

From: John Jeffrey [<mailto:john.jeffrey@icann.org>]
Sent: Sunday, December 05, 2010 1:45 AM
To: Burr, Becky
Subject: RE: Reconsideration 10-2; Meeting Sunday 5 December 2010

Becky,

I have received your correspondence and forwarded it on to the Board Governance Committee. I have found your letter to have misstated a number of our conversations and accordingly offer the following clarifying response.

1. I have made it abundantly clear to you that the Board Governance Committee has received all of your materials and the members are aware of your reconsideration request and all additional information that you have provided to it. The presentation opportunity was an offer to provide additional information to the committee as they will be meeting during ICANN's International Meetings in Cartagena. We were aware that you the petitioning lawyer would be present and the committee chair agreed to offer you an opportunity to brief the committee on the topic and to answer questions as the committee was considering your materials.

We suggested as a format 10 minutes for presentation and 10 additional minutes to answer questions. After you communicated that Mr. Anderson was not interested in attending the meeting in Cartagena because he could not attend and suggested that it be held on the East Coast of the US, we offered and will be making available a phone connection in case anyone who wishes to participate remotely would be able to do so.

The committee holds many of its meetings remotely and is quite capable of receiving information via telephone, so this was not seen to be a barrier. As you have requested call in information, I assume that this offer has been considered and might be accepted.

Employ Media has also been offered 20 minutes. You will be requested to make your presentation between 8.00 am and 8.20 am local time in Cartagena. As you have agreed that you will be attending at that time, I assume that you understand this offer. You do not have to make a presentation, and the Board Governance Committee would be equally comfortable reviewing your material without a presentation if you deem that preferable.

2. As you are also aware from our conversations and I have restated multiple times to both you and Mr. Anderson, I believed that this is dispute between your clients and Employ Media and have offered on multiple occasions to set up "good offices" or a "mediation" for your clients and Employ Media. I still believed that there might be a value to your handling your dispute in a different forum other than in the Reconsideration Process. There was never any attempt to make this a part of the reconsideration process, nor was it an offer for participation by ICANN Staff in any way other than to facilitate your conversation. Furthermore, never at any time did I indicate that Board Members or the Board Governance Committee would be involved in such a "mediation" discussion. If Mr. Anderson misunderstood our offer of assistance in this matter, it was a misunderstanding that should have been overcome when I re-explained it to him by telephone. The basic failure of the parties to be able to agree to meet and attempt to resolve these disputes is disappointing but not related to the reconsideration request which is about a specified scope of review relating to board and staff actions within ICANN's dispute resolutions processes. The meeting scheduled in Cartagena is separate and apart from these offers by my office of assistance.

3. As for your points relating to your reconsideration request, we have forwarded these on to the Board Governance Committee to be considered and made a part of the record.

If you have any questions regarding the above, please let me know.

best regards,
John Jeffrey
General Counsel & Secretary
ICANN