

EXHIBIT A

Case Detail

[Edit](#) [Clone](#) [SPAM](#)

▼ Case Information

Case Number	00225003 [View Hierarchy]	Internal Status	Closed
Account Name	Ruby Glen, LLC	Status	Closed
Contact Name	Daniel Schindler	Case Close Reason	Response Provided
Contact Type		Urgency	Moderate
Application ID	1-1527-54849	Severity	Sev 3
Registry		Case Record Type	General Case [Change]
Case Origin	Web	Category	Application Processing
Multiple Contacts Found	<input type="checkbox"/>	Sub Category	Initial Evaluation Process
Visible in Self-Service Portal	<input checked="" type="checkbox"/>	Case Owner	Jared Erwin [Change]
Suppress Notification	<input type="checkbox"/>	Assigned to	Jared Erwin
Updates On Case	<input type="checkbox"/>	Parent Case	
SLA Resolution status	SLA Exceeded		
Phone			

▼ Additional Information

Subject	.WEB Auction Postponement – Required Applicant Update
Description	<p>ICANN,</p> <p>It has come to our attention that one of the applicants for .WEB has failed to properly update its application. Upon information and belief, there have been changes to the Board of Directors and potential control of Nu Dot Co LLC ("NDC") that has materially changed its application. To our knowledge, however, NDC has not filed the required application change request.</p> <p>As you know, Section 1.2.7 of the Applicant Guidebook specifically states, "[i]f at any time during the evaluation process information previously submitted by an applicant becomes untrue or inaccurate, the applicant must promptly notify ICANN via submission of the appropriate forms. This includes applicant-specific information such as changes in the financial position and changes in ownership or control of the applicant... Failure to notify ICANN of any change in circumstances that would render any information provided in the application false or misleading may result in denial of the application." As you also know, ICANN has been clear that such requirements are in full force and effect until the registry agreement is executed with the successful applicant.</p> <p>Failure by No Dot Co LLC to maintain the accuracy of its application is detrimental to the other competing applicants, especially in light of the pending ICANN auction, creating an unfair competitive advantage for NDC.</p> <p>We request that ICANN investigate the change in NDC's Board and potential control and that the ICANN auction scheduled for July 27 be immediately postponed. The auction should be rescheduled after the final investigation is complete and NDC's requisite change request is resolved.</p> <p>We do not make this request lightly and haven't done so in well over 100 other scheduled ICANN auctions.</p> <p>Thank you and best regards, Jonathon Nevett</p>

Case Comments

[New](#)

[Case Comments Help](#)

Action	Public	Comment
		<p>Created By: Jared Erwin (6/27/2016 3:42 PM) Dear Daniel Schindler,</p> <p>Thank you for bringing this to our attention. We are reviewing the information provided, and we will work with the applicant directly should action be required. We note your request to postpone the auction for the .WEB/.WEBS contention set currently scheduled for 27 July 2016. Please continue to follow the standard auction process and monitor the Customer Portal for updates. If there are any changes to the auction date, we will notify you and all auction participants.</p>
Make Private	<input checked="" type="checkbox"/>	<p>Thank you for your attention. I will now resolve this case, but please do not hesitate to reopen it should you have any questions.</p> <p>Best regards, Jared Erwin New gTLD Operations</p>
		<p>Created By: Susan Yao (6/23/2016 10:17 AM) Dear Daniel Schindler,</p> <p>Thank you for your contacting ICANN Global Support on your request.</p>
Make Private	<input checked="" type="checkbox"/>	<p>Your request has been forwarded to our gTLD Team for processing. Someone from the team will be contacting you.</p> <p>Please do not hesitate to contact us if you have any other questions or concerns.</p> <p>Best regards, Susan Yao Global Support Analyst II ICANN Global Support</p>

EXHIBIT B

Add Tags

[Attachments \(3\)](#) | [Case Comments \(13\)](#) | [Emails \(9\)](#) | [Activity History \(10\)](#) | [Related Cases \(1\)](#) | [Case History \(10+\)](#)

Case Detail

Edit

▼ **Case Information**

Case Number	00220793 [View Hierarchy]	Internal Status	Closed
Account Name	NU DOT CO LLC	Status	Closed
Contact Name	Jose Ignacio Rasco	Case Close Reason	Response Provided
Contact Type		Urgency	Moderate
Contention Set Member	CSM-0746	Severity	Sev 3
Application ID	1-1296-36138	Case Record Type	Contention Set Case
Case Origin	Internal	Category	Auction Eligibility Notification
Visible in Self-Service Portal	<input checked="" type="checkbox"/>	Sub Category	
Suppress Notification	<input type="checkbox"/>	Case Owner	Jared Erwin [Change]
Updates On Case	<input type="checkbox"/>	Assigned to	Jared Erwin
Phone		Parent Case	

