



**COMMENTS OF THE INTELLECTUAL PROPERTY CONSTITUENCY IN RESPONSE TO THE IGO/INGO PDP  
WORKING GROUP INITIAL REPORT ON PROTECTION OF IGO & INGO IDENTIFIERS IN ALL gTLDs**

**August 7, 2013**

The GNSO Intellectual Property Constituency ("IPC") appreciates this opportunity to comment on the Initial Report on Protection of IGO & INGO Identifiers in all gTLDs and supports the hard work of the IGO/INGO PDP Working Group.

The IPC believes that strings should be protected from registration by unauthorized parties if there is support for such protection found in established international principles of law. As such, the IPC position on the proposals set forth in the Initial Report are as follows:

**TOP-LEVEL PROTECTIONS**

**Top-Level protections of only Exact Match, Full Name identifiers are placed in Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation."**

The IPC supports protection as "Ineligible for Delegation" of exact match, full name identifiers on the top-level for the list of IGO, IOC and Red Cross identifiers provided to the GNSO from the GAC. However, the IPC does not support the inclusion of the extended list of national Red Cross organization identifiers supplied by the IFRC in its July 2013 letter to the ICANN Board.

The IPC does not have a consensus viewpoint on top-level protections as "Ineligible for Delegation" for INGO full names other than the IOC and Red Cross.

**Top-Level protections of Exact Match, Acronym identifiers are placed in Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation."**

The IPC supports protection as "Ineligible for Delegation" for certain IGO acronyms, where the IGO can demonstrate that the acronym (as opposed to the full name) serves as the primary identifier for the entity (e.g., UNICEF).

The IPC does not support protections as "Ineligible for Delegation" for Red Cross acronyms, IOC acronyms or INGO acronyms on the top-level.

**IGO/INGO identifiers, if reserved from any registration, may require an exception procedure in cases where a protected organization wishes to apply for their protected string at the Top-Level.**

The IPC supports the development of an exception procedure to allow for legitimate use of the protected names at the Top-Level by the protected organization or bona fide co-existing third parties.

The IPC notes that there is an existing procedure for removing strings from a reserved names list, and encourages the Working Group to fully explore the applicability of existing procedures to these cases.

**IGO/INGO Organizations be granted a fee waiver (or funding) for objections filed to applied-for gTLDs at the Top-Level.**

The IPC does not support a fee waiver or funding scheme for IGO/INGO objections filed against applied-for-strings at the Top-Level.

In addition to the possibility of self-funding objections, it is recalled that the IGO community may be able to propose GAC Advice against certain applications.

Some members of the IPC note that some INGOs may be in need of financial assistance to file Legal Rights Objections and/or Community Objections. These members encourage the Working Group to consider whether it is feasible to implement an assistance program where certain INGOs can demonstrate substantial financial need and receive either full or partial support for the filing of Objections.

**SECOND-LEVEL PROTECTIONS**

**Second-Level protections of only Exact Match, Full Name identifiers are placed in Specification 5 of Registry Agreement.**

The IPC supports protection as “Reserved Names” of exact match, full name identifiers on the second-level for the list of IGO, IOC and Red Cross identifiers provided to the GNSO from the GAC, and currently referenced in Specification 5 of the Registry Agreement. However, the IPC does not support the inclusion of the extended list of national Red Cross organization identifiers supplied by the IFRC in its July 2013 letter to the ICANN Board.

The IPC does not have a consensus viewpoint regarding protection of exact match, full name identifiers on the second-level for INGOs other than the IOC and Red Cross.

**Second-Level protections of Exact Match, Acronym identifiers are placed in Specification 5 of the Registry Agreement.**

The IPC does not support this recommendation for any INGO acronym, and supports this recommendation only for IGO acronyms which serve as the primary identifier for the organization.

**Second-Level protections of Exact Match, Full Name and/or Acronym identifiers are applied for by the organization requesting protection and placed in a Clearinghouse Model modified to accommodate use by IGOs.**

The IPC supports this recommendation for **full names** of IGOs, IOC, and Red Cross. The IPC notes that a separate “Clearinghouse Model” may be unnecessary for IGOs, as IGO names are protected by treaty under Article 6ter of the Paris Convention and thus should be eligible for the TMCH.

The IPC does not have a consensus viewpoint regarding “Clearinghouse” protection of exact match, full name identifiers on the second-level for INGOs other than the IOC and Red Cross.

