

## ICANN Public Comment Period

Aug 1, 2014

### Top Level Design LLC

The purpose of this letter is to restate the intent of our request for the release of a limited number of 2 character SLDs for the .wiki namespace in light of the public comments received and to respond to specific comments made in the comment period.

Top Level Design LLC, the registry for .wiki, submitted a request for the release of a limited number of 2 character domains for the .wiki namespace. The express intent of these domains was to create innovative URL shorteners for the widely respected Wikipedia.org. Our request was made in conjunction with Wikipedia's parent non-profit, the Wikimedia Foundation, and it was corroborated by a letter of support from the Foundation's Deputy Director, Erik Möller.

It is not clear that this public comment period was needed to facilitate our request as we do not see the need for contract amendments to facilitate our request. We do note, however, that there have been very few detracting comments, and most notably, no comments from government authorities have been received despite GAC members' knowledge of the issue.

Specification 5 of our Registry Agreement states:

All two-character ASCII labels shall be withheld from registration or allocated to Registry Operator at the second level within the TLD. Such labels may not be activated in the DNS, and may not be released for registration to any person or entity other than Registry Operator, provided that such two-character label strings may be released to the extent that Registry Operator reaches agreement with the related government and country-code manager of the string as specified in the ISO 3166-1 alpha-2 standard. **The Registry Operator may also propose the release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes, subject to approval by ICANN.**  
*(Emphasis Added)*

We have thoroughly demonstrated in our request that our plans pose no risk of user confusion with the corresponding country codes. Furthermore, the fact that this proposal has been posted for public comment with no objection from government authorities demonstrates tacit approval of this proposal.

Our request demonstrates "implementation of measures to avoid confusion with the corresponding country codes," and thus can be approved by ICANN without further consultation or burden. Our request uses a universally accepted list, the ISO 639-1, which denotes 2 character abbreviations for world languages. It is accepted by the same body as the ISO 3166-1 list, which was used to identify 2 character country codes in ccTLDs, which have been withheld as SLDs in the new TLD space. So, while our request does seek to release some 2 character SLDs that are associated with specific countries in the ISO 3166-1 list, it does so to defer to another universally accepted list, the ISO 639-1. **There is no evidence that the simultaneous, worldwide use of these two abbreviation systems have ever caused significant or**

**demonstrable user confusion**, the fact that they are both simultaneously used by the International Organization for Standardization (ISO) and its 163 member states demonstrates that **no such confusion exists**.

Our proposal, as further explained in Erik Möller's corroborating letter, has a number of access benefits, especially for developing countries, and increases the visibility of an award-winning informational resource, Wikipedia. By implementing our proposal, individuals accessing Wikipedia via mobile devices will navigate more easily and avoid more data fees, and individuals from non-English speaking countries will find web navigation to Wikipedia in their language significantly improved.

These benefits transcend the ISO 3166-1 list that ICANN has been protecting by withholding all 2 character SLDs. To use an example, fr.wiki will empower the entire French speaking world, including African, Asian, European, and American countries, rather than just being withheld out of a false fear of user confusion. Individuals are already navigating to fr.wikipedia.org, and there is no indication that a user would ever assume that this is the *French national* Wikipedia or a Wikipedia site dedicated to the *nation of France*. There is every indication that people gravitate to this Wikipedia site when looking for the *French language* version of Wikipedia.

Despite the fact that no contract amendments or special technical or competition barriers exist to the implementation of our request, it has been posted for public comment. This does not seem to follow defined ICANN processes. Nonetheless, in Attachment 1, we respond directly to each of the 9 comments received.

With thanks for due consideration,

Andrew Merriam  
Business Development Coordinator  
Top Level Design LLC

## **Attachment 1**

***Peter Cern, 12 June 2014***

Mr. Cern's comments do not reflect a knowledge of the current state of affairs regarding 2 character domain names. He states that:

"To protect ccTLD domain names, all two-letter domain names should stay blocked and reserved. As new countries pop-up year by year, not just existing country codes combinations, but all two-letter names should be prohibited to be registered."

The fact is that ICANN has approved the delegation of 2 character domains that do not overlap with existing TLDs, such as approved name expansion for [.org](#), [.biz](#), etc.. Withholding names that have been approved for release in previous TLD rounds is discriminatory behavior and does not follow any clear logic as ICANN has already reasoned that these domains pose no risk.

Notably, Mr. Cern goes on to state that,

"If ICANN will decide to release any names, it should not be done for interest of internet community and not for interest of registries to make extra profit on premium fees."

As stated in our request, these names would be given to Wikipedia with the only revenue we would receive being limited renewal fees. This is being done as a public benefit to further the Wikimedia Foundation's non-profit mission to collect and share the sum of all human knowledge.

***Robert Delaware, 16 June 2014***

Mr. Delaware's comments leads us to believe that he is more concerned about the gTLD program as a whole rather than the release of SLDs; that is, in his two comments made on June 16, he clearly demonstrates that he believes the issue at hand is the release of 2 character TLDs and not 2 character SLDs.