► **Additional Information**

► **System Information**

► **Attachment Upload**

Case Comments

New

[Case Comments Help](#)

Action	Public	Comment
		<p>Created By: Jared Erwin (6/27/2016 3:18 PM) Dear Jose Ignacio Rasco,</p>
Make Private	<input checked="" type="checkbox"/>	<p>Thank you for confirming. No further action is required of you at this time.</p> <p>Best regards,</p> <p>Jared Erwin New gTLD Operations</p>
		<p>Created By: Jose Ignacio Rasco (6/27/2016 12:48 PM) I can confirm that there have been no changes to the NU DOTCO LLC organization that would need to be reported to ICANN.</p>
Make Private	<input checked="" type="checkbox"/>	<p>Regards, Jose I. Rasco</p>
		<p>Created By: Jared Erwin (6/27/2016 12:02 PM) Dear Jose Ignacio Rasco,</p> <p>We would like to confirm that there have not been changes to your application or the NU DOT CO LLC organization that need to be reported to ICANN. This may include any information that is no longer true and accurate in the application, including changes that occur as part of regular business operations (e.g., changes to officers and directors, application contacts). If there have been any such changes, please submit a new case via the Customer Portal (myicann.secure.force.com) with the requested changes so that we may begin processing.</p>
Make Private	<input checked="" type="checkbox"/>	<p>If a change request is required, please note Rule 8 of the Auction Rules for Indirect Contention (https://newgtlds.icann.org/en/applicants/auctions/rules-indirect-contention-24feb15-en.pdf): "ICANN intends to initiate the Auction process once the composition of the contention set has stabilized. ICANN reserves the right not to send Intent to Auction notices and/or to postpone a scheduled Auction if a change request by one or more applicants in the Contention Set is pending, but believes that in most instances the Auction should be able to proceed without further delay."</p> <p>Let me know if you have any questions.</p> <p>Thank you and best regards,</p> <p>Jared Erwin New gTLD Operations</p>

EXHIBIT C

From: Chris LaHatte <chris.lahatte@icann.org>

Date: Wednesday, July 6, 2016 at 2:17 PM

To: [REDACTED]

Subject: Application for Dot Web

Dear Mr Rasco

I have received a complaint from one of the applicants for dot web as follows:-

One or more applicants for dot web made a complaint to the Ombudsman about changes to the dot web application by one of the applicants, being NU DOT CO LLC.

There is evidence from them (which I have seen) which reveals that there have been changes to the composition of NU DOT CO LLC's Board that require it to go through an ICANN change process.

The complaint is that because there has been a failure to disclose material changes, that it is unfair to the other applicants until the disclosure has been made and that accordingly, the auction ought to be postponed until disclosure has been made. So I have opened an ombudsman complaint file about this matter. It may be an issue where the enquiry ought to be directed to this applicant or they could contact this office if they wish to discuss the matter. I am not sure of their appropriate contact details, and it may be useful to pass this on to them. When I have this information, I can investigate the facts of this matter and be able to make a recommendation.

Regards

Chris LaHatte

Ombudsman

Blog <https://omblog.icann.org/>

Webpage <http://www.icann.org/en/help/ombudsman>

Please leave feedback on how I am doing <http://www.icannombudsman.feedback/>

Pronouns used: he, his, him

Confidentiality

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EXHIBIT D

Begin forwarded message:

From: Chris LaHatte <chris.lahatte@icann.org>

Subject: RE: Dot Web Auction

Date: July 10, 2016 at 1:58:48 PM PDT

To: Christine Willett <christine.willett@icann.org>

Cc: Amy Stathos <amy.stathos@icann.org>, Herb Waye <herb.waye@icann.org>

Thanks Christine. I have asked Jon Nevitt to comment at this stage

Regards

Chris LaHatte

Ombudsman

Blog <https://omblog.icann.org/>

Webpage <http://www.icann.org/en/help/ombudsman>

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complainant in order to further the resolution of the complaint. The Ombudsman shall take all reasonable steps necessary to ensure that if staff and Board members are made aware of the existence and identity of a complainant, they agree to maintain the confidential nature of such information, except as necessary to further the resolution of a complaint.