The support of the “Clearinghouse Model” is in addition to the support, indicated above, for protection as “Reserved Names” of the GAC list of full name identifiers for IGOs, the IOC and the Red Cross.

The IPC only supports the Clearinghouse recommendation for **acronyms** of IGOs in cases where the acronym (and not the full name) is the primary identifier of the IGO. The IPC does not have a consensus viewpoint regarding “Clearinghouse” protection of exact match, acronyms on the second-level for INGOs other than the IOC and Red Cross.

The IPC does not agree that fees should be waived, reduced or subsidized for entry into the Clearinghouse, for any organization.

The IPC agrees that all IGOs, IOC and RCRC (and other INGOs if registered in the TMCH or other Clearinghouse Model), should be allowed to participate in Sunrise phase and the 90 Day minimum Claims Notification period of each new gTLD launch with regard to full name and eligible acronym strings registered in the TMCH or other Clearinghouse Model.

The IPC does not support a permanent Claims Notification for IGOs, IOC, Red Cross or INGOs, unless the permanent Claims Notification is extended to all marks registered in the TMCH.

**Review and modify where necessary the curative rights protections of the URS and UDRP so that IGO/INGO organizations have access to these curative rights protection mechanisms.**

The IPC supports this for all IGO and INGO organizations, including the IOC and Red Cross, but does not support fee waiver, reduction or subsidization.

**Create a registration exception procedure for IGO/INGOs wishing to register a second-level name or where third party, legitimate use of a domain name may exist.**

In the event such identifiers are placed in Specification 5 of the Registry Agreement, the IPC supports the development of a procedure to allow for registration and use by the IGO/INGO itself and/or legitimate third parties, of names reserved from registration (and, if acronyms are reserved from registration, such acronyms as well). Such procedure could consist, e.g., of a minimally-burdensome attestation of bona fide intent by the third party (or the IGO/INGO itself), followed in the case of a third party, if challenged by the IGO/INGO, by a lightweight low-cost (e.g., \$150) administrative decision as to the third party’s bona fide intended usage; recognizing trademark law principles of co-existence, such procedure should not require the agreement of the IGO/INGO, nor permit the IGO/INGO any “veto” over proposed third party registrations.

**SPECIFIC COMMENTS FOR TOP-LEVEL PROTECTION OPTIONS:**

#	Top-Level Recommendation Options	Comments / Rationale
1	Top-Level protections of only <u>Exact Match, Full Name</u> identifiers are placed in Applicant Guidebook section 2.2.1.2.3, of the Applicant Guidebook, Strings "Ineligible for Delegation" (see option #3 for a variation of this)	1) IGOs: Support 2) RCRC: Support 3) IOC: Support 4) INGOs: Divergence of views
2	Top-Level protections of <u>Exact Match, Acronym</u> identifiers are placed in Applicant Guidebook section 2.2.1.2.3, of the Applicant Guidebook, Strings "Ineligible for Delegation" (see option #4 for a variation of this)	1) IGOs: Support protection for some IGO acronyms (when it can be objectively demonstrated that such acronym is used as the primary identifier for the entity) 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Divergence of views
3	IGO-INGO identifiers if reserved from any registration (as in options #1 and/or #2), may require an exception procedure in cases where a protected organization wishes to apply for their protected string at the Top-Level	1) IGOs: Support 2) RCRC: Support 3) IOC: Support 4) INGOs: Support
4	<u>NO</u> Top-Level protections or reservations for <u>Exact Match, Full Name</u> will be created (i.e., identifiers of IGO-INGOs seeking protection will NOT be added to section 2.2.1.2.3, of the Applicant Guidebook, Strings "Ineligible for Delegation")	1) IGOs: Do not support 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Divergence of views
5	<u>NO</u> Top-Level protections or reservations for <u>Exact Match Acronym</u> will be created (i.e., identifiers of IGO-INGOs seeking protection will NOT be added to section 2.2.1.2.3, of the Applicant Guidebook, Strings "Ineligible for Delegation")	1) IGOs: Support (except where acronym is the primary identifier) 2) RCRC: Support 3) IOC: Support 4) INGOs: Support
6	IGO-INGO organizations be granted a fee waiver (or funding) for objections filed to applied-for gTLDs at the Top-Level	1) IGOs: No support 2) RCRC: No support 3) IOC: No support 4) INGOs: No support

