



**RE: “Input to Expert Working Group on gTLD Directory Services Potential Conflict of Interest<sup>1</sup>”**

MarkMonitor would like to respond to the baseless and pejorative comments made by Kathy Kleiman and the NCSG on August 22, 2013. The suggestion that MarkMonitor has used former employees to gain an advantage in the development of the new Registration Directory Services model is an affront to the integrity of MarkMonitor and the ICANN process.

We encourage the Expert Working Group, ICANN Staff and the ICANN community to reject the attempt by Ms. Kleiman et al. to use inaccurate and intentionally misleading claims of conflict to disqualify and discredit the input of MarkMonitor, and to impugn the reputation of two highly respected participants in the ICANN community.

**FORMER EMPLOYEES ARE NOT CONFLICTED BY ASSOCIATION**

Neither Faisal Shah nor Margie Milam work for MarkMonitor, or our parent company Thomson Reuters.

Mr. Shah, though known for founding MarkMonitor, has not had managerial responsibility at MarkMonitor since 2007. Most recently he consulted with MarkMonitor on policy issues until last fall, when the company was transferred to Thomson Reuters. **Mr. Shah has no enduring affiliation with MarkMonitor.**

**Ms. Milam has not worked for MarkMonitor for over four years.** We challenge the NCSG to find any tangible example that demonstrates a manipulation of Ms. Milam by MarkMonitor for the advancement of our position. Sadly, in a seemingly personal attack against individuals and an organization the community know to be of high integrity, Ms. Kleiman et al. draw parallels to the ICANN Board Conflict of Interest Policy<sup>2</sup> and to the resignation of former

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<sup>1</sup> Input to Expert Working Group on gTLD Directory Services Potential Conflict of Interest, August 22, 2013, filed by Kathy Kleiman, Tamir Israel, Milton Mueller, Roy Balleste, Robin Gross, Avri Doria, Marie-Laure Lemineur, Peter Green, Edward Morris and all members of the NCSG, at <http://mm.icann.org/pipermail/input-to-ewg/2013/000012.html>.

<sup>2</sup> ICANN Board Conflict of Interest Policy, at <http://www.icann.org/en/groups/board/governance/coi>.

ICANN Chief Strategy Officer Kurt Pritz<sup>3</sup>, while claiming not to question the integrity of parties involved. These comparisons, in addition to being unsupported in fact, are confusing. More importantly, to what end? Is Ms. Kleinman seeking to unjustly place MarkMonitor under an undeserved cloud of suspicion and disrepute? This is a particularly unsavory comparison considering the nature of the cited conflict.

The community has added many valuable contributions to the Expert Working Group. Our collective work on this important issue should not be disrupted or overshadowed by these false accusations and should instead be encouraged as a model for the success of the multi-stakeholder model.

### **FALSE ACCUSATIONS OF CONFLICT HARM THE ICANN MODEL**

As Ms. Kleiman's comment states, MarkMonitor successfully supports and works on behalf of trademark owners<sup>4</sup>. In fact, we represent brand owner interests to the exclusion of our own proprietary interests, as evidenced by our support of the Aggregated Registration Directory Services model<sup>5</sup>, and our refusal to join other product security firms that profit from the chaos of the current system<sup>6</sup>.

As such, we are particularly dismayed by any suggestion that MarkMonitor is involved in a scheme to manipulate the process through our former employees or by any other means for our gain. Our advocacy is principled, and has a rightful place in the ICANN multi-stakeholder model. These accusations seek to devalue the contribution of MarkMonitor to the multi-stakeholder model and should be rejected.

The following quote, in our opinion, demonstrates the intention of Ms. Kleiman and the other authors of the comment: *"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...we feel it is incumbent to point out that MarkMonitor has an over-representation on the EWG."*

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<sup>3</sup> Pritz's Conflict of Interest Was With ARI, Kevin Murphy, November 18, 2012, at <http://domainincite.com/11037-pritzs-conflict-of-interest-was-with-ari>.

<sup>4</sup> The NCSG states that MarkMonitor had (past tense) successfully supported and worked on behalf of trademark owners *"prior to its recent sale to Thomson Reuters."* [emphasis added.] MarkMonitor continues to serve its core mission of brand protection as a member of the Thomson Reuters Intellectual Property & Science group.

<sup>5</sup> Input to Expert Working Group on gTLD Directory Services Comments of MarkMonitor, August 16, 2013, at <http://mm.icann.org/pipermail/input-to-ewg/2013/000006.html>.

<sup>6</sup> Input to Expert Working Group on gTLD Directory Services Joint Comments of DomainTools, G2 Web Services, LegitScript and OpSec Security, August 23, 2013, at <http://mm.icann.org/pipermail/input-to-ewg/2013/000016.html>.

MarkMonitor does not have ANY representation on the EWG, much less an over-representation. Aside from that gross mistatement, the labeling of our commentary as “controversial,” followed by a false accusation of conflict, clearly demonstrates that Ms. Kleiman and the NCSG disagree with MarkMonitor on the merits, but have resorted to false accusations of conflict in an attempt to discredit the position. This is not in the spirit of the multi-stakeholder decision making model.

ICANN participants should feel comfortable raising whatever issues are important to their respective constituency or stakeholder group, for further exploration by the community without being subjected to contemptuous behavior by those who may disagree. The NCSG is not operating in the spirit of the multi-stakeholder model, which calls for reasoned discussion and respectful debate on the issues.

In conclusion, MarkMonitor encourages the Expert Working Group and ICANN to reject the comments of the NCSG on this issue. We look forward to participating further in the development process of the gTLD Registration Directory Services model.

Best regards,

Frederick Felman  
Chief Marketing Officer  
**MarkMonitor, a part of Thomson Reuters**