

ENHANCING ICANN ACCOUNTABILITY:

Comments by the INTA Internet Committee

September 25, 2014

The Internet Committee of the International Trademark Association (INTA) is pleased to again respond to ICANN's further call for public input on the process being created to develop a community-based working group which is tasked with producing a proposal to enhance ICANN's accountability in conjunction with the transition of the IANA function. As we mentioned in the previous comment we filed in June, the accountability process within ICANN is critical, especially during the IANA transition. ICANN, therefore, should strive for as much meaningful Internet community participation as possible.

Accordingly, the INTA Internet Committee is pleased to provide the following further specific comments, modifications and improvements which we believe are necessary to enhancing the design of the ICANN accountability process in order to allow for community discussion to proceed in an equitable and transparent manner.

1. ***Coordination Group Selection*** -- Experts identified by ICANN should not be placed on the Coordination Group by ICANN as this could constitute a conflict of interest in violation of the neutral facilitator role that the NTIA has requested ICANN to assume. We would recommend that ICANN make supportive resources, including impartial experts, available to the Coordination Group at its initiative and request. However, and contrary to our position in our June comment, ICANN has proposed to establish and select the members of a Public Expert Group (PEG) that is tasked with selecting up to seven advisors to participate in the Accountability & Governance Coordination Group. This is troubling because the stakeholders participating in the Cross Community Group will have no say in the selection of these advisors.

2. ***Adoption and Modification of Accountability Plan*** -- We also remain concerned that the ICANN Board has proposed to reserve to itself the authority to only partially adopt a comprehensive accountability plan developed by the community. To address this concern, we recommend that the Board be required to provide a detailed rationale based upon a clearly articulated and previously adopted standard for the rejection or modification of any part of the community-developed accountability plan. A meaningful appeals process should be provided to allow for the overriding of any such Board action if the community believes that a rejected or modified element is critical to the assurance of an acceptable level of future accountability.

3. ***Business Sector Participation*** -- We believe that there is a need to ensure that the role and voice of the full spectrum of the business sector is heard as it will be integral to obtaining governmental support of any new ICANN framework resulting from the accountability process. In this regard, the staff proposal's limitation on participation in the Coordination Group to only one representative per GNSO stakeholder group is inadequate and would not even ensure the participation of business interests and/or brand-owners through the Business Constituency or the Intellectual Property Consistency.

4. ***IANA Transition***-- Finally, we reiterate our position that the IANA functions transition should only proceed following approval of recommendations on Enhancing ICANN Accountability and the provision of strong assurances that they will be implemented expeditiously. This sequential dependency should be acknowledged by the ICANN Board and management before initiating the process of designing new accountability mechanisms.

Thank you for considering our views on these important issues. Should you have any questions regarding our submission, please contact INTA External Relations Coordinator Kate Badura at: kbadura@inta.org.

About INTA

INTA is a 136 year-old global not for profit association with more than 6,400 member organizations from over 190 countries. One of INTA's goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last decade, INTA has also been the leading voice of trademark owners within the Internet community, serving as a founding member of the Intellectual Property Constituency of the Internet Corporation for Assigned Names and Numbers (ICANN).

INTA's Internet Committee is a group of over 200 trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.