**SPECIFIC COMMENTS FOR SECOND-LEVEL PROTECTION OPTIONS:**

#	Second-Level Recommendation Options	Comments / Rationale
1	2nd-Level protections of only <u>Exact Match, Full Name</u> identifiers are placed in Specification 5 of Registry Agreement	1) IGOs: Support 2) RCRC: Support 3) IOC: Support 4) INGOs: Divergence of views
2	2nd-Level protections of <u>Exact Match, Acronym</u> identifiers are placed in Specification 5 of Registry Agreement	1) IGOs: Do not support (except in cases when it can be objectively demonstrated that such acronym is used as the primary identifier for the entity) 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Do not support
3	2nd-Level protections of <u>Exact Match, Full Name</u> identifiers are applied for by the organization requesting protection and placed in a Clearinghouse Model modified to accommodate use by IGOs and INGOs (hereafter referred to as “Clearinghouse Model”)	1) IGOs: Support 2) RCRC: Support 3) IOC: Support 4) INGOs: Support
4	2nd-Level protections of <u>Exact Match, Full Name + Acronym</u> identifiers are applied for by the organization requesting protection and placed in a Clearinghouse Model	1) IGOs: Support for full name and acronyms that are the primary identifier of the organization. 2) RCRC: Support for full name, not for acronyms 3) IOC: Support for full name, and for acronyms that are primary designations of IGOs 4) INGOs: Divergence of views
5	IGO-INGOs allowed to participate in <u>Sunrise</u> phase of each new gTLD launch	1) IGOs: Support if in TMCH/Clearinghouse 2) RCRC: Support if in TMCH/Clearinghouse 3) IOC: Support if in TMCH/Clearinghouse 4) INGOs: Support if in TMCH/Clearinghouse
6	IGO-INGOs allowed to participate in <u>90 Day Claims Notification</u> phase of each new gTLD launch	1) IGOs: Support if in TMCH/Clearinghouse 2) RCRC: Support if in TMCH/Clearinghouse 3) IOC: Support if in TMCH/Clearinghouse 4) INGOs: Support if in TMCH/Clearinghouse
7	IGO-INGOs allowed to participate in <u>permanent Claims Notification</u> of each gTLD launch	1) IGOs: Do not support* 2) RCRC: Do not support* 3) IOC: Do not support* 4) INGOs: Do not support*  * Unless extended to all TMCH-registered rights holders.

#	Second-Level Recommendation Options	Comments / Rationale
8	Fee waivers or reduced pricing (or limited subsidies, e.g., first 2 entries for registering into a Clearinghouse Model the identifiers of IGO-INGO organizations	1) IGOs: Do not support 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Do not support
9	Review and modify where necessary the curative rights protections of the URS and UDRP so that IGO-INGO organizations have access to these curative rights protection mechanisms.	1) IGOs: Support where necessary 2) RCRC: Support where necessary 3) IOC: Support where necessary 4) INGOs: Support where necessary
10	Fee waivers or reduced pricing for IGO-INGOs filing a URS or UDRP action	1) IGOs: Do not support 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Do not support
11	Create a registration exception procedure for IGO-INGOs wishing to register a 2 <sup>nd</sup> -Level name or where 3 <sup>rd</sup> party, legitimate use of domain may exist	1) IGOs: In the event such identifiers are placed in Spec 5, support an exception procedure 2) RCRC: Support 3) IOC: Support 4) INGOs: In the event such identifiers are placed in Spec 5, support an exception procedure
12	<u>NO</u> 2nd-Level reservations of an <u>Exact Match, Full Name</u> will be established (i.e., identifiers of IGO-INGOs seeking protection will NOT be added to Specification 5 of the Registry Agreement)	1) IGOs: Do not support 2) RCRC: Do not support 3) IOC: Do not support 4) INGOs: Divergence of views
13	<u>NO</u> 2nd-Level reservations of an <u>Exact Match, Acronym</u> will be established (i.e., identifiers of IGO-INGOs seeking protection will NOT be added to Specification 5 of the Registry Agreement)	1) IGOs: Support 2) RCRC: Support 3) IOC: Support 4) INGOs: Support

Thank you for consideration of our views on these important issues.

Respectfully Submitted,

Intellectual Property Constituency (IPC)