



## **IPC COMMENTS FOR ICANN**

**In Response to**

**<http://www.icann.org/en/public-comment/jas-final-report-13oct11-en.htm>**

The Intellectual Property Constituency ("IPC") is a constituency of the GNSO and represents the full range of trademark and other intellectual property interests relating to the DNS. IPC members are international, regional and national intellectual property organizations from around the world, corporate entities with intellectual property interests (often as owners of intellectual property), and individuals with an interest in intellectual property matters. The IPC takes this opportunity to provide its comments on the Joint Applicant Support Final Report for the public comment period that opened October 13, 2011 and is set to close on December 16, 2011.

IPC previously commented on the Second Milestone Report of the JAS Working Group, see [http://ipconstituency.org/PDFs/Final\\_IPC-Comments\\_JAS\\_WG.pdf](http://ipconstituency.org/PDFs/Final_IPC-Comments_JAS_WG.pdf), and would have intended to file substantive comments on the final report. But it is evident to the IPC that filing public comments on the final report at this stage would be superfluous, given the ICANN Board's actions on December 8, 2011 in adopting resolution numbers 2011.12.08.01 – 2011.12.08.03 posted at <http://www.icann.org/en/minutes/resolutions-08dec11-en.htm#1.1>. These resolutions approve an implementation model "taking into account the JAS WG Final Report."

The IPC does wish to register its concern that once again the ICANN Board has taken action without any consideration of the public comments (not a single comment had been received by the time the Board adopted its resolution, with more than a week remaining in the public comment period). This is a very disturbing trend because, rightly or wrongly, it clearly sends the message that the public comment periods are merely "window dressing" and are no way taken into account when ICANN's Board takes actions. It also raises serious questions about ICANN's compliance with the Affirmation of Commitments, section 7, where ICANN commits to "responsive consultation procedures." See <http://www.icann.org/en/documents/affirmation-of-commitments-30sep09-en.htm>.

For this reason, we think it is imperative that ICANN take a serious look into the public comment process and the role it plays in supporting ICANN's "accountability and transparency." If the determination is made that this process is valuable, then we strongly urge the ICANN Board to refrain from taking action on any issue until such time as the public comment period has closed and the Board has thoroughly considered the input received during the public comment period.

Kind regards.

**THE INTELLECTUAL PROPERTY CONSTITUENCY**

Steve Metalitz, President