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VIA ELECTRONIC MAIL

Mr. Fadi Chehade
President and CEO
ICANN
12025 Waterfront Drive
Suite 300
Los Angeles, CA 90094-2536

Re: Comments of General Electric Company Regarding the New
gTLD Board Committee Consideration of GAC Safeguard Advice

Dear Mr. Chehade:

General Electric Company (“GE”) appreciates this opportunity to submit comments regarding “how the new gTLD Board Committee should address GAC advice” issued in the April 11, 2013 GAC Communique.

GE urges ICANN to give the GAC its due consideration. ICANN’s bylaws outline a clear process for accommodating input from the GAC, including a negotiation process should ICANN decide not to follow the GAC’s advice. This negotiation process is intended to bring ICANN and the GAC to a resolution on issues of concern, or to at least arrive at a “mutually acceptable solution.” If ICANN rejects the GAC’s advice and does not agree on a negotiated solution, ICANN must clearly state its reasons for rejection the GAC’s advice.¹

ICANN Board Chair Stephen Crocker recently acknowledged in an April 12, 2013 post-Beijing interview that ICANN affords “quite a bit of weight” to GAC advice in its decision making. He further stated, “the way our by-laws are structured puts a preference ... toward

¹ See, e.g., <https://gacweb.icann.org/display/gacweb/ICANN+Bylaws>.

following advice from the GAC ... and lays out a process that if we choose not to follow the GAC's advice, we have to go through first an extended consultation process, and then at the end of the day, if we finally are not in agreement and haven't been able to find a common resolution, then we'd have to document quite carefully, and be prepared for the next phase of that, which would be the governments expressing their displeasure."²

GE remains concerned that ICANN will be under such pressure to move forward with the new gTLD program that it may not sufficiently implement or consider the GAC's advice, or enter into the serious negotiations necessary to come to a mutually agreeable solution. To date, GE has noted tremendous pressure from non-GAC ICANN constituencies to launch the new domains before basic protections are fully implemented.

GE shares several of the GAC's concerns, and we wish to express our support for the GAC's findings as follows:

1. **Plural and Singular gTLDs.** Many, if not most, affected stakeholders were surprised by ICANN's results in its string similarity review. ICANN listed only two pairs of TLD applications, and found that many instances of plural usage (e.g. .accountant and .accountants) were not confusingly similar, and could co-exist. The GAC issued advice for ICANN to "[r]econsider its decision to allow singular and plural versions of the same strings," and we strongly agree with this advice. Our experience in this area has shown significant possibility for consumer confusion, and we anticipate drastically higher costs to affected trademark owners including without limitation in terms of sunrise registrations, defensive registrations, cybersquatting, and other malicious actions by third-parties.
2. **Closed Generics.** The GAC's Communique states that "[f]or strings representing generic terms, exclusive registry access should serve a public interest goal." We agree. Consistent with GE's prior comments on closed generics, we believe that the exemption to Section 6 of ICANN's Code of Conduct was intended for companies applying for brand-related TLDs and not industry-wide generic categories. Therefore, GE's position is that closed generics should not be allowed—the caveat to that being that the disqualification should be limited to purely generic terms and not top-level domains clearly referring to a specific company (including where a trademark is combined with a geographic identifier, an industry identifier, or a corporate identifier such as "company" or "inc").

² <http://www.icann.org/en/news/press/kits/beijing46/video-post-meeting-12apr13-en.htm>

3. **The New RAA.** GE agrees with the GAC that “the 2013 Registrar Accreditation Agreement should be finalized before any new gTLD contracts are approved,” at least as to open registries. We also support the recent registry agreement amendment that “new gTLD registry operators [are required] to use only those registrars that have signed the 2013 RAA.”
4. **WHOIS.** GE commends ICANN’s progress on requiring registrars to verify registrant identity and ensure the accuracy of the data they collect. In addition, GE’s position is that privacy and proxy services for WHOIS should not be allowed at all, given how detrimental these services are to the efforts of law enforcement and the rights of intellectual property owners. We believe it is necessary for ICANN to undertake a full review of such services to ensure that privacy and speech concerns can be addressed, but that law enforcement officials and trademark owners are able to immediately contact registrants and take immediate action to protect intellectual property rights and the public at large.
5. **Safeguards Applicable to All New gTLDs.** The GAC has listed six safeguards, which it states should be applicable to all new gTLDs. It is unclear whether these safeguards are necessary for closed .BRAND gTLDs. Such gTLDs may be better off using a separate form of registry agreement that takes into account the fact that the general public will not be able to register second-level domain names. A closed .BRAND gTLD will have little to no risk of the negative consequences these six safeguards are intended to prevent. That being said, GE greatly supports these safeguards in regards to any open (and all generic) gTLDs, and, to the extent that there is not a separate .BRAND registry agreement, would be open to such safeguards being subject to contractual oversight within the general registry agreement.
6. **Safeguards for Regulated or Professional Sectors.** GE agrees with the GAC statement that strings in regulated or professional sectors “are likely to invoke a level of implied trust from consumers, and carry higher levels of risk associated with consumer harm.” Therefore, we support the eight safeguards identified by the GAC for such sectors, with the added provision that safeguard #1 be amended to add adherence with intellectual property laws to a registry’s “acceptable use policy.” Multi-national and diverse companies such as GE are involved in many of the industries discussed in the GAC Communique, including without limitation environmental, health, and financial. It is extremely important that consumers maintain their high level of trust in legitimate entities providing goods and services in those spaces. Without the safeguards recommended by the GAC, there will be a much higher chance of malicious activity occurring within those new gTLDs.

Mr. Fadi Chehade
May 14, 2013
Page 4

7. **Cyber Bullying.** GE agrees with the GAC that in the gTLDs of .fail, .gripe, .sucks, and .wtf, those registries “should develop clear policies and processes to minimize the risk of cyber bullying/harassment.” Furthermore, we express significant worries that some of those gTLDs (as well as others) have been or will be applied for to essentially extort money from brand owners. Nearly every company will attempt to defensively register its brands in those spaces, much like many companies signed up to protect their brands from being associated with the adult industry in .xxx. ICANN should develop policies to discourage registries from operating in a way that serves no public interest beyond taking money from companies looking to protect their brands.
8. **Annex II.** The GAC has listed various questions in regards to Public Interest Commitments. We believe that each of these questions is important, and should be properly studied and evaluated by ICANN. Many of the GAC’s questions regarding PICs are equally relevant to applications for which PICs were not submitted.

Thank you for your consideration of these comments. If you have any questions or wish to discuss any of the points raised herein, please feel free to contact me at kathryn.park@ge.com.

Sincerely yours,

A handwritten signature in cursive script that reads "Kathryn Park".