Submitted to: comments-iag-whois-05oct15@icann.org

November 12, 2015

Mr. Jamie Hedlund

Vice President, Strategic Programs

Global Domains Division

ICANN

801 17th Street, NW Suite 400

Washington, DC 20006

# Re: IAG Initial Report and Proposed Revisions to the ICANN Procedure for Whois Conflicts with Privacy Laws

# Dear Mr. Hedlund:

# The International Trademark Association (INTA) is pleased to submit comments regarding the IAG Initial Report and Proposed Revisions to the ICANN Procedure for Whois Conflicts. We thank ICANN for this opportunity to comment on the Implementation Advisory Group's proposals to improve the current Whois Conflicts Procedure.

During the decade long debate over Whois, the topic has required review of many processes, and the creation of a procedure to address conflicts between a contracted party's Whois obligations and local/national privacy laws or regulations is but one of the processes under review within the umbrella topic of Whois. INTA has provided extensive input to ICANN throughout the development and implementation of its many Whois initiatives and we applaud ICANN for having it as one of its goals in the current process:

“Resolving the conflict, if possible, in a manner conducive to ICANN's Mission, applicable Core Values, and the stability and uniformity of the Whois system.”

We believe this is an important goal to focus on and note that, perhaps, part of this goal should be to exert more effort in assisting registrars to avoid conflicts with privacy laws at the outset. This can be accomplished by helping ensure the proper steps are taken by registrars to obtain data by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject. In our view, if more effort is placed on this initial step, less burden or emphasis will be required for a backstop procedure to handle Whois conflicts with privacy laws.

In sum, requiring registrars to allow for informed consent on the initial data collection process should obviate the need for a procedure at the backend to handle many of the conflicts problems ICANN is attempting to solve here. It shouldn't be the case that the community immediately jumps to the conclusion that a conflict with privacy law is unavoidable. More focus should be devoted to the initial data collection processes to avoid potential conflicts rather than how to handle the conflicts that could have reasonably been avoided at the outset.

# Should you have any questions about our comments, I invite you to contact Lori Schulman, INTA’s Senior Director of Internet Policy at 202-261-6588 or at lschulman@inta.org.

 Sincerely,



Etienne Sanz de Acedo