

Subject: Re: [Reconsideration Request] Reconsideration Request 22-5
Date: Monday, October 3, 2022 at 2:45:29 PM Pacific Daylight Time
From: reconsider on behalf of Herb Waye via reconsider <reconsider@icann.org>
To: Liz Le ^{Contact Information Redacted}@icann.org>, ombudsman <ombudsman@icann.org>
CC: reconsideration@icann.org <reconsideration@icann.org>
Attachments: ATT00001.txt

Greetings,

Pursuant to Article 4, Section 4.2(l), I am accepting consideration of Request 22-5.

Regards Herb

Herb Waye
ICANN Ombudsman

Herb Waye
ICANN Ombudsman

<https://www.icann.org/ombudsman>
<https://www.facebook.com/ICANNOmbudsman> [facebook.com]
Twitter: @IcannOmbudsman

ICANN Expected Standards of Behavior:

<https://www.icann.org/en/system/files/files/expected-standards-15sep16-en.pdf>

Community Anti-Harassment Policy

<https://www.icann.org/resources/pages/community-anti-harassment-policy-2017-03-24-en>

Confidentiality

All matters brought before the Ombudsman shall be treated as confidential. The Ombudsman shall also take all reasonable steps necessary to preserve the privacy of, and to avoid harm to, those parties not involved in the complaint being investigated by the Ombudsman. The Ombudsman shall only make inquiries about, or advise staff or Board members of the existence and identity of, a 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: Liz Le ^{Contact Information Redacted}@icann.org>
Date: Friday, September 30, 2022 at 2:16 PM
To: ombudsman <ombudsman@icann.org>, Herb Waye <herb.waye@icann.org>
Cc: "reconsideration@icann.org" <reconsideration@icann.org>
Subject: Reconsideration Request 22-5

Dear Herb,

ICANN org recently received the attached reconsideration request ([Request 22-5](#)), submitted by ZyduS Lifesciences Ltd. (Requestor), challenging the Board Accountability Mechanisms Committee's (BAMC) [summary dismissal of a prior reconsideration request \(Request 22-3\)](#)

filed by the same requestor. The prior Request 22-3 sought reconsideration of a UDRP panel decision and the BAMC [summarily dismissed the request](#) because the challenged action was not an action taken by the ICANN Board or Staff, but rather by a third party UDPR provider and panel.

The BAMC has determined that Request 22-5 is sufficiently stated pursuant to Article 4, Section 4.2(k) of the ICANN Bylaws. Section 4.2(l) of the Bylaws specify that reconsideration request must be sent to the Ombudsman for consideration and evaluation if the request is not summarily dismissed following review by the BAMC to determine if the request is sufficiently stated. Specifically, [Section 4.2\(l\)](#) states:

(l) For all Reconsideration Requests that are not summarily dismissed, except Reconsideration Requests described in [Section 4.2\(l\)\(iii\)](#) and Community Reconsideration Requests, the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.

(i) The Ombudsman shall be entitled to seek any outside expert assistance as the Ombudsman deems reasonably necessary to perform this task to the extent it is within the budget allocated to this task.

(ii) The Ombudsman shall submit to the Board Accountability Mechanisms Committee his or her substantive evaluation of the Reconsideration Request within 15 days of the Ombudsman's receipt of the Reconsideration Request. The Board Accountability Mechanisms Committee shall thereafter promptly proceed to review and consideration.

(iii) For those Reconsideration Requests involving matters for which the Ombudsman has, in advance of the filing of the Reconsideration Request, taken a position while performing his or her role as the Ombudsman pursuant to Article 5 of these Bylaws, or involving the Ombudsman's conduct in some way, the Ombudsman shall recuse himself or herself and the Board Accountability Mechanisms Committee shall review the Reconsideration Request without involvement by the Ombudsman.

Please advise whether you are accepting Request 22-5 for evaluation or whether you are recusing yourself pursuant to the grounds for recusal set forth in Section 4.2(l)(iii). If you are accepting Request 22-5 for evaluation, please note that your substantive evaluation must be provided to the BAMC within 15 days of receipt of the Request.

Best regards,
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094