



Comments of ECTA, the European Community Trade Marks Association and MARQUES, the Association of European Trade Mark Owners on the Proposed Framework for the Fiscal Year 2011 Operating Plan and Budget.

1 April 2010

Introduction

ECTA and MARQUES appreciates this opportunity to comment on the ICANN Proposed Framework for the Fiscal Year 2011 Operating Plan and Budget.

About ECTA and MARQUES

MARQUES represents trade mark owners across Europe who together own more than two million domain names (a conservative estimate). These domain names are relied upon by consumers across Europe as signposts of genuine goods and services.

ECTA is the European Communities Trade Mark Association. ECTA numbers approximately 1500 members, coming from the Member States of the European Union, with associate members from all over the world. It brings together all those persons practising professionally in the Member States of the European Community in the field of trade marks, designs and related IP matters.

Non-Contracted Constituencies

MARQUES and ECTA are members of the intellectual property constituency ("IPC"), which is a non-contracted constituency within the Commercial Stakeholder Group. MARQUES and ECTA are extremely concerned at the volume of the workload placed upon non-contracted parties. For example, as at today, the ICANN Board and Staff are currently running 16 comment periods, 13 of which have deadlines of 1 April 2010.

The input of the IPC, and the other non-contracted constituencies, is vital to the proper and open development of the internet.

We are disappointed, therefore, that the FY11 Operating Plan and Budget does not feature any funding for the non-contracted constituency.

Funds flow from registrants through registries and registrars to ICANN. It is these registrants who fund ICANN; businesses, individuals, not-for-profits, industry and volunteer associations. The non-contracted constituencies represent their interests in the ICANN process. However, ICANN provides no funding to these essential constituencies receive other than occasional and limited travel support.

We believe that if ICANN were to provide funding to the non-contracted constituencies, the effect would be to transform participation in ICANN and the quality of debate. Such funding would enable the constituencies to encourage membership from across the globe and lift the burden that falls on a small number of volunteers. For example, we know that some of the most active members of the IPC, although working within major organisations, fund their involvement in ICANN themselves and frequently must justify the time they spend to their employers. If ICANN takes participation as seriously as it states, it cannot let this situation continue because it will lead to a decline in the quality of participation.

Therefore, we recommend to ICANN that it considers providing financial support to the non-contracted constituencies such as:

1. Funding in the order of \$150,000 per year for, initially, five years to enable the recruitment of professional secretariats to monitor ICANN output and to ensure positive and full-engagement in the development of policies and good practice;
2. The creation of a pool of funds available to non-contracted constituencies, on a matching basis, with an upper limit of perhaps \$200,000 pa. Thus, for example, if the IPC can raise \$50,000, with ICANN matching this with a further \$50,000, it would significantly assist with outreach, the production of position papers, recruitment of further members from around the world and so on.

ICANN can judge the effect of such funding by looking at the number and quality of members of the non-contracted parties and their participation in the business of ICANN. At a time when ICANN staff have complained to the GNSO about the volume of work that they are facing, investment in the constituencies would bring positive dividends to ICANN.

Contract Compliance

Finally, we also note that the proposed increase in the draft budget for the Contract Compliance department is less than 4%. With the advent of the new gTLDs and the probable expansion of abusive behaviours by some bad actor registrars, registries and of course registrants, we believe that this department needs further investment.

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