

Time Warner Inc., a global leader in media and entertainment with businesses in television networks, film and TV entertainment, and publishing, welcomes this opportunity to comment on the Trademark Clearinghouse Strawman Solution (“Strawman”) and the Limited Preventative Registration Proposal (“LPR”) that were posted by ICANN for public comment on November 30, 2012.

As a preliminary matter, it is important to first address the notion that ICANN lacks the power to adopt the Strawman and LPR (and other modifications like them) without first undergoing a Policy Development Process (“PDP”) within the Generic Names Supporting Organization (“GNSO”). Such an argument fails to note that the existing Rights Protection Mechanisms (“RPMs”), which the Strawman and LPR would modestly modify, have *never* been considered statements of policy: they originated from the work of the *Implementation* Recommendation Team (“IRT”) and were not themselves the product of a PDP. It defies reason to suggest that modifications to measures developed out of implementation of policy now require independent policy review through a PDP.

Substantively, Time Warner supports the minor modifications to the existing RPMs as outlined in the Strawman and LPR. Like others, we see the proposed modifications as necessary to help (a) the existing RPMs better match their intended purpose through scalability that mirrors the larger-than-anticipated number of new gTLD applications, and (b) trademark owners to manage the increased risks of cybersquatting and other infringement presented by the new gTLDs. Simply stated, reduced risk of consumer confusion should be everyone’s goal in the new gTLD program and the proposals work to further that goal.

Finally, Time Warner reminds ICANN that the potential efficacy of the Strawman, the LPR, and any other modifications to the RPMs cannot be analyzed in a vacuum. As noted in the IRT’s Final Draft Report that introduced the very RPMs the Strawman and LPR seek to modify, each proposed RPM:

“... is part of a tapestry of solutions which are interrelated and interdependent. The proposals have been designed comprehensively to balance in relation to one another and the removal of any proposal will likely require further strengthening of the others.”

The Strawman and LPR provide a clear illustration of this point. For example, Time Warner believes the potential utility of the extra claims notifications contemplated by the Strawman will be compromised if the Uniform Rapid Suspension (“URS”) is not concomitantly streamlined with non-answer default judgment and a full loser-pays model.

Time Warner thanks ICANN in advance for its consideration of our comments. If you have any questions or need more information, please do not hesitate to contact the undersigned.

Respectfully submitted,

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