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Dr. Steve Crocker, Chair, ICANN Board  
Cherine Chalaby, Chair, ICANN Board NGPC  
ICANN Members and Interested Parties

Re: TLD Application Process Transparency Issues & Resolution Suggestions

Dear Internet Interested Parties:

We at eCommerce World Retailers, Inc. implore ICANN to **stop, take a look, and listen** to the dozens of comments, pleadings and complaints addressed at the new gTLD application process. Specifically ICANN's inaction and failure to properly review for string similarity in the process. All major organizations at ICANN have expressed grave concerns over this process not being properly performed. Governments have also written letters with similar concerns.

There has been a lot of commotion about the new top level domains that will be released to the internet in the next few months. My question is what happened to the closely held belief that internet name space should be sacred and sparse?

It was acknowledged long before ICANN's existence that top level domain name space should exist for a clear and defined reason (see RFC1591). Initially, TLDs such as .com (for commercial use) .org (for non-profit organizations) .net (for network providers) , .gov (for governmental use) and .edu (for educational institutions) were used on the internet whereby the end user would have a clear understanding as to what the extensions meant and it gave instant recognition and credibility to certain websites such as those used by universities and the government.

In RFC 1591 it clearly discusses the concept of name space. **"Each of the generic TLDs was created for a general category of organizations."** <http://www.ietf.org/rfc/rfc1591.txt>

**This RFC has not changed in this regard.**

The name space concept was placed deep in ICANN's mission, core values and even its motto of "One World, One Internet." These concepts were formed by years of intellectual study, research and deliberation on how the internet should be organized and laid out and literally hundreds of engineers, end users and internet professionals devoted their time, resources and knowledge to contribute to a logical, secure and stable organization.

The gTLD Applicant Guidebook sets forth the procedures for the application and delegation of new gTLDs. It does not replace, and certainly should not be inconsistent, with ICANN's long standing

principles that form the bedrock of ICANN's core mission of ensuring the stable and secure operation of the Internet's unique identifier systems. During the drafting and implementation of the AGB, it has become obvious that ICANN was making the clearly understood principles of name similarity more vague. For example, discussions leading up to the adoption of the AGB included the importance of avoiding the introduction of confusingly similar gTLDs. The definition of "similar" was extensively discussed and the use of a String Similarity Panel to make an initial evaluation of the applications for new GTLDs was proposed. Specifically, it was agreed that "similar" meant similar in sight, sound, meaning or confusing in any way, and that ICANN would enlist linguists to serve on the String Similarity Panel to make a final evaluation (as opposed to the initial evaluation) as to the similarity of applications for new gTLDs. While the word visual is clearly mentioned, it did not remove the intent of the panel to check for all similarities including sound and meaning. Clearly, the mechanical act of reviewing new gTLDs for "visual" similarity does not require the skills of linguists. Deviations in the AGB from the reasoning and principles discussed by the various stakeholders leading up to the AGB appears to be a root cause of the problems currently being encountered in the application process.

When applications for new TLD's were accepted in 2012, the AGB had been adopted after four years of development. During development of the AGB, public meetings were held worldwide outlining the steps to be followed in order for a new TLD to be delegated. One of the primary steps involved taking all of the applied for TLDs and placing them into contention sets whereby all TLDs that had similar meaning or would be confusing in any way to the end user would be grouped together and only one in that group would prevail and be awarded the single TLD for that name space.

For instance, in the eCommerce arena, TLDs applicants such as .shop, .shopyourway, .mall (IDN), .market or. bazaar (IDN), Consumer Electronics (IDN), .webstore (IDN), .eshop (IDN), .shopping (IDN), .onlineshopping (IDN), .store (IDN), .sale (IDN), .shopping, .forsale, .ecom, .sale, .numberOneStore (IDN), .store, .buy, .supplies, and .services would all be grouped together and only one would be successful to be delegated the much sought after eCommerce name space in order to ensure the stable and secure operation of the Internet's unique identifier systems. For example, ICANN would certainly not allow new GTLDS for .com1 .com2 .com3 .com4, through .com22 due to the confusion that would be introduced through such similar gTLDs. If someone was instructed to go to "MYHATSHOP.com16," what would be the chances of them remembering the .com16? Not likely, thus delegation of such confusingly similar new gTLDs would undermine the security and stability of the existing system thereby making the gTLD expansion a complete failure.

