

Reconsideration Request Form

Version of 11 April 2013

ICANN's Board Governance Committee is responsible for receiving requests for reconsideration from any person or entity that has been materially affected by any ICANN staff action or inaction if such affected person or entity believes the action contradicts established ICANN policies, or by actions or inactions of the Board that such affected person or entity believes has been taken without consideration of material information. Note: This is a brief summary of the relevant Bylaws provisions. For more information about ICANN's reconsideration process, please visit <http://www.icann.org/en/general/bylaws.htm#IV> and <http://www.icann.org/en/committees/board-governance/>.

This form is provided to assist a requester in submitting a Reconsideration Request, and identifies all required information needed for a complete Reconsideration Request. This template includes terms and conditions that shall be signed prior to submission of the Reconsideration Request.

Requesters may submit all facts necessary to demonstrate why the action/inaction should be reconsidered. However, argument shall be limited to 25 pages, double-spaced and in 12 point font.

For all fields in this template calling for a narrative discussion, the text field will wrap and will not be limited.

Please submit completed form to reconsideration@icann.org.

1. Requester Information

Name: Atgron, Inc.

Address: Contact Information Redacted

Email: Contact Information Redacted

Phone Number (optional):

(Note: ICANN will post the Requester's name on the Reconsideration Request page at <http://www.icann.org/en/committees/board-governance/requests-for-reconsideration-en.htm>. Requestors address, email and phone number will be removed from the posting.)

2. Request for Reconsideration of (check one only):

Board action/inaction

Staff action/inaction

3. Description of specific action you are seeking to have reconsidered.

After review of the RSEP policy and Implementation Notes, it has come to our attention that a period of Public Comment is not one of the allowed avenues for review of an RSEP. Specifically Section 2.4.D refers to Implementation Steps resulting from a preliminary determination that does not identify any significant competition or security and stability issues as was provided to Atgron Inc on February 14, 2014. Per the Implementation Notes 3-5, the only avenue for review are detailed below and Public Comment is not listed as one of the 5 specific options. A second period of Public Comment is being required by the ICANN staff and Atgron would like that requirement removed based upon the published RSEP policy. It has come to our attention that a new RSEP Workflow was released on 11 March 2015 (<https://www.icann.org/resources/pages/workflow-2012-02-25-en>) . This new workflow includes a Public Comment option that is not supported by the published RSEP policy below.

RSEP Policy (Source:

<https://www.icann.org/resources/pages/registries/rsep/policy-en>)

2.4 Preliminary Determination Period

Following written notification by Registry Operator to ICANN that Registry Operator may make a change in a Registry Service within the scope of the preceding paragraph:

A. ICANN shall have 15 calendar days to make a "preliminary determination" whether a Registry Service requires further consideration by ICANN because it reasonably determines such Registry Service: (i) could raise significant Security or Stability issues or (ii) could raise significant competition issues.

B. Registry Operator must provide sufficient information at the time of notification to ICANN that it may implement such a proposed Registry Service to enable ICANN to make an informed "preliminary determination." Information provided by Registry Operator and marked "CONFIDENTIAL" shall be treated as confidential by ICANN. Registry Operator will not designate "CONFIDENTIAL" information necessary to describe the purpose of the proposed Registry Service and the effect on users of the DNS.

C. ICANN may seek expert advice during the preliminary determination period (from entities or persons subject to confidentiality agreements) on the competition, Security or Stability implications of the Registry Service in order to make its "preliminary determination." To the extent ICANN determines to disclose confidential information to any such experts, it will provide notice to Registry Operator of the identity of the expert(s) and the information it intends to convey.

For Security or Stability implications, ICANN may draw an expert from the Registry Services Technical Evaluation Panel described in 2.4(F) below.

D. If ICANN determines during the 15 calendar day "preliminary determination" period that the proposed Registry Service, does not raise significant Security or Stability (as defined in Sections 1.3 and 1.4), or competition issues, Registry Operator shall be free to deploy it upon such a determination.

If the implementation of a proposed service requires a material change to a Registry Agreement, the preliminary determination will be referred to the ICANN Board (See Implementation Note Step 3-5).

Implementation Notes: (Source: <https://www.icann.org/resources/pages/implementation-notes-2012-02-25-en>)

Step 3

By the end of 15 calendar days, ICANN will notify the requesting registry operator of a preliminary determination on the proposed new registry service. Depending on timing, two to five consultation days are available at the end of the 15-day preliminary determination period for notification and discussion with the registry operators.

Step 4

The preliminary determination will result in either 1) approval of the request, 2) referral of the request to the Technical Evaluation Panel, 3) referral of the request to the applicable government competition authority, 4) referral to both the Technical Evaluation Panel and applicable government competition authority, 5) referral to the ICANN Board, or 6) withdrawal of the request by the registry operator or registry sponsoring organization.

Step 5

If a determination has been made to send the proposed service to a government competition authority or to the Technical Evaluation Panel, the registry operator or registry sponsoring organization must either confirm that it intends to move forward with the review process or withdraw its proposed new registry service application.

If no competition or security and stability concerns have been identified by ICANN, the requesting registry operator or registry sponsoring organization may

deploy requested service and inform ICANN of its implementation plans. Notice of the approved new registry service will then be published on the ICANN website. If the implementation of the proposed new registry service requires a material change to a Registry Agreement, the preliminary determination will be referred to the ICANN Board for consideration.