From: Christine Willett

Sent: Saturday, July 09, 2016 4:02 AM

To: Chris LaHatte <chris.lahatte@icann.org>

Cc: Amy Stathos <amy.stathos@icann.org>; Herb Waye <herb.waye@icann.org>

Subject: Re: Dot Web Auction

Dear Chris,

I hope that this email finds you well. I know that you have been in communication with NU DOT CO LLC, to inquire about the recent complaint filed by Donuts regarding its ownership and potential impact on the .WEB/.WEBS auction.

As you know, my team had reached out to NU DOT CO LLC previously, and we received confirmation that NU DOT's application materials were still true and accurate. In an effort to be extremely cautious, I reached out to Mr. Jose Ignacio Rasco (the application primary contact for NU DOT's .WEB application) again today to ensure that our understanding of his previous response was accurate. During the call, he explained the following:

1. When ICANN previously contacted him about potential application changes, he assumed that the confirmation was part of the standard auction process, and his response was relatively brief. The email from the Ombudsman provided him with more context. Now that he has a better understanding about the complaint and what is going on, he can provide us with more detailed information.
2. NU DOT is structured as an LLC, which does not have "directors," but rather "managers" and "members." Neither the managers nor the members have changed since the application's submission.
3. NU DOT's operating agreement has not changed since the application's submission.
4. He understands that the .WEB/WEBS auction price is expected to be high, and that some of his competitors are upset that he was not willing to resolve contention outside of the ICANN auction.
5. He was contacted by a competitor who took some of his words out of context and is using them as evidence regarding the alleged change in ownership. In communicating with that competitor, he used language to give the impression that the decision to not resolve contention privately was not entirely his. However, this decision was in fact his. He does not believe that it is appropriate that this email conversation is being used as evidence.

Mr. Rasco indicated that he had provided you with similar information, but I wanted to share the details of our conversation in case they can provide you with a more complete picture. If you have any questions, please let me know.

Best,
Christine

Christine A. Willett

Vice President, GDD Operations

Global Domains Division

Internet Corporation for Assigned Names and Numbers (ICANN)

12025 Waterfront Drive, Suite 300

Los Angeles, CA 90094-2536



From: Chris LaHatte <chris.lahatte@icann.org>

Date: Wednesday, July 6, 2016 at 2:18 PM

To: Jon Nevett [REDACTED], Christine Willett <christine.willett@icann.org>

Cc: Amy Stathos <amy.stathos@icann.org>, Herb Waye <herb.waye@icann.org>

Subject: RE: Dot Web Auction

Hi Jon

I have put this to the applicant and the ICANN team will decide once there has been a response.

Regards

Chris LaHatte

Ombudsman

Blog <https://omblog.icann.org/>

Webpage <http://www.icann.org/en/help/ombudsman>

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From: Jon Nevett [mailto: [REDACTED]]
Sent: Wednesday, July 06, 2016 10:43 PM
To: Christine Willett <christine.willett@icann.org>
Cc: Amy Stathos <amy.stathos@icann.org>; Herb Wayne <herb.waye@icann.org>; Chris LaHatte <chris.lahatte@icann.org>
Subject: Re: Dot Web Auction

Hi folks. When do you think we will have a decision on this request? Time is really of the essence. Thanks. Jon

Jonathon Nevett
Co-Founder & EVP, Donuts Inc.
[REDACTED]

On Jul 3, 2016, at 11:09 AM, Jon Nevett [REDACTED] wrote:

Hi folks. I understand that Chris's paragraph may be sent verbatim to NU Dot Co, so I make the following suggested changes in redline form below. We would like to renew our request for an immediate postponement of the auction scheduled in just over three weeks time for the following reasons:

1. The auction is in about 3 weeks and there is credible evidence that one of the applicants has a material change to its application and hasn't gone through the ICANN change process. The material change includes a change to the Board of Directors and a potential change of control and/or ownership. Such a change may be in violation of Module 1, Section 1.2.7 and Module 6, Section 10 of the AGB.
2. It is unfair for the other applicants to be preparing for an auction against a party that has had non-public changes to its application and hasn't gone through the ICANN change process. We just have the transparency in the process to know with whom we are participating in an auction.
3. Most of the .web applicants already asked for a voluntary extension of the auction.
4. There is a pending ICANN accountability mechanism being utilized to investigate potential violations of the AGB and precedent dictates that ICANN should postpone the auction pending the result of the accountability mechanism.
5. .WEB likely will be one of the larger auctions and it is better that it be

conducted cleanly and not with a pending ICANN accountability mechanism or a cloud surrounding the TLD based on a potential change of control in violation of the AGB.

