

# WIPO



## WORLD INTELLECTUAL PROPERTY ORGANIZATION GENEVA

February 21, 2003

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Chairman  
Dr. M. Stuart Lynn  
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By fax: +1 310 823 8649  
Number of pages: 7

Dear Dr. Cerf,  
Dear Dr. Lynn,

I write to inform you of two decisions taken by the competent organs of the World Intellectual Property Organization (WIPO), which the Member States of WIPO have requested be transmitted to the Board of the Internet Corporation for Assigned Names and Numbers (ICANN).

The two decisions in question arise out of the [Second WIPO Internet Domain Name Process](#). You will recall that this Second WIPO Process concerned the relationship between domain names and five types of identifier, namely, International Nonproprietary Names for pharmaceutical substances (INNs), the names and acronyms of international intergovernmental organizations (IGOs), personal names, geographical identifiers and trade names. The Member States of WIPO recommended that two such identifiers should be protected against abusive registration as domain names, namely, the names and acronyms of IGOs and country names (being one particular type of geographical identifier). Details of the two recommendations of the Member States are set out in the ensuing paragraphs.

## *The Names and Acronyms of International Intergovernmental Organizations (IGOs)*

Following consideration of the [Report of the Second WIPO Internet Domain Name Process](#) (*The Recognition of Rights and the Use of Names in the Internet Domain Name System*) by [two special sessions of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications](#) (SCT) held in [2001](#) and [2002](#), the WIPO General Assembly (the highest organ of WIPO) [decided, in October 2002](#), that the Uniform Domain Name Dispute Resolution Policy (UDRP) should be modified to allow IGOs to file complaints in respect of the abusive registration of their protected names and acronyms. The decision was supported by all Member States of WIPO, with the exception of the United States of America, which dissociated itself from the decision. The foundation in international law for this recommendation is [Article 6ter of the Paris Convention for the Protection of Industrial Property](#).

The types of names and acronyms in respect of which a complaint should be able to be filed and the grounds on which such a complaint should be able to be filed are set out in the decision of the WIPO General Assembly, which is reproduced in [Annex 1 to this letter](#). You will note also that the Member States decided that the privileges and immunities enjoyed by international intergovernmental organizations in international law should be respected in the implementation of this recommendation in the UDRP. To this end, it is recommended that IGOs should not be required to submit to the jurisdiction of national courts, but that a special appeal procedure by way of de novo arbitration should be available to any party wishing to contest a decision made under a UDRP complaint.

### *Country Names*

Following consideration of the question of the protection of country names against abusive registrations by the [two special sessions of the SCT](#) mentioned above, the WIPO General Assembly, [in October 2002, remitted the question for further consideration by the SCT](#). The SCT met for this purpose in November 2002 and [adopted a decision](#) that the short and long names of States, as set out in the United Nations Terminology Bulletin, should be protected against identical and misleadingly similar registrations as domain names by persons unconnected with the constitutional authorities of the States concerned. It was recommended that this protection should be implemented through an amendment of the UDRP and should apply to all future registrations of domain names in the gTLDs. Further details of the protection are set out in the text of the decision, which is set out in [Annex 2 to this letter](#).

The decision on the protection of country names was supported by all Member States of WIPO, with the exception of Australia, Canada and the United States of

America, which dissociated themselves from the decision. Japan also expressed certain reservations, which are recorded in the text of the decision.

The SCT also decided to continue discussions on three related issues concerning the protection of country names in the domain name system, namely, the extension of protection to a limited number of familiar or common names for certain countries (such as Holland for the Netherlands), the retrospective application of the protection of country names to existing registrations and the question of the sovereign immunity of States party to proceedings relating to the protection of country names in the domain name system. We shall keep you informed of the evolution of discussions on these related issues.

### *Other Identifiers*

The other types of identifier that were the subject of the Second WIPO Process were also considered by the WIPO General Assembly. The WIPO General Assembly decided, in this regard, not to recommend any action in relation to INNs, personal names and trade names. It referred the question of geographical indications (in the accepted sense of that term in international law) to the SCT for further consideration. Full details of the decisions of the WIPO General Assembly and of the subsequent discussions in the SCT are contained in the supporting documentation which is referred to below, and which is attached to the original of this letter.

### *Supporting Documentation*

For your information and reference, I am enclosing, with the original of this letter, the following supporting documentation:

- the [Report of the Second WIPO Internet Domain Name Process](#) (*The Recognition of Rights and the Use of Names in the Internet Domain Name System*);
- a [document entitled "Internet Domain Names"](#) (document WO/GA/28/3), which formed the basis of the WIPO General Assembly's consideration of the issues covered in this letter, together with the [Report of the WIPO General Assembly's meeting](#) (document WO/GA/28/7, see paragraphs 57 to 81);
- the Reports of the sessions of the WIPO SCT held in [November/December 2001](#) (document SCT/S1/6), [May 2002](#) (document SCT/S2/8) and [November 2002](#) (document SCT/9/8).

