



New gTLD Program
Community Priority Evaluation Report

Report Date: 11 June 2014

Application ID:	1-880-35979
Applied-for String:	INC
Applicant Name:	Dot Registry LLC

Overall Community Priority Evaluation Summary

Community Priority Evaluation Result	Did Not Prevail
<p>Thank you for your participation in the New gTLD Program. After careful consideration and extensive review of the information provided in your application, including documents of support, the Community Priority Evaluation panel determined that the application did not meet the requirements specified in the Applicant Guidebook. Your application did not prevail in Community Priority Evaluation.</p> <p>Your application may still resolve string contention through the other methods as described in Module 4 of the Applicant Guidebook.</p>	

Panel Summary

Overall Scoring	5 Point(s)	
Criteria	Earned	Achievable
#1: Community Establishment	0	4
#2: Nexus between Proposed String and Community	0	4
#3: Registration Policies	3	4
#4: Community Endorsement	2	4
Total	5	16
Minimum Required Total Score to Pass 14		

Criterion #1: Community Establishment	0/4 Point(s)
1-A Delineation	0/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as identified in the application did not meet the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the community demonstrates insufficient delineation, organization and pre-existence. The application received a score of 0 out of 2 points under criterion 1-A: Delineation.</p> <p><u>Delineation</u></p> <p>Two conditions must be met to fulfill the requirements for delineation: there must be a clear straightforward membership definition and there must be awareness and recognition of a community (as defined by the applicant) among its members.</p>	

The community defined in the application (“INC”) is:

Members of the community are defined as businesses registered as corporations within the United States or its territories. This would include Corporations, Incorporated Businesses, Benefit Corporations, Mutual Benefit Corporations and Non-Profit Corporations. Corporations or “INC’s” as they are commonly abbreviated, represent one of the most complex business entity structures in the U.S. Corporations commonly participate in acts of commerce, public services, and product creation....

A corporation is defined as a business created under the laws of a State as a separate legal entity, that has privileges and liabilities that are distinct from those of its members. While corporate law varies in different jurisdictions, there are four characteristics of the business corporation that remain consistent: legal personality, limited liability, transferable shares, and centralized management under a board structure. Corporate statutes typically empower corporations to own property, sign binding contracts, and pay taxes in a capacity separate from that of its shareholders.

This community definition shows a clear and straightforward membership. While broad, the community is clearly defined, as membership requires formal registration as a corporation with the relevant US state. In addition, corporations must comply with US state law and show proof of best practice in commercial dealings to the relevant state authorities.

However, the community as defined in the application does not have awareness and recognition of a community among its members. This is because corporations operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC. Based on the Panel’s research, there is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. There is no evidence that these incorporated firms would associate themselves with being part of the community as defined by the applicant.

The Community Priority Evaluation panel determined that the community as defined in the application only satisfies one of the two conditions to fulfill the requirements for delineation.

Organization

Two conditions must be met to fulfill the requirements for organization: there must be at least one entity mainly dedicated to the community and there must be documented evidence of community activities.

The community as defined in the application does not have at least one entity mainly dedicated to the community. Although responsibility for corporate registrations and the regulations pertaining to corporate formation are vested in each individual US state, these government agencies are fulfilling a function, rather than representing the community. In addition, the offices of the Secretaries of State of US states are not mainly dedicated to the community as they have other roles/functions beyond processing corporate registrations. According to the application:

Corporations can be formed through any jurisdiction of the United States. Therefore members of this community exist in all 50 US states and its territories. Corporation formation guidelines are dictated by state law and can vary based on each State’s regulations. Persons form a corporation by filing required documents with the appropriate state authority, usually the Secretary of State. Most states require the filing of Articles of Incorporation. These are considered public documents and are similar to articles of organization, which establish a limited liability company as a legal entity. At minimum, the Articles of Incorporation give a brief description of proposed business activities, shareholders, stock issued and the registered business address.

