



The Internet Corporation for Assigned Names and Numbers

9 April 2015

Gregory S. Shatan
President, Intellectual Property Constituency, ICANN
Via Email: gregshatanipc@gmail.com

Dear Mr. Shatan:

I am in receipt of your letter dated 27 March 2015, on behalf of the Intellectual Property Constituency (IPC), relating to the gTLD .SUCKS. We acknowledge and understand the IPC's concerns about the proposed pricing structures and related actions of Vox Populi, and we are looking into these new mechanisms to evaluate the possibility of harm to intellectual property rights holders or other consumers.

Accordingly, as we have informed you, John Jeffrey, ICANN's General Counsel & Secretary, has sent a letter to the United States' Federal Trade Commission (FTC) and Canada's Office of Consumer Affairs (OCA) asking them to consider assessing and determining whether Vox Populi is violating any laws or regulations enforced by their respective offices, and forwarded a copy of the IPC's 27 March 2015 letter. We note that should the FTC or the OCA make such a determination, ICANN could seek remedies pursuant to the registry agreement requiring Vox Populi to comply with applicable laws, and ICANN could take additional actions within the public interest and consistent with consumer and business protections to change the practices of the registry through our contractual provisions. We are following up to request responses from these two regulatory agencies and hope that you and the IPC might also encourage these entities to evaluate this, and additionally might offer your assistance should they have any questions.

As you will recall, there was extensive discussion of whether price caps or controls should be included in new gTLD registry agreements when the new gTLD program was formulated. In furtherance of such discussions, ICANN engaged an expert economic consultant to [study](#) the issue. The expert concluded that price caps or ceilings were not necessary or desirable, that the imposition of price caps might inhibit the development and marketplace acceptance of new gTLDs, and that trademark holders rights could be protected through alternate rights protection mechanisms, such as the Uniform Rapid Suspension System (URS), the Uniform Domain Name Dispute Resolution Policy (UDRP), or the trademark post-delegation dispute resolution procedure (Trademark PDDRP), which you reference in your letter. Both before and after the study was released, this issue was thoroughly discussed and debated by the members of the global multistakeholder community, and ultimately the determination was made not to impose price caps or price controls in the new gTLD registry agreements.

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As you know, ICANN's enforcement authority is limited to enforcing compliance with the terms and conditions of its agreements. Accordingly, Allen Grogan, ICANN's Chief Contract Compliance Officer, who oversees ICANN's contractual compliance and consumer safeguards work, is analyzing Vox Populi's actions and considering contractual remedies.

Finally, I would like to address your question about certain specific contractual provisions in the .SUCKS registry agreement relating to fees payable to ICANN. As we have publicly stated on this issue, during the due diligence phase regarding this application and preparation for contracting, we noted that some affiliates of Momentous, which is the majority owner of Vox Populi Registry, had previously defaulted on payments to ICANN. Although these previous related company defaults did not give us authority to reject entering into an agreement with a Momentous affiliated company, given this previous experience, ICANN requested and negotiated special contract provisions in the Vox Populi registry agreement to provide additional financial assurances. Those provisions were added solely for that reason and were not related to the nature of this specific TLD.

In closing, ICANN encourages the IPC, and all other members of the ICANN community to share any additional information available that will help ICANN determine Vox Populi's compliance with ICANN's registry agreement for .SUCKS.

Please let me know if you have any questions regarding this matter. I can be contacted at +1-310-301-3869 or at Akram.Atallah@ICANN.org.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Akram Atallah", is written over a light blue horizontal line.

Akram Atallah
President, Global Domains Division
ICANN

cc (alphabetically): Mr. John Berard, CEO, Vox Populi
Mr. Cherine Chalaby, Chair – ICANN Board New gTLD Program Committee
Mr. Fadi Chehadé, President and Chief Executive Officer, ICANN
Mr. Allen Grogan, Chief Contract Compliance Officer, ICANN
Mr. John Jeffrey, General Counsel and Secretary, ICANN
The Honorable Mr. Lawrence Strickling, Assistance Secretary for
Communications and Information and Administrator, National
Telecommunications and Information Administration (NTIA)