

The International Anti-Counterfeiting Coalition (“IACC”) submits the following comments in response to the trademark post-delegation dispute resolution procedure (“PDDRP”), which would serve as a rights protection mechanism for trademark owners in an expanded Generic Top-Level Domain (“gTLD”) space.

The IACC is the world’s oldest and largest organization representing exclusively the interests of companies concerned with trademark counterfeiting and copyright piracy. Our members consist of over 200 corporations, trade associations, and professional firms and represent total annual revenues of approximately \$750 billion. Our brand and copyright owner members represent a broad cross-section of industries, and include many of the world’s best known companies in the apparel, automotive, consumer goods, entertainment, pharmaceutical, and other product sectors. The IACC is committed to working with government and industry partners in the United States and elsewhere, to strengthen IP protection by encouraging improvements in the law and the allocation of greater political priority and resources, as well as by raising awareness regarding the enormous—and growing—harm caused by IP violations.

The IACC supports the majority of the Trademark PDDRP provisions, including the requirement that a registry operator to pay 50% of estimated fees related to the PDDRP upon a finding that the Complainant is a trademark holder. Additionally, we strongly support the provision awarding fees to the prevailing party.

The IACC, however, has concerns with the requirement that Complainants prove systematic infringement or improper conduct by clear and convincing evidence. We urge ICANN to reconsider this requirement and lower the standard to a preponderance of the evidence. We would remind ICANN that the Trademark PDDRP can be likened to a civil action for contributory trademark infringement or unfair competition, under which a Plaintiff need only prove wrongdoing by a preponderance of the evidence. We believe that requiring a Complainant to meet even the lower standard of a preponderance of the evidence is sufficient to meet the goals of the Trademark PDDRP and will not unfairly prejudice a registry operator.

We appreciate this opportunity to comment on the Trademark PDDRP and are available at any time for clarification or additional input.