The community as defined in the application does not have documented evidence of community activities. As there is no entity that is mainly dedicated to the community as defined in the .INC application, there is no

documented evidence of community activities.

The Community Priority Evaluation panel determined that the community as defined in the application does not satisfy either of the two conditions to fulfill the requirements for organization.

Pre-existence

To fulfill the requirements for pre-existence, the community must have been active prior to September 2007 (when the new gTLD policy recommendations were completed).

The community as defined in the application was not active prior to September 2007. According to section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to a get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). The Community Priority Evaluation panel determined that this application refers to a “community” construed to obtain a sought-after corporate identifier as a gTLD string, as these corporations would typically not associate themselves with being part of the community as defined by the applicant. The community therefore could not have been active prior to the above date (although its constituent parts were active).

The Community Priority Evaluation panel determined that the community as defined in the application does not fulfill the requirements for pre-existence.

1-B Extension

0/2 Point(s)

The Community Priority Evaluation panel determined that the community as identified in the application did not meet the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application did not demonstrate considerable size or longevity for the community. The application received a score of 0 out of 2 points under criterion 1-B: Extension.

Size

Two conditions must be met to fulfill the requirements for size: the community must be of considerable size and must display an awareness and recognition of a community among its members.

The community as defined in the application is of a considerable size. The community for .INC as defined in the application is large in terms of number of members. According to the application:

With almost 470,000 new corporations registered in the United States in 2010 (as reported by the International Association of Commercial Administrators) resulting in over 8,000,000 total corporations in the US, it is hard for the average consumer to not conduct business with a corporation.

However, as previously stated, the community as defined in the application does not have awareness and recognition of a community among its members. This is because corporations operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC. Based on the Panel’s research, there is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. These incorporated firms would therefore not typically associate themselves with being part of the community as defined by the applicant.

The Community Priority Evaluation panel determined that the community as defined in the application only satisfies one of the two conditions to fulfill the requirements for size.

Longevity

Two conditions must be met to fulfill the requirements for longevity: the community must demonstrate longevity and must display an awareness and recognition of a community among its members.

The community as defined in the application does not demonstrate longevity. As mentioned previously, according to section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to a get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). The Community Priority Evaluation panel determined that this application refers to a “community” construed to obtain a sought-after corporate identifier as a gTLD string, as these corporations would typically not associate themselves with being part of the community as defined by the applicant. Therefore, the pursuits of the .INC community are not of a lasting, non-transient nature.

Additionally, as previously stated, the community as defined in the application does not have awareness and recognition of a community among its members. This is because corporations operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC. Based on the Panel’s research, there is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. These incorporated firms would therefore not typically associate themselves with being part of the community as defined by the applicant.

The Community Priority Evaluation panel determined that the community as defined in the application does not satisfy either of the two conditions to fulfill the requirements for longevity.

Criterion #2: Nexus between Proposed String and Community	0/4 Point(s)
2-A Nexus	0/3 Point(s)
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string identifies the community, but over-reaches substantially beyond the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.</p> <p>To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus, the applied-for string must identify the community. “Identify” means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.</p> <p>The applied-for string (.INC) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community. According to the application documentation:</p> <p style="padding-left: 40px;">“.INC” was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language the word incorporation is primarily shortened to Inc. when used to delineate business entity types. For example, McMillion Incorporated would additionally be referred to as McMillion Inc. Since all of our community members are incorporated businesses we believed that “.INC” would be the simplest, most straightforward way to accurately represent our community.</p> <p style="padding-left: 40px;">Inc. is a recognized abbreviation in all 50 states and US Territories denoting the corporate status of an entity. Our research indicates that Inc. as corporate identifier is used in three other jurisdictions (Canada, Australia, and the Philippines) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our community definition.</p> <p>While the string identifies the name of the community, it captures a wider geographical remit than the</p>	

community has, as the corporate identifier is used in Canada, Australia and the Philippines. Therefore, there is a substantial over-reach between the proposed string and community as defined by the applicant.

