

VIRTUALAW LLC

Philip S. Corwin, Founding Principal
1155 F Street, NW Suite 1050
Washington, DC 20004
202-559-8597/Direct
202-559-8750/Fax
202-255-6172/Cell
psc@vlaw-dc.com

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By E-Mail

Internet Corporation for Assigned Names and Numbers

12025 Waterfront Drive, Suite 300

Los Angeles, CA 90094-2536

Re: Protection of IGO and INGO Identifiers in All gTLDs (PDP) Recommendations for Board Consideration

Dear ICANN:

I am writing on behalf of the members of the Internet Commerce Association (ICA). ICA is a not-for-profit trade association representing the domain name industry, including domain registrants, domain marketplaces, and direct search providers. Its membership is composed of domain name registrants who invest in domain names (DNs) and develop the associated websites, as well as the companies that serve them. Professional domain name registrants are a major source of the fees that support registrars, registries, and ICANN itself. ICA members own and operate approximately ten percent of all existing Internet domains on behalf of their own domain portfolios as well as those of thousands of customers.

This letter addresses the “Protection of IGO and INGO Identifiers in All gTLDs (PDP) Recommendations for Board Consideration” posted for public comment on November 27th¹. We are specifically commenting upon the Resolution² unanimously adopted by the GNSO Council on November 20th when it approved the consensus recommendations of the IGO-INGO PDP Working Group. Following this comment period those recommendations will be considered by the ICANN Board.

Executive Summary

The ICA is generally supportive of the Resolution adopted by the GNSO Council – with the exception of certain recommendations relating to the inclusion of exact matches and acronyms in the Trademark Clearinghouse database.

We are also gratified that the recommendations do not adopt a hostile position toward acronyms of the encompassed organizations that are registered at the second level of existing gTLDs.

Discussion

The ICA filed comments³ on October 11, 2013 in regard to the Draft Final Report on Protection of IGO and INGO Identifiers in All gTLDs.

The positions we took in that prior comment letter can be summarized follows:

- In regard to the top level of new gTLDs, we generally favor full protection for exact matches of the full name of all the IGOs and INGOs addressed by the Report by barring their registration by third parties -- but we oppose such blanket, registration-blocking protection of exact matches of their acronyms.
- In regard to the second level of new gTLDs, we generally favor full protection through registration blocking for exact matches of the full name of all IGOs and INGOs addressed by the Report -- but we oppose blanket protection of exact matches of their acronyms as any misuse could be addressed by existing second level dispute resolution arbitration procedures.
- In regard to the Trademark Clearinghouse (TMCH), which is only relevant to new gTLDs -- we would support inclusion in the TMCH of exact matches of the full name of all the IGOs and INGOs addressed by the Report – but only if the Trademark Notice generated by an attempt to register such a name differentiates between trademark rights and the “rights” held in such name by an IGO or INGO that has not trademarked its name.
- We oppose inclusion in the TMCH of the exact matches of acronyms of all the IGOs and INGOs addressed by the Report. We do not oppose allowing affected organizations to utilize the curative rights of the UDRP (at new or incumbent

¹ <http://www.icann.org/en/news/public-comment/igo-ingo-recommendations-27nov13-en.htm>

² <http://gnso.icann.org/en/council/resolutions#20131120-2>

³ <http://forum.icann.org/lists/comments-igo-ingo-final-20sep13/msg00009.html>

gTLDs) or URS (only available at new gTLDs at this time) dispute resolution arbitration mechanisms if they believe that a particular domain using such exact match has been registered and used in bad faith; that is, in such a manner as to deceive and mislead the public that the particular website is being operated by or has been endorsed by the relevant IGO or INGO.

Finally, in regard to any incumbent gTLD, while we appreciate and support the Recommendation that any currently registered domain matching a protected IGO or INGO identifier “shall be handled like any existing registered name within the incumbent gTLD regarding renewals, transfers, sale, change of registrant, etc.”, we strongly oppose the adoption of any policy that would:

- Define or create a mechanism against the specious and completely speculative possibility of “front-running” of domain registrations of IGO or INGO identifiers.
- Exclude such a domain from any add/drop activities by the registrar in the event it becomes eligible for deletion, or make such deleted domains ineligible for future re-registration.
- In any way sanction the involuntary seizure or deletion of any identifier exact match acronym domain that is registered now or may be in the future at any incumbent gTLD.

When we compare our previously stated positions with the recommendations that were unanimously adopted by the GNSO Council, we:

- Support the recommendation for protection of the Red Cross/Red Crescent (RCRC) at the top and second level – with the exception of including full names and acronyms in the TMCH database.
- Support the recommendations for protection of the International Olympic Committee (IOC) at the top and second level.
- Support the recommendations for protection of International Governmental Organizations (IGOs) at the top and second level – with the exception of including their acronyms in the TMCH database.
- Support the recommendations for protection of International Non-Governmental Organizations (INGOs) at the top and second level – with the exception of including exact matches of their full names in the TMCH database.
- We support the recommendation that, at the top level, acronyms of the RCRC, IOC, IGOs and INGOs shall not be considered as “Strings Ineligible for Delegation”; and at the second level, acronyms of the RCRC, IOC, IGOs and INGO under consideration in this PDP shall not be withheld from registration.
- We do not oppose the recommendations applicable to existing gTLD registries that they shall accommodate similar protections at the second level for the exact match, full name of the RCRC, IOC, IGOs, and INGOs – and are gratified that these protections do not apply to acronyms.
- We support the initiation of an Issue Report to consider the amendment of existing policies “so that curative rights of the UDRP and URS can be used by those organizations that are granted protections based on their identified

designations” as a preceding step to a Policy Development Procedure (PDP) on this issue – so long as the Issue Report fully considers the perspective of the domain investment community.

- We have no objection to the establishment of “an IGO-INGO Implementation Review Team (IRT) to assist ICANN staff in developing the implementation details relating to the recommendations adopted herein should they be approved by the ICANN Board” -- but strongly urge that any such IRT should include qualified members or representatives of the domain investment community so that their expertise can contribute to fully informed consideration of reasonable and effective implementation steps.

Further explaining our position in regard to the inclusion of full names and acronyms in the TMCH database, we can only support inclusion of full names of the encompassed organizations in its database if the currently flawed Trademark Claims Notice is amended to differentiate between trademark rights and the “rights” held in such name by an IGO or INGO that has not trademarked its name. We oppose the inclusion of non-trademarked acronyms as the TMCH is supposed to be a reliable database of high quality trademarks. The issue of making the UDRP and URS available for non-trademarked acronyms can be addressed in the Issue Report referenced above.

Conclusion

We hope that ICANN finds our views on this matter to be useful and informative. We look forward to contributing to the Issue Report, PDP, and IRT referenced above.

Sincerely,



Philip S. Corwin

Counsel, Internet Commerce Association