

Ms. Christine A. Willett  
Vice President, GDD Operations  
Internet Corporation for Assigned Names and Numbers (ICANN)  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536

Via E-Mail, Fax and Federal Express

23 March 2016

New gTLD Applicant Portal  
Your letter dated 16 March 2016

Dear Ms. Willett,

Reference is made to your letter dated 16 March 2016. We thank you for the opportunity to respond.

HOTEL Top-Level-Domain S.à.r.l. ("Applicant") deeply regrets that, further to the GDD portal misconfiguration, Mr. Krischenowski has apparently accessed proprietary information that Applicant's competitors submitted to ICANN in support of their applications for the .HOTEL gTLD. However, the competitors' request that ICANN cancel Applicant's application for .HOTEL for that reason is unfounded. In accessing the proprietary information, Mr. Krischenowski did not act on Applicant's behalf, and he did not act in support of Applicant's application for .HOTEL. In particular, any proprietary information that Mr. Krischenowski could have obtained could not have supported Applicant's application as the application had already been submitted at the time of the incident.

Applicant has itself investigated the incident and has implemented significant changes to the management and ownership of Applicant as outlined in paragraph 5 below.

Based on the information available to date, we would like to inform you as follows:

1. At the time of the incident, Mr. Krischenowski was (through a wholly-owned company) a 50 % shareholder and managing director of HOTEL Top-Level-Domain GmbH, Berlin (the "GmbH"), the minority (48,8%) shareholder of Applicant. He was not an employee of Applicant. To a very limited extent, Mr. Krischenowski also acted as business consultant of Applicant. In these functions, however, he did not have the general power to represent Applicant. (However, in the individual case of the String Confusion Objections, he was authorized by the Applicant to represent the Applicant in this matter. The reason for this individual representation of Applicant was that the string confusion objections were based on IP rights held by the GmbH and Mr. Krischenowski was the managing director of the GmbH at the time.)

In accessing the proprietary information, Mr. Krischenowski did not act on Applicant's behalf, nor did he use Applicant's User Login ID.

2. Mr. Krischenowski did not inform Applicant's personnel of his action and did not provide any of the accessed information to Applicant or its personnel. Applicant's personnel did not have any

knowledge about Mr. Krischenowski's action, and did not consent to it or approve it. They only learned about it on 30 April 2015 in the context of ICANN's investigation.

3. The portal misconfiguration issue occurred between 17 March 2014 and 27 February 2015. As is clear from the chronology of events, any information that Mr. Krischenowski could have obtained during the portal misconfiguration could not have supported Applicant's application for .HOTEL.
  - Applicant's application had already been filed in May 2012.
  - The last documents amending the application were uploaded on 16 August 2013 and 30 August 2013 (change of address and additional endorsements), well before the issue occurred.
  - In the context of ICANN's initial evaluation in 2013, Applicant answered two questions related to technical issues on 11 June 2013.
  - On 30 April 2014, Applicant submitted a clarifying comment regarding the language of the policy description in the public part of its application.
  - On 11 June 2014, Applicant prevailed in Community Priority Evaluation.
  - On 24 December 2014, Applicant informed ICANN of the change of legal form of its shareholder Afilias Ltd. to Afilias plc.

The chronology clearly shows that by 17 March 2014, the start date of the portal misconfiguration issue, Applicant had long since submitted its entire application which formed the basis for the Community Priority Evaluation on 11 June 2014. The clarifying comment of 30 April 2014 regarding the policy description took place after the incident but concerned the public part of Applicant's application. As policy descriptions by all applicants are public from the beginning of the application process and are not proprietary information, the Applicant could not have benefitted from the incident with respect to the submission of this clarifying comment. The change request of 24 December 2014 concerning the shareholder's legal form did not impact the substance of the application. Therefore, due to the chronology of events, it is clear that any information which Mr. Krischenowski may have obtained through the portal misconfiguration could not have influenced the application, and there is no link whatsoever between Mr. Krischenowski accessing such information and the application.

4. To our knowledge, none of the proprietary information Mr. Krischenowski may have obtained through the portal misconfiguration has influenced or supported Applicant's application. Statements to the contrary would be unsubstantiated.
5. Applicant has asked Mr. Krischenowski to step down as a managing director of the GmbH, to which Mr. Krischenowski has agreed with effect as of 18 March 2016. In this function, he has been replaced by Mr. Lenz-Hawliczek and Ms. Ohlmer. Further, as of 18 March 2016, Mr. Krischenowski has caused his wholly-owned company to transfer its 50 % shareholding in the GmbH to Ms. Ohlmer (via her wholly-owned company). Finally, the contract on business consultancy services between Applicant and Mr. Krischenowski was terminated with effect as of 31 December 2015.

In addition to the action taken above, and to reflect our responsibility and commitment to the HOTEL community, we jointly took the following decision:

Afilias plc, the majority shareholder of Applicant, and the GmbH have agreed that the GmbH shall transfer its shares in Applicant to Afilias plc. Subject to notarization and registration, and an agreement between the parties regarding an initial cash payment and deferred purchase price for such interest, Afilias plc will in the near future be the sole shareholder of Applicant, and there will not be any corporate relationship between Applicant and the GmbH. Also we would like to inform you that Mr. Lenz-Hawliczek and Ms. Ohlmer have been replaced as managing directors of Applicant by myself (Philipp Grabensee) as the sole Managing Director. In addition, a Change Request has been submitted on 23 March 2016 to replace the primary and secondary contacts of the .HOTEL application by myself and Mr. John Kane of Afilias plc, respectively.

In light of the facts as set forth in this letter, including the actions taken by the Applicant as set forth herein, we do not believe that Mr. Krischenowski's actions should impact Applicant's eligibility as a TLD applicant/operator per the provisions of the Applicant Guidebook nor disqualify or otherwise affect the legitimacy of the HOTEL community.

We believe that the comprehensive steps outlined above demonstrate the seriousness with which we take ICANN's inquiry into this matter, and we are confident that Applicant remains best suited to operate the .HOTEL TLD on behalf of the global hotel community - an important community that has been enthusiastically preparing for the launch of this important new resource.

In summary, we are of the opinion that a cancellation of Applicant's application for .HOTEL would not be appropriate and would unfairly penalize the global hotel community. We therefore kindly ask you to uphold our application.

Please do let us know if we can assist with the investigation of the facts surrounding this matter or if you have any questions.

Kind regards,



Philipp Grabensee  
Sole Managing Director