

The International Anti-Counterfeiting Coalition (the “IACC”) welcomes this opportunity to comment on the important issues associated with the proposed trademark protection mechanisms outlined in the report of the Implementation Recommendation Team (“IRT”) as part of the proposed enlargement of global Top-Level Domain Names (“gTLDs”). The IACC applauds the work of the IRT and the substantial amount of work undertaken by the IRT in the very short amount of time provided to draft and publish its report. The IACC will not here reiterate its concerns with or questions about the underlying merits of the proposed expansion of the gTLD space.

The IACC is the largest multinational organization exclusively advocating the interests of companies concerned with product piracy and counterfeiting. Our members consist of approximately 150 corporations, trade associations, and professional firms and collectively earn total revenues of over \$650 billion. The intellectual property owners represent a cross-section of industries, consisting of many of the world’s best known companies for the various products that they develop, manufacture and distribute in the entertainment, automotive, pharmaceutical, motion picture, consumer goods, personal care, apparel and other product sectors. These members regularly conduct intellectual property enforcement efforts in scores of countries around the world.

The IACC strongly supports the overall thrust of the IRT report. The IACC is impressed with the results and considers it a serious effort to address the deficiencies contained in the first Draft Applicant Guidebook (“DAG”) as they related to intellectual property protection measures. Despite an exceedingly limited time frame for its deliberations and draft, the IRT produced a balanced and thoughtful set of recommendations that provide an excellent basis for the next proposed draft of the DAG. While some comments focus on the process by which the IRT report was published, the IACC urges ICANN instead to evaluate the recommendations on their merits, which in our view are considerable.

As noted in previous comments submitted on behalf of the IACC, the enforcement interests of the IACC are such that its primary concern with the proposed enlargement of the gTLD space lies with insuring a robust, complete, reliable and accessible WHOIS database. See comments filed at (<http://forum.icann.org/lists/2gtld-guide/msg00109.html>; <http://gnso.icann.org/mailling-lists/archives/council/msg02618.html>; <http://forum.icann.org/lists/whois-services-comments/msg00015.html>; <http://forum.icann.org/lists/whois-comments-2007/msg00117.html>). The maintenance of a comprehensive, robust and reliable WHOIS database was among those elements contemplated at the time of ICANN’s inception.

The IACC strongly supports the IRT recommendation to require “thick Whois” services in the new gTLDs, and commends ICANN for its recent proposal to adopt this recommendation (see <http://www.icann.org/en/topics/new-gtlds/thick-thin-whois-30may09-en.pdf>). The privacy concerns raised by a few comments are fully addressed by the availability of “ICANN’s community-developed *Procedure For Handling Whois Conflicts with Privacy Law*” <http://www.icann.org/en/processes/icann-procedure-17jan08.htm> which specifies the means to resolve potential conflicts between a registry operator’s Whois obligations and local laws relating to data privacy”. The IACC looks forward to reviewing the next draft DAG, especially with a

view to those provisions intended to insure compliance by registries with these thick WHOIS obligations.

The IACC is disappointed that the short timeframe for IRT's activities did not allow it to delve into other issues of considerable importance in addressing trademark and other intellectual property problems anticipated in the new gTLD environment. In particular, IACC continues to support inclusion in the registry agreement of commitments to require registrars to live up to Whois-related obligations, especially with regard to the operation of proxy or private registration services, if permitted in the TLD; enforcement of Whois data accuracy requirements (including the cancellation of registrations of registrants to who supply false Whois data); and provision of full registrar Whois services, including ready access to the Whois Data Problem Reporting System whenever Whois queries lead to false contact data.

We look forward to having an opportunity to address these issues in more detail in response to the next DAG.

In summary, we urge ICANN to incorporate these recommendations in the final Applicant Guidebook for any new gTLD rollout. The IACC commends ICANN for the progress it has made toward addressing trademark concerns surrounding the new gTLD launch. We look forward to participating in the further refinement of the solutions proposed by the IRT, and to the development of similar solutions to other issues not adequately addressed in the current version of the DAG.

Very Truly Yours,

J. Andrew Coombs
Internet Committee
IACC