



July 2015

RE: Enforcement of the RAA

Dear Mr Grogan

In your recent blog postings you stated that you will publish further postings in the coming weeks addressing ICANN's position on how it will enforce the terms of its 2013 Registrar Accreditation Agreement (RAA). Domain names are a vital link in the chain for connecting counterfeiters to their potential customers and as such are a key resource to deny to them.

The internet is critical to enabling the creativity and innovation that power the future of our designers and producers, but the facilitation of genuine business has also provided tools for illegal activity, in particular counterfeiting. Counterfeits lack all of the protections associated with genuine goods and their suppliers as well as they undermine the jobs and economic production that those creators and suppliers provide.

The RAA contains terms that provide for registrars to "investigate promptly and respond appropriately" to complaints that the domain names they sponsor are being used to carry out illegal activities such as counterfeiting.

We are concerned that ICANN may decide not to enforce the contractual terms that were heavily discussed and debated within the multi-stakeholder framework at the time of their drafting. These terms were approved unanimously by the ICANN board.

The whole multi-stakeholder process is built on the premise that these contractual terms are a substitute for national or inter-governmental regulation. A failure to enforce terms undermines this model and the credibility of ICANN in expanding its contractual relations with further gTLDs which contain Public Interest Commitments (PICs) as well as taking on further responsibilities in managing internet resources. A minimum standard should include acting on well documented complaints showing clear abuse through illegal activity in breach of the services own contract terms.

Contractual enforcement is a key part of self-regulation to protect the integrity of legitimate trade across the entire global supply chain. Intermediaries in the supply chain, including registrars and registries, play a key role in denying the tools of genuine commerce to these criminal networks, as documented in the recent ICC BASCAP report: 'Roles and Responsibilities of Intermediaries: Fighting counterfeiting and piracy in the supply chain.'

We ask ICANN to stand up for consumers and businesses

- Spelling out that registrars must respond appropriately to well documented complaints about sites selling counterfeits and take action where they fail to do so
- Increasing transparency over the receipt, investigation and outcome of complaints, including basic reasons for upholding or dismissing complaints

Yours sincerely

A handwritten signature in black ink, appearing to read 'Volker Bartels', written in a cursive style.

Volker Bartels
Chairman APM e.V.

About APM

The German Anti-Counterfeiting Association (APM) has been active since 1997 as cross-industrial alliance in the protection of intellectual property.

APM is a joint initiative by the German Association of Chambers of Industry and Commerce (DIHK), the Federation of German Industry (BDI), and the German Brands Association.

Well known companies from different sectors participate in APM for conditions, in which innovative activities can develop and count on effective protection.