My colleagues and I are at your disposal, and at the disposal of your staff, to discuss the WIPO recommendations concerning the names and acronyms of IGOs and country names and to provide whatever assistance you may wish to have in relation to them.

Yours sincerely,

Francis Gurry  
Assistant Director General  
Legal Counsel

cc: Mr. Alejandro Pisanty, Vice-Chairman  
Mr. Amadeu Abril i Abril  
Mr. Karl Auerbach  
Mr. Ivan Moura Campos  
Mr. Lyman Chapin  
Mr. Jonathan Cohen  
Mr. Mouhamet Diop  
Mr. Masanobu Katoh

Mr. Hans Kraaijenbrink  
Mr. Sang-Hyon Kyong  
Mr. Andy Mueller-Maguhn  
Mr. Jun Murai  
Mr. Nii Quaynor  
Mr. Helmut Schink  
Mr. Francisco A. Jesus Silva  
Ms. Linda S. Wilson

Mr. Sharil Tarmizi, Chairman,  
Governmental Advisory Committee  
Mr. Louis Touton, Vice-President,  
Secretary and General Counsel  
Ms. Theresa Swinehart, Counsel for  
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## ANNEX 1

### **WIPO Recommendation on the Names and Acronyms of International Intergovernmental Organizations**

"Noting, in particular, Article 6*ter* of the Paris Convention, to which 163 States are party,

"1. The Special Session recommends that the UDRP be modified to provide for complaints to be filed by an international intergovernmental organization (IGO)

A. on the ground that the registration or use, as a domain name, of the name or abbreviation of the IGO that has been communicated under Article 6*ter* of the Paris Convention is of a nature

(i) to suggest to the public that a connection exists between the domain name holder and the IGO; or

(ii) to mislead the public as to the existence of a connection between the domain name holder and the IGO; or

B. on the ground that the registration or use, as a domain name, of a name or abbreviation protected under an international treaty violates the terms of that treaty.

"2. The Special Session further recommends that the UDRP should also be modified, for the purposes of complaints mentioned in paragraph 1, to take account of and respect the privileges and immunities of IGOs in international law. In this respect, IGOs should not be required, in using the UDRP, to submit to the jurisdiction of national courts. However, it should be provided that decisions given in a complaint filed under the modified UDRP by an IGO should be subject, at the request of either party to the dispute, to *de novo* review through binding arbitration.

"3. The Delegation of the United States of America dissociated itself from this recommendation."

(See documents [SCT/S2/8](#), paragraph 88 and [WO/GA/28/7](#), paragraph 79)

[End of Annex 1]

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## ANNEX 2

### WIPO Recommendation on Country Names

"6. Recalling the decision reached by the General Assembly at its meeting in September 2002, the majority of delegations favored amending the Uniform Domain Name Dispute Resolution Policy (UDRP) to provide protection for country names in the DNS.

"7. As regards the details of such protection, the delegations supported the following:

(i) protection should be extended to the long and short names of countries, as provided by the United Nations Terminology Bulletin;

(ii) the protection should be operative against the registration or use of a domain name which is identical or misleadingly similar to a country name, where the domain name holder has no right or legitimate interest in the name and the domain name is of a nature that is likely to mislead users into believing that there is an association between the domain name holder and the constitutional authorities of the country in question;

(iii) each country name should be protected in the official language(s) of the country concerned and in the six official languages of the United Nations; and

(iv) the protection should be extended to all future registrations of domain names in generic top-level domains (gTLDs).

"8. The delegations supported continued discussion on:

(i) extension of protection to the names by which countries are familiarly or commonly known, and agreed that any additional such names be notified to the Secretariat before December 31, 2002;

(ii) retrospective application of the protection to existing registrations of domain names, and in which alleged rights may have been acquired; and

(iii) the question of sovereign immunity of States before the courts of other countries in relation to proceedings relating to protection of country names in the DNS.

"9. The delegations requested the Secretariat to transmit the said recommendation to the Internet Corporation for Assigned Names and Numbers (ICANN).

"10. The Delegations of Australia, Canada and the United States of America dissociated themselves from this decision.

"11. The Delegation of Japan stated that, while it did not oppose the decision to extend protection to country names in the DNS, further discussion was required concerning the legal basis for such protection, and stated its reservation to paragraph 7 herein, except for subparagraph (iv)."

(See documents [WO/GA/28/7](#), paragraphs 80 to 81 and [SCT/9/8](#), paragraphs 6 to 11)

[End of Annex 2]