The Community Priority Evaluation panel determined that the applied-for string over-reaches substantially beyond the community. It therefore does not meet the requirements for nexus.

2-B Uniqueness

0/1 Point(s)

The Community Priority Evaluation panel determined that the application did not meet the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the string does not score a 2 or a 3 on Nexus. The application received a score of 0 out of 1 point under criterion 2-B: Uniqueness.

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application does not demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. The Community Priority Evaluation panel determined that the applied-for string does not satisfy the condition to fulfill the requirements for Uniqueness.

Criterion #3: Registration Policies

3/4 Point(s)

3-A Eligibility

1/1 Point(s)

The Community Priority Evaluation panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.

To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. The application demonstrates adherence to this requirement by limiting eligibility to registered corporations and by cross-referencing their documentation against the applicable US state's registration records in order to verify the accuracy of their application, etc. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.

3-B Name Selection

1/1 Point(s)

The Community Priority Evaluation panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as name selection rules are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-B: Name Selection.

To fulfill the requirements for Name Selection, the registration policies for name selection for registrants must be consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by outlining a comprehensive list of name selection rules, such as requirements that second level domain names should match or include a substantial part of the registrant's legal name, and specifying that registrants will not be able to register product line registrations, amongst other requirements. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.

3-C Content and Use	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by noting that all registrants must adhere to the content restrictions outlined in the applicant’s abuse policies. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.</p>	
3-D Enforcement	<i>0/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the application provided specific enforcement measures but did not include appropriate appeal mechanisms. The application received a score of 0 out of 1 point under criterion 3-D: Enforcement.</p> <p>Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. For example, if a registrant wrongfully applied for and was awarded a second level domain name, the right to hold this domain name will be immediately forfeited. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline an appeals process. The Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.</p>	

Criterion #4: Community Endorsement	
<i>2/4 Point(s)</i>	
4-A Support	<i>1/2 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.</p> <p>To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. “Recognized” means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. “Relevance” refers to the communities explicitly and implicitly addressed.</p> <p>The Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from a majority of the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support.</p>	

The application included letters from a number of Secretaries of State of US states, which were considered to constitute support from groups with relevance, as each Secretary of State has responsibility for corporate registrations and the regulations pertaining to corporate formation in its jurisdiction. These entities are not the recognized community institution(s)/member organization(s), as these government agencies are fulfilling a function, rather than representing the community. The viewpoints expressed in these letters were not consistent across states. While several US states expressed clear support for the applicant during the Letters of Support verification process, others either provided qualified support, refrained from endorsing one particular applicant over another, or did not respond to the verification request. Letters of support from other entities did not meet the requirement for relevance based on the Applicant Guidebook criteria, as they were not from the recognized community institutions/member organizations. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.

4-B Opposition

1/2 Point(s)

The Community Priority Evaluation panel determined that the application partially met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application received relevant opposition from one group of non-negligible size. The application received a score of 1 out of 2 points under criterion 4-B: Opposition.

To receive the maximum score for Opposition, the application must not have received any opposition of relevance. To receive a partial score for Opposition, the application must have received opposition from, at most, one group of non-negligible size.

The application received several letters of opposition, one of which was determined to be relevant opposition from an organization of non-negligible size. This opposition was from a community that was not identified in the application but which has an association to the applied-for string. Opposition was on the grounds that limiting registration to US registered corporations only would unfairly exclude non-US businesses. The remaining letters were either from groups/individuals of negligible size, or were not from communities which were not mentioned in the application but which have an association to the applied for string. The Community Priority Evaluation Panel determined that the applicant partially satisfied the requirements for Opposition.

Disclaimer: Please note that these Community Priority Evaluation results do not necessarily determine the final result of the application. In limited cases the results might be subject to change. These results do not constitute a waiver or amendment of any provision of the Applicant Guidebook or the Registry Agreement. For updated application status and complete details on the program, please refer to the Applicant Guidebook and the ICANN New gTLDs microsite at <newgtlds.icann.org>.