 18, 2020. Approximately 25% of the domains listed in Appendix A have either never been registered at GalComm, have been transferred to another registrar, or have expired and subsequently re-registered with another registrar. The remaining domains listed represent about 10% of GalComm’s

⁵ *Id.* at 24.

⁶ <https://secure.galcomm.co.il/General/RegistrationAgreement.aspx>

⁷ <http://www.galcomm.com/abuse/>

total domains, contrary to the Report's suggestion that a majority of GalComm's domains relate to malware. Nevertheless, any activity attributable to domains registered with GalComm will go unnoticed unless a complaint about a particular domain is filed. As discussed above, a domain registrar is under no obligation to proactively monitor the activity of its domain registrants. Nor would it be possible for any registrar to do so given the sheer volume of domain name registrations and their wide variety of uses.

Finally, the Report discusses the "curious case of rtb-seller.com."⁸ This domain is not owned by GalComm nor does GalComm serve as the domain's hosting provider. GalComm is simply the sponsoring registrar. Thus, GalComm is not responsible for any action attributable to the domain. And IronSource has verified that this domain has been scanned and confirmed as secured.

D. Awake's Webinar about the Report also includes harmful misrepresentations about GalComm.

On June 25, 2020, Awake published the Webinar, discussing its investigation involving GalComm and explaining the accusations presented in the Report. As with the Report, the Webinar includes false statements that pose serious risk to GalComm's registrar business.

First, in the Webinar, Awake repeats its false claims that it attempted to contact GalComm by phone, web forms, and email on April 29, 2020 and May 8, 2020, prior to publishing the Report. As noted above, GalComm has no records of any such attempts, and was not made aware of the Report or the Webinar prior to their publication.

Second, Awake falsely claims in the Webinar that prior to publication of the Report, GalComm was contacted by a journalist working with Awake, given sufficient time to respond to the journalist's efforts, yet failed to do so. GalComm's first communication with the journalist occurred on June 14, 2020 via LinkedIn, which was followed by an email on June 15, 2020 from the reporter sent to the abuse@galcomm.com email address—the same address that Awake allegedly used in its failed attempts to contact GalComm. GalComm immediately responded to the reporter's email, welcoming any additional information that would allow GalComm to evaluate the domains at issue. The journalist responded with the list of domains on the evening of June 17, 2020, Israel Daylight Time. Awake published its report on the morning of June 18, 2020. Unaware of the Report's publication, GalComm responded to the journalist with its initial analysis of the domain list that same day.

Third, Awake points to a spike of domain-name registrations though GalComm, indicating that "in a single day, more registrations were made than almost the previous year combined." As discussed above, GalComm has a network of resellers and business partners that are provided with API access to GalComm's platform. These third parties are able to register and manage domains without access to GalComm's website. "Bulk" registrations are common in the domain industry. The registration spike referenced in the Webinar, in December 2019, was a result of a flash sale under a marketing

⁸ *Id.* at 25.

program in which GalComm participated. Such flash sales are customary in domain registrar marketing programs.

Finally, in the Webinar, Awake discusses changes to particular domains a week after the Report's publication, stating that domains "that previously redirected to exploitative pages are now *actually* parked or redirect to more benign ad networks." Other than GalComm's ordinary policies and management procedures, GalComm has not changed any of the domains following the Report's publication. GalComm has no control over the usage of the domains or their redirection by the domains' respective hosting servers.

E. Awake Security is liable for the ongoing harm its false and defamatory statements have caused GalComm.

Defamation occurs when a party creates (1) a publication that is (2) false, (3) defamatory, (4) unprivileged, and (5) causes damage.⁹ Awake's false statements about GalComm, including in the Report and Webinar, are defamatory. Awake published the Report and the Webinar. The publications contain false information about GalComm's alleged affiliation with criminal and malicious activity, inaccurately suggesting that GalComm is responsible for its registrants' activities. The Report has effectively damaged GalComm's reputation. GalComm has received numerous inquiries pertaining to the Report and the Webinar from its clients, business partners, and reporters. GalComm has had to provide detailed explanations to its clients and business partners as to why the information contained in the Report and the Webinar is false.

Awake may be similarly liable for intentional interference with prospective economic advantage. Under California law, a claim for intentional interference with prospective economic advantage exists where there is (1) an economic relationship between the plaintiff and a third party, with the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) an intentional act by the defendant, designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm to the plaintiff caused by the defendant's wrongful act.¹⁰ GalComm has a potential economic relationship with domain registrants and business partners, which Awake is aware of given the nature of the domain industry and the level of industry understanding demonstrated in its Report. The Report is designed to disrupt GalComm's prospective relationships, stating that Awake believes GalComm is "at best complicit in the threats described within this report." The Report and the Webinar have not only harmed GalComm's reputation, but have also disrupted and harmed GalComm's prospective relationships.

⁹ *Wong v. Jing*, 189 Cal. App. 4th 1354, 1369 (2010).

¹⁰ *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1153-54 (2003).

F. GalComm seeks an amicable resolution of this dispute through Awake Security's withdrawal of the Report and the Webinar and issuance of a public apology.

GalComm would prefer to amicably resolve this matter. To that end, we respectfully request that Awake Security retract the Report and the Webinar, and issue a public apology to GalComm.

Given the seriousness of Awake's accusations and the imminent harm they pose to GalComm's business and reputation, GalComm requires a response by no later than by Monday, July 27 at 5:00 p.m. Pacific. If we have not received a satisfactory response by then, GalComm will proceed as it believes necessary to protect itself.

We look forward to your prompt response.

Thank you.

NEWMAN DU WORS LLP

A handwritten signature in black ink, appearing to be 'Derek A. Newman', written over a horizontal line.

Derek A. Newman