

From: Ivan Dario Castaño Perez <Contact Information Redacted >
Subject: Request for Documents under ICANN's Documentary Information Disclosure Policy
Date: 2 April 2019 at 16:54:54 BST
To: "goran.marby@icann.org" <goran.marby@icann.org>, "cherine.chalaby@board.icann.org" <cherine.chalaby@board.icann.org>
Cc: "Contact Information Redacted >, "Huseman, Brian" <Contact Information Redacted >, Jehudi Castro Sierra <Contact Information Redacted >

Dear ICANN:

The Colombian government respectfully submits this Documentary Information Disclosure Policy (DIDP) request in connection with its good faith efforts to reach a potential mutually agreeable solution with Amazon over the .AMAZON domain. Specifically, in connection with the latest series of communication between Amazon's legal representatives and ACTO Member States, there have been several recent developments that potentially impact substantive elements contained in Amazon's proposal. We hope that any documents that ICANN might produce under this DIDP request will go a long way toward providing clarity for all parties involved.

We believe that Amazon's legal counsel has for the first time stated on the record that they intent to apply to ICANN for Specification 13 consideration. While Amazon's legal counsel represents this a positive development, we believe it gives rise to new legal issues that need to be further analyzed. We submit that the Amazon proposal on its face appears to violate the "spirit" of Specification 13. We believe the original intent of Specification 13 was to permit only the Registry Operator, its Affiliates or Trademark Licensees to register domain names within the TLD. Permitting ACTO Members to register and use domain names within a Specification 13 TLD would appear to be a clear violation of the requirements set forth by ICANN.

Notwithstanding this guidance, Amazon's proposal calls for any ACTO Permitted Domain Name to be registered in the name of the Registry Operator or its Affiliates, and that the domains be "delegated onto server selected and controlled by Registry Operator." While this appears to comply with the "letter" of Specification 13, we have concerns whether this complies with the "spirit" of Specification. **REQUEST: Can ICANN please provide any documents in connection with requests and/or ICANN Org responses regarding Registry Operators seeking to amend Specification 13. Upon information and belief, it is our understanding that several trademark owners have sought unsuccessfully to modify Specification 13. To be clear, the Colombian government is not seeking the identity of any Registry Operator, it is just trying to understand the substantive discussions that ICANN Org has had with other contracting parties to determine the latitude which ICANN Org may have to accommodate Amazon's proposal.**

The enforcement of the Public Interest Commitment (PIC) specification in the Registry Agreement is a key aspect of the Amazon proposal. However, based upon information and belief, several Registry Operators have already engaged ICANN Org with about putting in place a process that would permit all Registry Operators the ability to amend Specification. It is our further understanding that the Registry Operators are seeking to fast track this process utilizing the Specification 12 Amendment Process which Community Registry Operators had implemented last year, see <https://www.icann.org/resources/pages/community-gtld-change-requests-procedure-2018-06-01-en>

REQUEST: Could ICANN provide all documents in connection with ICANN Org communication with

interested Registry Operator(s) regarding any proposed changes to the PIC Specification. As this is the key safety net provision of the Amazon proposal, it is critical that the Colombian government and other ACTO Member States understand the potential impact any ICANN policy change in this area may have on our individual/collective rights.

Should you have any questions please do not hesitate to contact me.

Best regards,

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Ivan Castano

Director – IT Industry Development

GAC Member - Colombia

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Declaración de responsabilidades Para más información haga clic [aquí](#)