



Comments of **MARQUES, the European Association of Trade Mark Owners
on the Introduction of an Approved Launch Program for the .PARIS TLD**

Introduction to **MARQUES**

MARQUES is the European association representing brand owners' interests. The **MARQUES** mission is to be the trusted voice for brand owners. **MARQUES** unites European and international brand owners across all product sectors to address issues associated with the use, protection and value of IP rights, as these are vital to innovation, growth and job creation, which ultimately enhance internal markets.

MARQUES membership crosses all industry lines and includes brand owners and trademark professionals in more than 80 countries representing billions of dollars of trade annually. The trade mark owners and practitioners represented by **MARQUES**, together, own more than three million domain names and advise organisations of all sizes on rights protection in the domain name system. These domain names are relied upon by consumers across Europe as signposts of genuine goods and services.

More information about **MARQUES** and its initiatives is available at www.marques.org.

****MARQUES'** comments on the Introduction of an Approved Launch Program for the
.PARIS TLD**

MARQUES welcomes the opportunity to provide its comments on the application submitted by the City of Paris, the Registry Operator for the .PARIS TLD, for an Approved Launch Program (ALP) pursuant to section 4.5.2 of the Trademark Clearinghouse (TMCH) Right Protection Mechanism Requirements (RPM Requirements).

Having reviewed the .PARIS Launch Plan submitted in support of the ALP application we have identified several issues which appear to undermine the existing right protection mechanisms granted to trademark holders under the new gTLD program and could result in intellectual property infringement and consumer confusion.

1. ALP

The proposed .PARIS ALP consists of a Public Administrators Program during which only relevant Public Authorities in the Greater area of Paris will be allowed to register names prior to the Sunrise Period. Under the RPM Requirements, which every registry operator is obliged to

follow, a registry must not allocate any names before the Sunrise Period (reserved for TMCH registered trademarks) comes to an end.

In order to accommodate geographic TLD operators' launch plans, a Qualified Launch Program (QLP) Addendum was negotiated, put out to public comment and has subsequently been adopted as an exception to this rule. We note that .PARIS intends to register 98 names in advance of the Sunrise Period by utilising the QLP Addendum, and a number of these names have already gone live. As the proposed ALP falls outside of the RPM Requirements and goes beyond the exception allowed by the QLP Addendum, it should be subject to close review to avoid weakening the existing policy framework.

Under the Public Administrators Program, Public Authorities are defined as "international, national, regional, local and municipal authorities and other governmental departments; as well as other public institutions or appropriate entities under French law (like agencies, consortiums, commissions, and other administrative divisions) of the Greater area of Paris, or having competences over it."

Public Authorities will be able to register: (i) their names (including any clear variations and abbreviations); (ii) names of public services; (iii) geographical names for any subdivision of the Greater area of Paris (e.g. departments, districts, neighbourhoods, cantons, streets), local landmarks and other locally-relevant and iconic names over which the Public Authorities are the relevant authority according to local law.

Public services are proposed to cover at least: (i) public order and public security; (ii) public affairs and institutional relations; (iii) public health; (iv) taxation, economic development and promotion; (v) public utilities; (vi) transportation; (vii) urban planning and environmental protection; (viii) culture and education; (ix) citizen participation; (x) tourism.

As such, the proposed ALP appears to be an extremely wide program under which an unlimited number of names could be registered by a wide range of parties which may easily correspond to an existing trademark and have the potential to confuse the public. The rules of the ALP contain a number of terms which have not been clearly defined. For example, Public Authorities could cover "appropriate entities under French law of the Greater area of Paris, or having competences over it", the terms they can register include "any clear variations" of their names, "iconic names" and "public services" which are proposed to cover unlimited range of services including in areas such as culture and tourism. As these terms have not been defined sufficiently clearly, they are open to different interpretations by the entities who would like to use them. Thus, whilst this may not be the intention of the .PARIS registry operator, the proposed ALP may be open to abuse by those who would seek to circumvent the RPM Requirements.

Under the RPM Requirements, if approved, an ALP will set a precedent for subsequent ALPs applied under similar circumstances. Considering the far-reaching impact of an approved ALP, we request the rejection of the ALP as currently proposed by .PARIS registry. Any approved ALP should be subject to clearly defined eligibility criteria and additional rules that ensure transparency and limit the impact. For example, the use of the names should be limited to a

particular purpose approved under the ALP, transfer of a domain to an unqualified third party should be prohibited and privacy/proxy registrations should not be allowed.

2. .PARIS Sunrise Period

Further to our review of the .PARIS Launch Policy, we note that the proposed Sunrise Period is not in compliance with the RPM Requirements. Under the .PARIS Launch Policy, during the Sunrise Period trademarks in the TMCH, non TMCH-validated trademarks with effect in France and geographical indications recognized by International treaties, EU regulations or French legislation will be accepted and priority will be given to local trademarks whether registered at the TMCH or not. According to the RPM Requirements, during the Sunrise Period only trademarks registered in the TMCH with a valid Signed Mark Data (SMD) file may be registered.

A TMCH registration is available both for local French trademarks and geographical indications recognized by International treaties, EU regulations or French legislation. Furthermore, under the section 2.3.1.1 of the RPM Requirements, if it wishes, .PARIS registry can restrict the Sunrise Period eligibility to TMCH-validated marks with effect in France, and additionally, run a Limited Registration Period for the trademark holders that are not registered in the TMCH. As a result, we do not consider that it is necessary for the .PARIS registry to circumvent the existing RPM Requirements in order to achieve its objectives. Therefore, we urge ICANN to reject the currently proposed .PARIS Sunrise Period, since the .PARIS registry may achieve its aims whilst still honouring the terms of the RPM Requirements.

We thank you for your kind consideration of the above comments.

Yours sincerely,



Alan Ramsay,
MARQUES Secretariat

Submitted on behalf of **MARQUES**

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Signed on behalf of Caroline Perriard,
Chair of **MARQUES** Cyberspace Team