4. Date of action/inaction:

June 2014 Public Comment period for Atgron RSEP for third level sales.

5. On what date did you become aware of the action or that action would not be taken?

On 9 January 11, 2015, Ms. Papac indicated in case 00153182 in the GDD portal we would have to agree to the second Public Comment period or withdraw our RSEP application by 23 January 2015.

6. Describe how you believe you are materially affected by the action or inaction:

The requirement for a second Public Comment period will delay our ability to offer third-level extensions.

7. Describe how others may be adversely affected by the action or inaction, if you believe that this is a concern.

Registrants will be negatively impacted by the inability to buy third-level extensions, which have a lower price point than our second-level extensions potentially pricing out customers in developing countries who would like to use the .wed TLD.

8. Detail of Board or Staff Action – Required Information

Staff Action: If your request is in regards to a staff action or inaction, please provide a detailed explanation of the facts as you understand they were provided to staff prior to the action/inaction presented to the staff and the reasons why the staff's action or inaction was inconsistent with established ICANN policy(ies). Please identify the policy(ies) with which the action/inaction was inconsistent. The policies that are eligible to serve as the basis for a Request for Reconsideration are those that are approved by the ICANN Board (after input from the community) that impact the community in some way. When reviewing staff action, the outcomes of prior Requests for Reconsideration challenging the same or substantially similar action/inaction as inconsistent with established ICANN policy(ies) shall be of precedential value.

See RSEP Policy above.

Board action: If your request is in regards to a Board action or inaction, please

provide a detailed explanation of the material information not considered by the Board. If that information was not presented to the Board, provide the reasons why you did not submit the material information to the Board before it acted or failed to act. "Material information" means facts that are material to the decision.

If your request is in regards to a Board action or inaction that you believe is based upon inaccurate, false, or misleading materials presented to the Board and those materials formed the basis for the Board action or inaction being challenged, provide a detailed explanation as to whether an opportunity existed to correct the material considered by the Board. If there was an opportunity to do so, provide the reasons that you did not provide submit corrections to the Board before it acted or failed to act.

Reconsideration requests are not meant for those who believe that the Board made the wrong decision when considering the information available. There has to be identification of material information that was in existence of the time of the decision and that was not considered by the Board in order to state a reconsideration request. Similarly, new information – information that was not yet in existence at the time of the Board decision – is also not a proper ground for reconsideration. Please keep this guidance in mind when submitting requests.

Provide the Required Detailed Explanation here:

(You may attach additional sheets as necessary.)

9. What are you asking ICANN to do now?

(Describe the specific steps you are asking ICANN to take. For example, should the action be reversed, cancelled or modified? If modified, how should it be modified?)

We are asking ICANN to overturn the staff requirement for a new Public Comment period.

10. Please state specifically the grounds under which you have the standing and the right to assert this Request for Reconsideration, and the grounds or justifications that support your request.

(Include in this discussion how the action or inaction complained of has resulted in material harm and adverse impact. To demonstrate material harm and adverse impact, the requester must be able to demonstrate well-known requirements: there must be a loss or injury suffered (financial or non-financial) that is a directly and causally connected to the Board or staff action or inaction that is the basis of the Request for Reconsideration. The requestor must be able to set out the loss or injury and the direct nature of that harm in specific and particular details. The relief requested from the BGC must be capable of reversing the harm alleged by the requester. Injury or harm caused by third parties as a result of acting in line with the Board's decision is not a sufficient

ground for reconsideration. Similarly, injury or harm that is only of a sufficient magnitude because it was exacerbated by the actions of a third party is also not a sufficient ground for reconsideration.)

We make this request as a party to the signed .wed TLD Registry Agreement between ICANN and Atgron, Inc. which remains in force until Oct 1, 2023.

The harm has been because we are unable to offer this service to our customers in the same manner as our competitors such as .name.

11. Are you bringing this Reconsideration Request on behalf of multiple persons or entities? (Check one)

Yes

No

11a. If yes, Is the causal connection between the circumstances of the Reconsideration Request and the harm the same for all of the complaining parties? Explain.

Do you have any documents you want to provide to ICANN?

If you do, please attach those documents to the email forwarding this request. Note that all documents provided, including this Request, will be publicly posted at <http://www.icann.org/en/committees/board-governance/requests-for-reconsideration-en.htm>.

Terms and Conditions for Submission of Reconsideration Requests

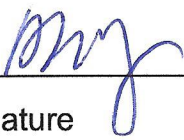
The Board Governance Committee has the ability to consolidate the consideration of Reconsideration Requests if the issues stated within are sufficiently similar.

The Board Governance Committee may dismiss Reconsideration Requests that are querulous or vexatious.

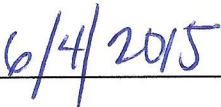
Hearings are not required in the Reconsideration Process, however Requestors may request a hearing. The BGC retains the absolute discretion to determine whether a hearing is appropriate, and to call people before it for a hearing.

The BGC may take a decision on reconsideration of requests relating to staff action/inaction without reference to the full ICANN Board. Whether recommendations will issue to the ICANN Board is within the discretion of the BGC.

The ICANN Board of Director's decision on the BGC's reconsideration recommendation is final and not subject to a reconsideration request.



Signature



Date