However, in interpreting AGB procedures that limited the review of the String Similarity Panel, ICANN strayed from its core mission and calls into question the integrity of the entire new gTLD process. Christine Willett, ICANN's VP of gTLD Operations, stated that she instructed the name similarity panel to only perform a visual check. This is crucial since all information on the subject of string similarity mentions that all forms or similarity must be considered. On two separate occasions, the undersigned has publically questioned ICANN regarding the deviations of ICANN's and the GNSO's policies as well as the AGB from the previous discussions regarding the scope of review of the String similarity Panel and directly asked ICANN to confirm or deny whether or not all similarity tests would be performed prior to the applications being closed. Kurt Pritz refused to answer the question in both forums.

As a result of Christine Willett instructing the panel to only perform visual similarity check, the linguists making up the String Similarity Panel determined that of the 1930 or so new gTLD applications, only four (4) **non-identical** applications were found to be similar based solely on visual similarity.

A passage for the EOI for the String Similarity Panel under string similarity states:

*“Both the GNSO (Recommendation 2: “Strings must not be confusingly similar to an existing top-level domain or a Reserved Name”) and the GAC (Principle 2.4: “In the interests of consumer confidence and security, new gTLDs should not be confusingly similar to existing TLDs”) have identified “confusing similarity” as a reason to reject an applied-for new gTLD string. Policy discussions indicate that the most important reason to disallow similar strings as top-level domain names is to protect Internet users from the increased exposure to fraud and other risks that could ensue from confusion of one string for another.”*

This limitation of the review by the String Similarity Panel is contrary to GNSO advice as well as GAC Advice . The GNSO was charged with developing and providing the policies and procedures necessary to implement the new gTLD process. Letters of concerns, pleadings and even outright complaints from GNSO regarding this issue were met mostly with silence by ICANN. For example, the GNSO Board Report indicating why the string similarity test is so important and how it supports Mission Statements 1 through 3 and Core Values C1 – 6 through 11 can be found at - <http://gnso.icann.org/issues/new-gtlds/council-report-to-board-pdp-new-gtlds-11sep07.pdf>, quoted below:

Discussions and comments are made for string similarity tests – Please see <http://archive.icann.org/en/topics/new-gtlds/summary-analysis-agv6-30may11-en.pdf>. In this vital document on Page 70, after restating all comments – there are decision made on which similarity tests will be performed as stated:

*One comment suggests that, —Aural and meaning similarity should not be considered at all. As reinforced by community discussion, possible examination for these types of similarity was included in the policy recommendations of the GNSO that was approved by the Board. **The idea is that user confusion should not be likely to occur – no matter what the cause of that confusion, Therefore, absent other policy advice, the current objection model that includes ALL TYPES OF CONFUSION WILL REMAIN IN PLACE**, although the similarity assessment during initial evaluation will be limited to visual similarity.*

ICANN’s Mission Statement can be located at <http://www.icann.org/en/about/governance/bylaws#I>

It appears that recent changes to ICANN management may have caused ICANN to lose its corporate knowledge gathered by its predecessors. The security and stability of the Internet's unique identifier system is in jeopardy due to ICANN’s failure to adhere to its long standing previously successful name space concept which groups similar domain names accordingly.

With continued urging of the GNSO, significant internet leaders and scholars all addressing this issue, why is there nothing being done?

There seems to be no one at ICANN who will champion this issue and make it right. Mr. Chehade has requested information as to where ICANN has been deficient in accountability and transparency and it has been presented to him that the Name Similarity issue is highest on the list. This was provided to him by Chuck Gomes former chair of the GNSO.

