

From: Michael Gende
Subject: [reconsideration request] Request for Reconsideration. Please help!
Date: June 15, 2011 6:59:04 PM PDT
To: Reconsider@ICANN reconsider@icann.org

Hello,

My name is Mike Gende; I'm the president of the new Zeta Music Systems, LLC. I need ICANN's help in a matter concerning a domain.

Per your website, I have copied the requirements of a reconsideration request below and will fill in the details. I hope that is acceptable.

The information follows:

From 3 February 2009, Reconsideration Requests Are the Responsibility of the Board Governance Committee.

How to file a request for reconsideration. Requests for reconsideration must contain at least the following information:

a. name, address, and contact information for the requesting party, including postal and e-mail addresses;

Michael F. Gende,
[Contact information removed]

b. the specific action or inaction of ICANN for which review or reconsideration is sought.

I had requested that ICANN allow our company, Zeta Music Systems, LLC, to take over the domain zetamusic.com in late 2010. No action has been taken of which I have been made aware.

This domain was registered by the "late" Zeta Music Systems, INC of Tempe, AZ. That company has ceased

operations for some years now.

We have verified their "corporate status rejected" disposition with the Arizona Commerce Commission (AZCC).

I have gone to the length of setting aside their corporate name for my use. To be clear: we have taken over their very corporate name in the state where they operated to make sure they were closed.

However, the domain zetamusic.com was pre-paid to the end of 2012 with Network Solutions. We therefore seek to have this domain released to us for the following reasons:

- zetamusic.com is not being used nor is it parked on any server. The domain is effectively abandoned.
- All of the registration information for this domain is out of date. ICANN will not be able to contact anyone using this information. I had thought this violation of ICANN rules itself would allow for the action we seek.
- Our company is attempting to legitimately engage in commerce; not having access to this domain is a serious hindrance. Customers naturally go to "our company name" with the dot com suffix. As such, they end up not being able to find anyone. A year is a long time to wait in this market for the registration to expire. *This is a large problem.*
- We are a "going concern", in good standing with the Illinois Commerce Commission (ICC) and the IRS.
- We have registered many other zetamusic domains (.net, etc). However, the .com domain is by far the most important to the health of our business moving forward.

In closing, ICANN would be doing no harm to the former Zeta by reassigning the domain to us now. However, ICANN's inaction with regard to this issue *is* doing harm to our company as potential customers naturally go to the zetamusic.com domain, and find nothing.

Many naturally do this in error instead of using a domain we do control, zetamusic.net.

Please release the zetamusic.com domain to Zeta Music Systems, LLC of Illinois right away.

Thank You,

**Michael F. Gende
President
Zeta Music Systems, LL**

c. the date of the action or inaction;

My initial request was made in November of 2010. I only received word that the situation was being considered. Then, nothing.

A followup via your web site was made in May or June of 2011. A response to the followup simply stated we needed to buy the domain. We'd be happy to if ICANN would release it to us.

d. the manner by which the requesting party will be affected by the action or inaction;

See my answer to item b. However, to restate, customers naturally go to "our company" dot com. They find nothing and we, at this moment, are powerless to remedy the situation.

Potential customers can not find us. Such a situation is not good in any economy, let alone this one.

Bottom line, we lose money. It is a huge issue.

e. the extent to which, in the opinion of the party submitting the Request for Reconsideration, the action or inaction complained of adversely affects others;

The inaction effects our customers. They can't find us. It adversely effects our company, we can't reach these potential customers or return customers.

No one else would be effected in any way by our company being given control of the zetamusic.com domain. No one else is using it nor has anyone for some years now.

f. whether a temporary stay of any action complained of is requested, and if so, the harms that will result if the action is not stayed;

Not applicable to this request.

g. in the case of staff action or inaction, a detailed explanation of the facts as presented to the staff and the reasons why the staff's action or inaction was inconsistent with established ICANN policy(ies);

I do not believe this is applicable to this request either.

h. in the case of Board action or inaction, a detailed explanation of the material information not considered by the Board and, if the information was not presented to the Board, the reasons the party submitting the request did not submit it to the Board before it acted or failed to act;

I do not have enough information on the reasons why ICANN did not act on our behalf to comment.

i. what specific steps the requesting party asks ICANN to take- i.e., whether and how the action should be reversed, cancelled, or modified, or what specific action should be taken;

ICANN is requested to release the domain zetamusic.com from the long defunct Zeta Music Systems, INC to the new Zeta Music Systems, LLC, a company in good standing.

j. the grounds on which the requested action should be taken;
and

- **The registration information (via Network Solutions) for this domain is not valid nor has it been for years. That is because the company that did so is no longer running.**
- **Our company has the same name - totally above board, the former company is defunct - and not having access to this domain is a serious hindrance to our doing business.**
- **We have been able to take over the very operating name**

of the former Zeta in the state they operated in, as well as other intellectual assets they abandoned. This verifies that they are no longer in business and are not likely to return.

- **Must our running company wait another year for the registration to run out? The registration info is invalid, that company is demonstrably gone, no harm would be done to them by releasing the domain to us, but harm is being done as we wait - so far in vain - for the domain to be released.**

k. any documents the requesting party wishes to submit in support of its request.

This is a link to the Arizona Commerce Commission supporting our contention concerning the corporate status of Zeta Music Systems, INC of Tempe AZ. That is, that they are closed and have been for some time:

<http://starpas.azcc.gov/scripts/cgiip.exe/WService=wsbroker1/names-detail.p?name-id=F11488861&type=CORPORATION>

This link shows that I, Mike Gende, have been able to set aside the closed company's name for myself. I have done so for most of 2011. None have contended this or approached me about using the name:

<http://starpas.azcc.gov/scripts/cgiip.exe/WService=wsbroker1/names-detail.p?name-id=N16742191&type=PENDING%20CORP>.

I have legal control of the former company's name in the state where they operated. This is completely legal and proper.

Please note they have not submitted annual reports officially since 2009. It was at about this time or earlier that the domain's use was abandoned.

If I can provide anything else, please tell me and I will make every effort to comply.

The above information must be submitted by e-mail to reconsider@icann.org. Requests will be publicly posted.