



March 7, 2013

Dr. Steve Crocker, Chairman of the ICANN Board
Fadi Chehadé, ICANN President & CEO
Cherine Chalaby, Chair of the New gTLD Committee
Heather Dryden, Chair of Government Advisory Committee
ICANN Independent Objector

Re: gTLD Applications for music-themed TLDs and Anti-Competitive “Closed” Registries

Dear Dr. Crocker, et al.

.MUSIC strongly opposes “closed” gTLD applications for strings that are semantically and culturally significant, such as .MUSIC, .SONG, .TUNES. “Closed” gTLD applications should be accepted only in the case of “Dot-Brands” i.e the applicant has internationally-recognized trademarks for the gTLD string applied for.

We are troubled by dominant companies with market power, such as Amazon and Google, who have applied for a significant portfolio of “closed” gTLDs to expand their Internet monopolies and thwart competition.

For example, Amazon has applied for 3 culturally significant music-themed gTLDs (.MUSIC, .SONG and .TUNES) that affect the entire music sector and are attempting to corner the entire music domain space by closing all 3 music-themed gTLDs for the purpose of advancing only Amazon’s goals:

“MUSIC will be a single entity registry, with all domains registered to Amazon for use in pursuit of Amazon’s business goals. There will be no re-sellers in .MUSIC and there will be no market in .MUSIC domains. Amazon will strictly control the use of .MUSIC domains.”¹

Amazon “will closely manage this TLD by registering domains through a single registrar” and “Amazon and its subsidiaries will be the only eligible registrants.”²

“Eligible applicants must be members of the Amazon group of companies and its subsidiaries. Furthermore, all domain names must be used to support the business goals of Amazon.”³

¹ <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadapplication/966?t:ac=966>
(Section 28)

² <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadapplication/966?t:ac=966>
(Section 29.1.1)

³ <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/downloadapplication/966?t:ac=966>
(Section 29.2.1)

Amazon's three music-themed "closed" applications violate four of ICANN's Core Values⁴ materially harming the music community by discriminating against their active participation in registering and operating a music-themed domain in a competitive, economically and culturally appropriate manner in all three music-themed strings:

"Seeking and supporting broad, informed participation reflecting... the cultural diversity of the Internet at all levels."

"Where feasible and appropriate, depending on market mechanisms to promote and sustain a competitive environment."

"Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest."

"Making decisions...with integrity and fairness."

ICANN's Affirmation of Commitments⁵ with the U.S Department of Commerce completely contradicts Amazon's closed registry music-themed applications, especially since Amazon is the world's largest online retailer, to:

"Ensure that decisions made related to the global technical coordination of the DNS are made in the public interest and are accountable and transparent"

"Preserve the security, stability and resiliency of the DNS"

"Promote competition, consumer trust, and consumer choice in the DNS marketplace"

The notion of the second largest digital music retailer controlling and owning every artist's name and valuable music-related keyword in the second-level across three – not one – "closed" music-themed gTLDs in perpetuity creates material economic and cultural harm to the legitimate interests of the entire music community and has serious repercussions in the area of anti-trust and is clearly in breach of anti-trust regulations such as the Sherman Antitrust Act and EU anti-trust provisions.

If ICANN allows Amazon to continue with its three (3) anti-competitive applications for "closed" music-themed gTLDs we would like ICANN to give us its reasoning how this threefold music-themed "closed" gTLD landgrab by Amazon serves the global public interest and expands competition in a New gTLD Program that was launched for the premise of increasing competition and consumer choice.

⁴ <http://www.icann.org/en/about/governance/guidelines>

⁵ <http://www.icann.org/en/about/agreements/aoc/affirmation-of-commitments-30sep09-en.htm>



Furthermore, we would like to express our disappointment that the Independent Objector⁶ chosen by ICANN has not filed objections against Amazon for these three “closed” music-themed gTLDs since in context and collectively do not serve the global public interest and serve to merely thwart any music string-related competition. We strongly believe that the Independent Objector has not acted “solely in the best interests of global Internet users” by ignoring this monopolistic music-themed landgrab by Amazon and not filing an Objection against them. The Independent Objector was instructed to object “whenever he considers that an application is against the interests of global Internet users or against the interests or values of a delineated community.”⁷

It is beyond reasonable doubt that Amazon’s three-fold music-themed “closed” gTLD applications harm the legitimate interests of a clearly delineated music community by discriminating against their essential needs to register a music-themed domain that describes their music-themed business and their site’s music-themed subject-matter, especially given the shortage of .COM domains and the size of the music community. Within the context of the significance of e-commerce and the substantial marketing conducted by artists on the internet it is profoundly concerning that the Independent Objector has chosen not to object to Amazon on these grounds. We would like to better understand the reasoning behind the Independent Objector’s decision to allow Amazon to own a global monopoly in all three most popular music-themed gTLDs and how that serves the global public interest and the clearly delineated music community.

We urge ICANN to look at the entire gTLD Program, applications and applicants within the context of each TLD’s subject-matter, including any unintended but expected economic and cultural repercussions that specific “closed” applications will inevitably have on competition and consumer choice. We recommend ICANN serve the global public interest and reject those anti-competitive applications that clearly have the intention create detrimental economic and cultural harm to significant portions of the Internet community, such as the clearly delineated music community.

Sincerely,

Constantine Roussos
Founder
.MUSIC

.MUSIC:

<http://music.us>

.MUSIC Supporting Music Organizations:

<http://www.music.us/supporters.htm>

⁶ <http://newgtlds.icann.org/en/program-status/odr/independent>

⁷ <http://www.independent-objector-newgtlds.org/english-version/the-independent-objector-s-comments-on-controversial-applications/>