[http://www.circleid.com/posts/20130904\\_examples\\_of\\_where\\_icann\\_can\\_be\\_more\\_accountable/](http://www.circleid.com/posts/20130904_examples_of_where_icann_can_be_more_accountable/)

I also personally wrote to Mr. Chehade last year asking him to consider carefully the instructions presented to the string similarity panel as it could result in severe consequences for the internet and its stakeholders. <http://www.icann.org/en/news/correspondence/smith-to-chehade-16nov12-en.pdf>

In a letter from Senator Rockefeller to Steve Crocker, after learning that the String Similarity Panel neglected to consolidate the 706 generic strings into the expected 50-75 strings, he urged ICANN to move cautiously on the issues. <http://www.icann.org/en/news/correspondence/rockefeller-to-crocker-26jun13-en>

A recent letter dated September 13, 2013 from Jonathan Robinson, Chair, ICANN GNSO Council to Dr. Steve Crocker, ICANN Board and Cherine Chalaby, Chair of the New gTLD Program Committee notifies the ICANN Board that certain recommendations have not been properly implemented. Specifically, he identifies recommendation 2- Strings must not be confusingly similar and recommendation 9- there must be a clear and pre-published application process using objective and measurable criteria. – see <http://gns0.icann.org/en/correspondence/robinson-to-crocker-chalaby-18sep13-en.pdf>

A recent letter dated September 16, 2013 from Alan Greenburg and the ALAC they also urge ICANN to readdress the Similar String issue. – see <https://community.icann.org/display/alacpolicydev/At-Large+Confusingly+Similar+gTLDs+Workspace>

With a published study commissioned by the eCWR, we have evaluated the newly submitted gTLD applications and estimated close to 647 unique Brand Strings, and 89 unique geographic strings. The remaining roughly 966 applications are competing for 706 unique generic strings of which only 56 have unique meanings. In other words, if ICANN fulfilled its mission properly, the 706 applications should only result in 50-75 new generic TLDs to be delegated. See <http://www.ecwr.net/forumdisplay.php?20-SHOP-and-the-New-Top-Level-Domains>

After receiving the final count of applications, it was estimated that approximately 75 new unique generic TLDs would be released. and what was promised to the US government when we had senate hearings on this subject as well as what was promised to the business community when they complained about the extreme expense of protecting trademarks with new TLDs. Remember that these new generic TLDs are to only be used as categories or name space as per RFC1591.

Is it possible that because of the “gold rush” of the new gTLDs, ICANN has shifted its position and has been biased by the influx of new and unexpected application fees which has caused it to deviate from its core mission?

As a member of eCommerce World Retailers, and as a long standing gTLD applicant, we are formally requesting that ICANN adhere to their founding principles and be restrictive and conservative as to how new TLDs are delegated. Allowing more TLDs may be misconstrued as increased competition-- but at what expense? It will only create confusion and chaos. The TLD market is not an open market, it plainly is a monopoly which ICANN is charged with diligently entrusting one entity per name space to operate. Inside of those name spaces, creativity and the free flow of ideas will result in real competition.

We at eCommerce World Retailers have strived since 2004 to support and develop a mechanism to operate an open, transparent and safe eCommerce environment which we have entrusted Commercial Connect, LLC. and their application for .shop to convey. Commercial Connect, LLC., is the original final applicant for .shop in 2000 which made it through the entire ICANN process for eCommerce without being denied, but has yet to be awarded the .shop delegation. There are approximately 38 other applicants and 22 variations for eCommerce TLDs with only two claiming to represent community. Community, transparency, secure and stability are all concepts conveyed in Commercial Connect's .shop application and are sorely missing in all of the others. Community applications have historically and justifiably been ICANN's preference to delegating TLDs and should remain a central focus to properly determine community support without erroneously disallowing applicants with no significant objections.

It would be confusing to any end user as to which eCommerce solution is the safe and trusted community supported TLD if in fact 20+ other similar TLDs existed in the same name space.

