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Mr. Fadi Chehadé
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Berlin, 9/8/2014

New Generic Top-Level Domain „.gmbh“ / Award Procedure

Dear Mr. Chehadé,

referring to our letter of September 13, 2013, we'd again like to point out the danger that would arise from awarding the administration of the new generic top-level domain “.gmbh” to an applicant from outside Germany, Austria, Switzerland or Liechtenstein.

The term “GmbH” is the abbreviation for “Gesellschaft mit beschränkter Haftung” (company with limited liability) which constitutes a corporate legal structure in the aforementioned countries. In Germany, only companies registered as “Gesellschaft mit beschränkter Haftung” in the official registry are entitled to use the abbreviation “GmbH”. We count about 600 000 companies in Germany, acting under this legal form. Hence, the fulfilment of the legal requirements necessary to register as a “GmbH” in Germany are the core prerequisite for the legitimate use of the term “GmbH” as part of a domain. Furthermore, companies with the corporate form of a GmbH enjoy special trust amongst customers and business partners with regard to this legal incorporation on the German market. Therefore, the German Association of Chambers of Commerce and Industry (DIHK), representing 3.6 million businesses in Germany, is of the opinion that – in order to protect those legitimate expectations – an applicant for “.gmbh” has to ensure that second-level domains below a top-level domain “.gmbh” are granted exclusively to companies with the respective corporate legal structure.

The German government as well as Austria and Switzerland underscored in their early warnings of November 2012 to all parties applying for “.gmbh” that they should fulfil the following requirements:

- Applicants for SLDs under “.gmbh” have to be companies which are already organized as “Gesellschaft mit beschränkter Haftung” according to the regulations valid in Germany, Austria, Switzerland or Liechtenstein, or they should be able to prove that such a registration is pending

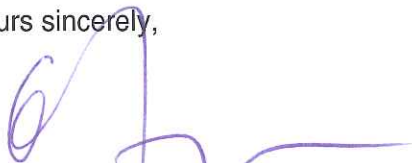
in at least one of these countries. Compliance with these requirements has to be regularly reviewed.

- Applicants for SLDs have to prove that they are subject to liability as a GmbH by forwarding a full set of valid documents from their respective place of jurisdiction.

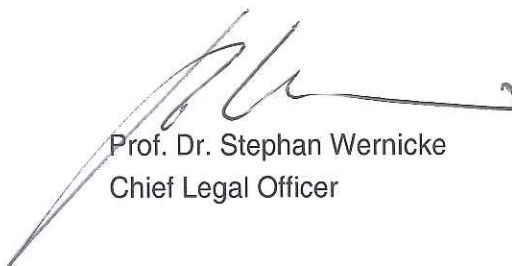
We are aware that the German Federal Ministry for Economic Affairs and Energy repeated this concern in its letter of August 25, 2014. We fully support the demand and ask ICANN to ensure the mandatory observance of the above-mentioned criteria by the new operator of a “.gmbh” registry in order to permanently exclude a misuse of second-level domain names. Moreover, we are of the opinion that the top-level domain “.gmbh” should be operated by one of the two German companies currently applying for the administration to ensure compliance with legal prerequisites in Germany as well as in the other German-speaking countries.

Please do not hesitate to get in touch with us if you have any further questions.

Yours sincerely,



Dr. August Ortmeyer
Managing Director
Services Sector and Regional Development



Prof. Dr. Stephan Wernicke
Chief Legal Officer

Who we are: The Association of German Chambers of Commerce and Industry (DIHK) is the umbrella organization of Germany's 80 Chambers of Commerce (CCIs). The CCIs in Germany – quite different from the CCIs in the US – are public entities representing a total of 3.6 million German companies from industry, trade and services of all branches and sizes.