

Potential Conflict of Interest

This is a more difficult comment to write. In light of the very active participation of MarkMonitor in this proceeding, including its active support of a very controversial “labeling of domain name speech and content” proposal (in the public forum in Durban and written comments), we feel it is incumbent to point out that MarkMonitor has an over-representation on the EWG.

Faisal Shah, a member of the EWG, is the former co-founder and president of MarkMonitor, a company that successfully supported and worked on behalf of trademark owners prior to its recent sale to Thompson Reuters.

Margie Milam, Senior Director of Strategic Initiatives also has strong historical affiliations with MarkMonitor, and served as its Vice President, General Counsel and Corporate Secretary prior to joining ICANN staff. Ms. Milam’s personal involvement on Whois issues on behalf of MarkMonitor and in support of large trademark owners is well established. Her ICANN Wiki bio confirms this, noting that Milam “coordinated and participated in seminars on WHOIS related issues” on behalf of MarkMonitor clients who used Whois aggressively to pursue their business interests online against Registrants.

While we do not question the integrity or objectivity of Ms. Milam, and we do recognize that no one should be stigmatized for having worked for a particular company or organization, we point out that ICANN rightfully takes its conflict of interest policies very seriously. For example, Board members were asked to recuse themselves from the New gTLD Program Committee so as to avoid the merest apprehension of bias. ICANN has also demonstrated the application of these stringent conflict avoidance principles to senior staff when Kurt Pritz left his position as Senior Vice President in order to avoid a potential conflict of interest.

We reiterate that the integrity of ICANN staff members or their right to having chosen a particular employer in the past, is not in question. We are concerned, however, that while in her current role as a member of ICANN staff, a strong apprehension of bias arises from the long and enduring association between Ms. Milam and MarkMonitor – a major contributor to and senior

policy staff member on the EWG process. Staff must be neutral and this staff member boasts a past record on advocacy on this specific issue, has worked for one of the members of this Working Group, and has advocated on this specific issue on behalf of a member of this Working Group.

We respectfully ask that ICANN apply its conflict of interest policies and reassign Ms. Milam outside of the EWG for the duration of this project. This decision would, without any doubt, also contribute to enhanced transparency of the process, and an avoidance of even the slightest appearance of a conflict.

Appendix: ICANN Wiki
http://icannwiki.com/index.php/Margie_Milam

“Margie Milam is [ICANN's Senior Policy Counselor](#).^[1] She works on important policy initiatives regarding domain names, and supports the [GNSO](#) policy development efforts. Prior to this, she worked as the Vice President, General Counsel and Corporate Secretary of [MarkMonitor](#), Inc., an ICANN accredited registrar based in Boise, Idaho. She was responsible for MarkMonitor's ICANN policy initiatives. She left [MarkMonitor](#) to join ICANN's Policy Department in 2009.

When she was working for MarkMonitor she was an active user of [Whois](#) information for the purposes of MarkMonitor's registrar related business. She is experienced in providing services to financial institutions and governmental agencies to help detect phishing attacks, identify the culprits, and provide take down services.^[2]

Milam is also Member of the [OPOC Working Group](#) and Internet Security Operations Community. She is interest in intellectual property, corporate securities, mergers and acquisitions.

Prior Work

She not only served as MarkMonitor's representative to the ICANN [Registrar Constituency](#), but also served on the Internet Committee of IACC and the INTA Services Committee. Margie is a frequent speaker on intellectual property issues, and have coordinated and participated in seminars on WHOIS related issues.

Prior to joining MarkMonitor, Margie Milam was a partner with the Los Angeles global law firm, Pillsbury Winthrop Shaw Pitman, representing many international clients with respect to general corporate and intellectual property issues.^[3]

Education

- University of Southern California Law School^[4]“