

**Recommendation of the Board Governance Committee
Reconsideration Request 10-3
15 August 2011**

On 15 June 2011, Michael F. Gende submitted a Reconsideration Request (“Request”) to the Board Governance Committee (“BGC”) to reconsider ICANN Staff’s claimed failure to allow Mr. Gende’s company, Zeta Music Systems, LLC, “to take over the domain zetamusic.com domain.” In Mr. Gende’s Request, he stated that an explanation of how the Staff’s inaction was inconsistent with established ICANN policy(ies) was inapplicable to his Request. On 15 July 2011, Mr. Gende was informed by e-mail that his Request had been received and would be reviewed during the BGC’s next scheduled meeting in August 2011. After reviewing the materials submitted by Mr. Gende, it is the recommendation of the BGC that Mr. Gende’s Request be denied.

Under ICANN’s Bylaws, Staff inaction may be reconsidered if it contradicts “established ICANN policy (ies).” Article IV, § 2.2(a). Implicit in this standard is the notion that a Staff “inaction” cannot violate ICANN policies if the inaction relates to matters over which ICANN does not have authority or responsibility. Because ICANN is not responsible for maintaining individual domain names or domain name registrations, ICANN Staff’s inaction relating to such matters cannot violate established ICANN policies. Thus, there is no basis for reconsideration of ICANN’s failure to involve itself in matters relating to Mr. Gende’s pursuit of the domain name zetamusic.com.

If he so chooses, Mr. Gende may want to pursue the matter with the domain name Registrar or Registrant for zetamusic.com, or submit a Whois inaccuracy report, available at <http://www.internic.net>, if he believes that the Whois information relating to zetamusic.com is inaccurate.