

**Subject:** Re: [Reconsideration Request] Reconsideration Request 18-8  
**Date:** Friday, July 20, 2018 at 8:57:22 AM Pacific Daylight Time  
**From:** reconsider on behalf of Herb Waye  
**To:** Reconsideration  
**CC:** ombudsman  
**Attachments:** ATT00001.txt

Reconsideration Request 18-8

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Please accept my apologies for the delay as this decision required extensive evaluation of past actions by the Office of the Ombudsman.

Pursuant to Article 4, Section 4.2(l)(iii), I am recusing myself from consideration of Request 18-8.

Best regards,

Herb Waye  
ICANN Ombudsman

<https://www.icann.org/ombudsman> [icann.org]  
<https://www.facebook.com/ICANNOmbudsman> [facebook.com]  
Twitter: @IcannOmbudsman

ICANN Expected Standards of Behavior:

<https://www.icann.org/en/system/files/files/expected-standards-15sep16-en.pdf> [icann.org]

Community Anti-Harassment Policy

<https://www.icann.org/resources/pages/community-anti-harassment-policy-2017-03-24-en> [icann.org]

Confidentiality

All matters brought before the Ombudsman shall be treated as confidential. The Ombudsman shall also take all reasonable steps necessary to preserve the privacy of, and to avoid harm to, those parties not involved in the complaint being investigated by the Ombudsman. The Ombudsman shall only make inquiries about, or advise staff or Board members of the existence and identity of, a complainant in order to further the resolution of the complaint. The Ombudsman shall take all reasonable steps necessary to ensure that if staff and Board members are made aware of the existence and identity of a complainant, they agree to maintain the confidential nature of such information, except as necessary to further the resolution of a complaint

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**From:** Reconsideration <Reconsideration@icann.org>  
**Date:** Friday, July 13, 2018 at 10:20 PM  
**To:** ombudsman <ombudsman@icann.org>  
**Cc:** Reconsideration <Reconsideration@icann.org>  
**Subject:** Reconsideration Request 18-8

Dear Herb,

On 22 June 2018, Afilias Domains No. 3 Limited (Requestor), submitted the attached Reconsideration Request 18-8 (Request 18-8) seeking reconsideration of ICANN organization's response to its amended request, pursuant to ICANN org's Documentary Information Disclosure Policy (DIDP), for documents relating to the .WEB contention set.

Specifically, the Requestor claims that, in declining to produce certain requested documents, ICANN org violated its Commitments established in the Bylaws concerning accountability, transparency, and openness. Exhibits 1 to 34 submitted by the Requestor in support of Request 18-8 are available at <https://www.icann.org/en/system/files/files/reconsideration-18-8-afiliis-exhibits-1-redacted-22jun18-en.pdf>.

The Board Accountability Mechanisms Committee (BAMC) has determined that Request 18-8 is sufficiently stated pursuant to Article 4, Section 4.2(k) of the ICANN Bylaws. Pursuant the Article 4, Section 4.2(l) of the ICANN Bylaws, a reconsideration request must be sent to the Ombudsman for consideration and evaluation if the request is not summarily dismissed following review by the BAMC to determine if the request is sufficiently stated.

Specifically, [Section 4.2 \(l\)\[icann.org\]](#) states:

- (l) For all Reconsideration Requests that are not summarily dismissed, except Reconsideration Requests described in [Section 4.2\(l\)\(iii\)](#) and Community Reconsideration Requests, the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.
  - (i) The Ombudsman shall be entitled to seek any outside expert assistance as the Ombudsman deems reasonably necessary to perform this task to the extent it is within the budget allocated to this task.
  - (ii) The Ombudsman shall submit to the Board Accountability Mechanisms Committee his or her substantive evaluation of the Reconsideration Request within 15 days of the Ombudsman's receipt of the Reconsideration Request. The Board Accountability Mechanisms Committee shall thereafter promptly proceed to review and consideration.
  - (iii) For those Reconsideration Requests involving matters for which the Ombudsman has, in advance of the filing of the Reconsideration Request, taken a position while performing his or her role as the Ombudsman pursuant to [Article 5](#) of these Bylaws, or involving the Ombudsman's conduct in some way, the Ombudsman shall recuse himself or herself and the Board Accountability Mechanisms Committee shall review the Reconsideration Request without involvement by the Ombudsman.

Please advise whether you are accepting Request 18-8 for evaluation or whether you are recusing yourself pursuant to the grounds for recusal set forth in Section 4.2(l)(iii). If you are accepting Request 18-8 for evaluation, please note that your substantive evaluation must be provided to the BAMC within 15 days of receipt of the Request.

Best regards,  
ICANN  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094