Which TLD in the following list would you consider the community, safe and secure space to do eCommerce? .shop, .shopyourway, .mall (IDN), .market or. bazaar (IDN), Consumer Electronics (IDN), .webstore (IDN), .eshop (IDN), .shopping (IDN), .onlineshopping (IDN), .store (IDN), .sale (IDN), .shopping, .forsale, .ecom, .sale, .numberOneStore (IDN), .store, .buy, .supplies, and/or .services ? And which TLD will you

In addition, it is dangerous to award 23 eCommerce TLDs as the business plans and models would vary significantly. Thus, the cost of \$1 to \$3 million per year to operate a competing back-end registry would prove to many of these companies to be cost prohibitive and eventually lead to failure for many, if not most, of these delegated registrars. **At this point, ICANN would have succeeded at one of the most horrific failures in internet history, the destruction of TLDs.**

In view of the growing discontent with the ICANN application process, WHY is ICANN not doing their best to correct this severe deficiency? .

I am clearly concerned about eCommerce and its ability to survive and even thrive on the internet but other name spaces will face similar challenges. For example, TLDs with similar meaning to .KIDS may include one which would be a policed safe and secure segment for children while others could potentially be used as predatory segments that could possibly target and cause harm.

While this seems like we are beating a dead horse by discussing the subject of string similarity, this horse keeps rearing its ugly head currently in the form of name collision and recently in the unprecedented number of Requests for Reconsideration that ICANN has received in regards to the very inconsistent decisions from ICDR's (Non-expert) panels on name similarity.

**By continuing to release new generic TLD's, other current applicants are now at a severe disadvantage.** Any current applicant that has a TLD similar to the already delegated TLD's are at risk of being barred from becoming delegated simply by referring to ICANN's policies on similar TLD's. This unfair treatment whereby ICANN approved one applicant over another without first grouping and considering name similarity can be considered gross negligence.

The only solution is to halt the current process and begin it anew with procedures adhering to the recommendations of the GNSO that take into full account all of ICANN's discussions, policies, procedures, core values, missions relating to this issue

The lack of transparency and accountability on this issue has been frustrating. Over the last eight (8) months we have addressed this issue in letters to many different recipients at ICANN. Most are not aware of the specifics of the issue and for certain, no one has managed to follow-up or compare their letters with those that other have received.

<http://gnso.icann.org/en/correspondence/robinson-to-crocker-chalaby-18sep13-en.pdf>

Again, there are significant individuals on ICANN committees and councils that are aware of the issue but no effective action is taking place. Instead ICANN is currently moving forward with delegation and making active new gTLDs that could have significant consequences on other applicants without following the basic steps which include full string similarity review in order to place the applications into proper contention sets.

In a recent draft for a five year strategic plan by ICANN, the third Focus Area is entitled "Supporting a healthy unique identifier ecosystem." We are certainly off track and what is done today will have drastic repercussions in the not too distant future. <http://www.icann.org/en/about/planning/strategic-engagement/focus-areas-29oct13-en.pdf>

Our request for ICANN to properly perform the name similarity process only brings more competition to the much sought after .shop eCommerce TLD name space. It delays the delegation period and can potentially delay the review for community priority evaluation. However, we all feel that the process should be done fairly, done efficiently and most of all done correctly. In order to achieve this, ICANN must halt the current process and must implement the correct procedures to ensure that the String Similarity Panel can properly assess the strings for aural, similar and/or confusing meanings. Likewise ICANN must provide well defined guidelines to the expert panels that review the results of the String Similarity Panels to ensure consistent and predictable results that advance ICANN's core mission. There is similar vague language in the recently published Guidelines for the Extended Process Similarity Review Panel (EPSRP) for the IDN ccTLD Fast Track Process dated November 5, 2013, while visual similarity may be the only pertinent form for a 2 letter ccTLD (which is why the term visual keeps appearing as it was taken out of context referring to ccTLDs and used as just one example for confusion), confusing issues could still arise. If this issue is not corrected it will continue to flow over to and corrupt other processes similar to the name collision issue and how the dispute mechanism has failed.

Who can make this decision and implement this? How quickly can it be done and what will the published pre-determined instructions that are provided be? These are questions that need immediate answers so we can restore our faith in ICANN's ability to effectively manage the internet name space.

Sincerely,

Jeffrey Smith  
Founding Board Member  
eCommerce World Retailers, Inc.  
CEO, Commercial Connect, LLC