6. Even if the other applicant denies that any changes have been made, we have credible evidence that needs to be investigated and all the other applicants deserve at least 30 days from the end of the investigation to prepare for the auction.

Because of upcoming triggers and financial preparations necessary before this auction, please announce the postponement as soon as possible. It doesn't make sense to even wait to hear back from the other applicant before a postponement is announced because regardless of what they say, an extension is the appropriate action considering the time period before the auction. What they say and the result of the investigation should just go to when the auction is rescheduled.

Please let me know if you have any questions.

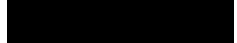
Thanks again for your help and consideration.

Best,

Jon

~~A visitor, who is a~~ **One or more** applicants for dot web, ~~has~~ made a complaint to the Ombudsman about changes to the dot web application by one of the applicants, being NU DOT CO LLC. ~~He says that t~~ There is evidence from them (which I have seen) which reveals that **there have been changes to the composition of NU DOT CO LLC's Board that require it to go through an ICANN change process.** ~~one of the board members of this applicant company, is no longer taking an active part in the running of the company, and that there are several other directors, not specifically specified or named.~~ The complaint is that because there has been a failure to disclose material changes, that it is unfair to the other applicants until the disclosure has been made and that accordingly, the auction ought to be postponed until disclosure has been made. So I have opened an ombudsman complaint file about this matter. It may be an issue where the enquiry ought to be directed to this applicant or they could contact this office if they wish to discuss the matter. I am not sure of their appropriate contact details, and it may be useful to pass this on to them. When I have this information, I can investigate the facts of this matter and be able to make a recommendation.

Jonathon Nevett
Co-Founder & EVP, Donuts Inc.





On Jun 30, 2016, at 9:49 AM, Chris LaHatte <chris.lahatte@icann.org> wrote:

Hi

A visitor, who is an applicant for dot web, has made a complaint to the Ombudsman about changes to the dot web application by one of the applicants, being NU DOT CO LLC. He says that there is evidence from them (which I have seen) which reveals that one of the board members of this applicant company, is no longer taking an active part in the running of the company, and that there are several other directors, not specifically specified or named. His complaint is that because there has been a failure to disclose material changes, that it is unfair to the other applicants until the disclosure has been made and that accordingly, the auction ought to be postponed until disclosure has been made. So I have opened an ombudsman complaint file about this matter. It may be an issue where the enquiry ought to be directed to this applicant or they could contact this office if they wish to discuss the matter. I am not sure of their appropriate contact details, and it may be useful to pass this on to them. When I have this information, I can investigate the facts of this matter and be able to make a recommendation

Regards

Chris LaHatte
Ombudsman

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complaint.

EXHIBIT E

Mr. LaHatte,

Thank you for bringing this to my attention. There have been no changes to the Nu Dotco, LLC application. Neither the governance, management nor the ownership in Nu Dotco has changed. In an LLC, there are no directors, it is a manager managed company, as designated by the Members of the LLC within the Operating Agreement of the Limited Liability Company. There has never been an amendment to that operating agreement. There are no new "directors," nor have any left the company, and while the managers are ultimately responsible for the LLC, as a Manager, I take my duties very seriously and for major decisions, I confer with the Members (i.e. shareholders), which again for clarification, have never changed. I hope this clarification puts this matter to rest.

Regards,

Jose I. Rasco

Nu Dotco, LLC

On Jul 7, 2016, at 11:24 AM, Chris LaHatte <chris.lahatte@icann.org> wrote:

Dear Mr Rasco

I have been shown an email which suggests that one of your directors is no longer taking an active part in the application, and that there are other directors now involved. The complainant also suggested that your shareholders have changed since the original application. It was suggested that this would change the auction by making knowledge of your applicant company different, and therefore it was unfair to the other applicants. I'm sure you can clarify this.

What they were seeking was a postponement of the auction for a further period.