He states:

“I don't think that we should fool ourselves. Many, many people aren't familiar with URLs, and something like an Amazon.en or a Target.en could easily fool people.”

These comments should not be factored into any decision as they do not demonstrate a requisite understanding of the issue.

***Domain Admin, 12 June 2014***

The domain admin, who signs the letter as Reckitt Benckiser, apparently manages rb.com, rb.biz, and others on behalf of the Reckitt Benckiser Group, a multinational consumer goods company. While the comment is directed specifically at Donuts' requests, we find it noteworthy that the administrator is essentially seeking further, unique trademark protections beyond those envisioned by the gTLD program and our Registry Agreement. The RPM Requirements state that any name blocked by Specification 5 that is then released will be subject to any ongoing sunrise period, claims period, etc., and at a minimum be subject to a 90 day claims period. This is sufficient to protect against the infringement that the domain administrator is concerned about.

***Katrin Ohlmer, DOTZON, 10 July 2014***

Ms. Ohlmer supports the release of 2 character SLDs across the new TLD namespace. She notes on behalf of DOTZON that no preliminary issues were identified by the ICANN review and so these requests should be approved and inform the creation of a streamlined process to release 2 character domain names. Indeed, we believe that a streamlined process can and should be created to allow 2 character names to be released without this public comment period, as such a period has not solicited significant feedback. ICANN is in a position to evaluate whether or not a request contains “implementation of measures to avoid confusion with the corresponding country codes.”

***Bret Fausett, Uniregistry Corp., 10 July 2014***

Uniregistry, a new TLD registry, supports the introduction of all 2 character SLDs, and notes:

“Uniregistry believes that new gTLDs should not face restrictions not placed on legacy TLDs such as .COM or ccTLDs. We believe that placing restrictions on new gTLD registries that are not placed on the companies in competition with the new gTLDs violates the “Non-Discriminatory Treatment” provision of the ICANN Bylaws (Article II, Section 3).”

Top Level Design wholeheartedly agrees and supports Mr. Fausett's comments. New TLD operators have been repeatedly subject to burdens and unreasonably conservative implementation processes that have not been placed on legacy TLDs, further expansion rounds, or ccTLDs. We implore ICANN staff to immediately adopt a non-discriminatory approach across registry operation and compliance.

***Francis Toldi, Hewlett-Packard, 10 July 2014***

The comment filed by Francis Toldi is a letter signed by Casey Nakata, both of Hewlett Packard Company. Ms. Nakata's comment argues for the introduction of all 2 character domains that "do not conflict with a country code or government operator." It is unclear if Hewlett Packard's stance is against any overlap whatsoever or merely those that may be confusing. We have noted that our Registry Agreement with ICANN already envisions a scenario in which a registry has undertaken "measures to avoid confusion with the corresponding country codes." We stress that we have sufficiently demonstrated that there is no likelihood of confusion in our proposed service.

Hewlett Packard is honest about its own interest in the release of 2 character domains so that it can use its "HP" mark across new TLDs. It states:

"We have an interest in this new proposal to allow us to utilize the full array of marketing and brand protection opportunities presented by the gTLD system. Further, we note that HP's long standing use of our two character 'HP' "left of the dot" in previously existing TLD's (including .com) has caused no confusion or interference with any country code domain, government or corresponding country code operator. [...] HP believes the ability to use two-character domain names like 'HP' is an enhancement that supports the goals and future of the Internet sphere. The growth of a global economy is strongly linked to a company's ability to connect with their consumers, both current and future."

Ms. Nakata's comments on behalf of HP are a good reminder against those that would have us withhold all SLDs as an overly conservative approach to the development of future nation states or naming standards. We further add to this that we should consider the wider improvement of non-profit educational services and the reach of those services; Wikipedia has a social interest in the full-use of the new TLD namespace, just as HP has an economic interest.

***Michelle King, Fairwinds Partners, 10 July 2014***

The comments support the introduction of 2 character SLDs, specifically where there "are no current conflicts with the country codes or government operators." We have thoroughly demonstrated that our plans offer no conflicts with ccTLDs as the nature of the overlap is one

where another widely recognized abbreviation, the ISO 639-1 list, is used to denote a language code.

***Dev Anand Telucksingh, Trinidad and Tobago Computer Society, 10 July 2014***

Interestingly, while we don't agree with Mr. Telucksingh's assessment that two characters must be reserved as an overly conservative approach to the creation of future nation states, he still concludes that our proposal has merit and that it does not risk confusion with the ccTLD designated nations. In fact, he concludes that our proposal should be considered apart from other RSEPs for 2 character domains, given that we have demonstrated how our plans will not confuse users via association with ccTLD operators. He writes,

“The proposal by .wiki by Top Level Design LLC which specifies that the two character ASCII labels will only be used for languages identified by ISO 639-1 does appear to meet the threshold that the use will not be confused with the corresponding country codes, as per Specification 5 and could be approved.”

Thus, an At-Large representative concludes after reading our proposal and with a knowledge of our Registry Agreement that **we have sufficiently demonstrated that there is no cause for confusion**. Given the rather low response rate in this public comment forum, this is an important finding and should not go unnoticed.