Chris LaHatte

Ombudsman

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EXHIBIT F

Add Tags

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 [Case History \(10+\)](#)

Case Detail

▼ **Case Information**

Case Number	00226316 [View Hierarchy]	Internal Status	Resolved
Account Name	NU DOT CO LLC	Status	Resolved
Contact Name	Jose Ignacio Rasco	Case Close Reason	Response Provided
Contact Type		Urgency	Moderate
Application ID	1-1296-36138	Severity	Sev 3
Registry		Case Record Type	General Case [Change]
Case Origin	Email	Category	String Contention
Web Name	Jose Ignacio Rasco	Sub Category	Auction Process
Web Email	[REDACTED]	Case Owner	Jared Erwin [Change]
Multiple Contacts Found	<input checked="" type="checkbox"/>	Assigned to	Jared Erwin
Visible in Self-Service Portal	<input checked="" type="checkbox"/>	Parent Case	
Suppress Notification	<input type="checkbox"/>		
Updates On Case	<input type="checkbox"/>		
SLA Resolution status	SLA at Risk		
Phone			

Subject Re: ICANN Question regarding your .WEB New gTLD Application

Description Dear Christine:

Thank you for taking the time to speak with me last Friday, July 8, concerning the complaint that another applicant for the .web TLD made to the ICANN Ombudsman (Chris La Hatto) relating to an alleged change in the composition of Nu Dotco, LLC's "Board". I'm writing to reiterate the information I provided you on our call so the facts are clear.

Neither the ownership nor the control of Nu Dotco, LLC has changed since we filed our application. The Managers designated pursuant to the company's LLC operating agreement (the LLC equivalent of a corporate Board) have not changed. And there have been no changes to the membership of the LLC either. As you know, I provided this same information to Mr. La Hatto via email on July 7. Attached is a copy of that email for your records.

My understanding from our discussion is that ICANN is satisfied with the information I provided and has concluded there is no basis for any complaint, re-evaluation, or other process relating to our application, nor for any delay in the ICANN auction. Please let me know if that is not the case.

As you know, Rule 10 of the Auction Rules for New gTLDs (2014-11-03) requires (i) that "each and every member of the contention set" join in a request for postponement of the auction and (ii) that they do so by specified dates. The applicable date for any request to postpone the .web auction has come and gone. As we discussed, I share your understanding that the complaint was raised in order to get more time to convince us to resolve the contention set via a private auction, even though we have made it very clear to them (and all other applicants) that we will not participate in a private auction and that we are committed to participating in ICANN's auction as scheduled.

I appreciate your time and attention in getting this resolved. Please let me know immediately if ICANN has any other questions or concerns regarding this matter.

Regards,

Jose I. Rasco
Nu Dotco, LLC

> On Jul 8, 2016, at 6:22 PM, Christine Willett <christine.willett@icann.org> wrote:
>
> Dear Mr. Rasco,
>
> I'm not sure if you remember me or not. We spoke about 2 years ago regarding your company's .HEALTH application under the New gTLD Program.
>
> I'm contacting you regarding a question pertaining to your NU DOT CO LLC application for .WEB. I know that the New gTLD Program Team has already contacted you directly, via Case #220793. If you would please contact me at your earliest convenience, I would greatly appreciate it.
>
> I can be reached on my cell at 4-[REDACTED]
>
>
> Best,
> Christine
>
>
>
> Christine A. Willett
>
> Vice President, GDD Operations
> Global Domains Division

EXHIBIT G

Subject: RE: Postponement of the .WEB auction
Date: July 12, 2016 at 8:25:25 PM PDT
To: Christine Willett <christine.willett@icann.org>
Cc: Amy Stathos <amy.stathos@icann.org>

Hi Christine

I have not seen any evidence which would satisfy me that there has been a material change to the application. So my tentative recommendation is that there is nothing which would justify a postponement of the auction based on unfairness to the other applicants. Is there any particular reason why a postponement could not be made anyway or is the preparation for the auction too far advanced? I make that suggestion not because I agree with the complaint made by Donuts, but because it would prevent them from perhaps taking further accountability action based on a refusal to postpone, as of course this company has demonstrated that they will be aggressive about use of such accountability functions.

Regards

Chris LaHatte
Ombudsman
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EXHIBIT H

Begin forwarded message:

From: Chris LaHatte <chris.lahatte@icann.org>

Subject: Re: Donuts filed a lawsuit and motion for temporary restraining order re: .WEB/WEBS Auction

Date: July 23, 2016 at 7:41:43 PM PDT

To: Amy Stathos <amy.stathos@icann.org>

My investigation came to an end when they filed the reconsideration but really after I reported that could not see any issue with the ownership of NuCon. I haven't formally closed the file but effectively it is at an end. So any of the emails you describe which are to Christine and you are open and I agree to the use.

Sent from my iPhone