

GAC Advice Response Form for Applicants



The Governmental Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section II of the [GAC Buenos Aires Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

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Respondent:

Applicant Name	Neveah Ventures Inc
Application ID	1-865-67813
Applied for TLD (string)	rip

Response:

Neveah Ventures Inc (Neveah) is pleased to provide our response in connection with the most recent GAC Category 1 advice detailed in the GAC Buenos Aires Communiqué. We are also providing a response to the NGPC proposed Category 1 Safeguards in the form of proposed PICs that will be part of the new Registry Agreement.

a) With regards to the GAC Buenos Aires Communiqué, while the DotRIP string is not explicitly identified, we believe the requirements that apply to the DotRIP application include: “Item 4. Protection of Inter-Governmental Organisations (IGOs)” and “Item 6. Protection of Red Cross/Red Crescent Names”.

Neveah recognizes the intent to establish permanent protection of IGO acronyms at the second level and we support continued discussions between the NGPC and the GAC in this regard. In the interim, should Neveah continue with contracting for DotRIP prior to a resolution between the NGPC and the GAC, we understand and agree that the initial protections for IGO acronyms will remain in place.

We also recognize that the GAC is giving further consideration to the way in which existing protections should apply to the words “Red Cross”, “Red Crescent” and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities. Neveah awaits the specific direction that will ensue.

b) Neveah notes that in the NGPC proposed Category 1 Safeguards, the DotRIP string is explicitly identified in the section: “Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-3 applicable)”. In this regard, we are pleased to provide the following specific responses.

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1. Neveah will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Neveah will include a provision in our Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Neveah will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.

Neveah welcomes additional question and/or comments with regards to our application and we look forward to the continuing application process.

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Respondent:

Applicant Name	Dot Registry, LLC
Application ID	1-880-17627
Applied for TLD (string)	LLC

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December 16, 2013

Dear Cherine and Members of the NGPC:

Thank you for the opportunity to provide Dot Registry LLC's thoughts on GAC advice.

Dot Registry LLC is the only Community Applicant for the "corporate identifier" strings (.corp, .inc, .llp and .llc). In developing our applications, we spent months in dialog with all Secretaries of State to determine the best approach to operate a registry for these sensitive strings. As a result, we have established the most restrictive registration and enforcement policies of any applicant for these TLDs. The lack of restrictive policies and protection mechanisms by other applicants, coupled with the recent proposal from the NGPC; which stops short of requiring these types of policies and protections as asked for by the Government Advisory Committee (GAC) in their Beijing Communiqué, concerns us.

In developing the new gTLD program, ICANN placed significant emphasis on fraud and abuse mitigation mechanisms to reduce such criminal activity on the Internet today. In our application responses to these types of safeguard questions, we outlined a rigid pre-verification process for anyone attempting to register a domain in any of our TLDs. These registration policies were developed in cooperation with U.S. Secretaries of State and with the National Association of Secretaries of State (NASS). Through extensive work with these offices, we were able to develop a system of security protocols and verification to combat fraud and consumer harm by potential criminal registrants in these TLDs. Our pre-verification system is a safety and security mechanism requested by the U.S. Secretaries of State, who are under Oath of Office and act as regulators for corporate registrations in the United States.

The NGPC's proposal is a step back from what the GAC has asked for related to the registry operation of these strings. By only requiring registrants to affirm, and not verify, that they have the proper credentials necessary to register a corporate domain, only encourages fraudsters and criminals to use these types of TLDs for nefarious activity. To understand shortcomings of self affirmation, we would ask you to look at Whois Accuracy where registrants are supposed to attest that the information they supply is accurate and complete. In ICANN's recent compliance findings, you will see that WHOIS Inaccuracy remains a substantial industry wide problem. As such, under the current NGPC proposal, a criminal can tick the box that they have met the necessary credentials to register a corporate domain without fear or worry of verification or validation. While the 2013 RAA does provide some new safeguards against false Whois information, through additional verification requirements, these requirements fall short as there are no "universal" methods in place for global address verification. Enforcement will continue to be reactive versus taking a proactive and preemptive approach. In our application, we have taken measures to address this preventable situation.

As members of the NGPC and the ICANN Board of Directors, you have the power to put appropriate safeguards in place to prevent fraud and consumer harm; however, your proposal to the GAC stops

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Response:



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During remarks in June of 2013, ICANN CEO Fadi Chehadé described the relationship between ICANN and new gTLD Registries as one of Licensor and Licensee. As such, ICANN has the requisite authority to not only grant registry licenses, but the responsibility to ensure their operation is in a secure and stable manner which protects the public interest¹. In considering a more stringent requirements approach, you have affirmatively decided against requiring them and are creating a scenario where these TLDs could become incubators ripe for fraud, criminal activity and consumer harm. This approach is nowhere near in the best interest of the public or consumer confidence and is counter productive to what the GAC and the community has asked for. NASS' President recently raised similar concerns in a letter to the Federal Trade Commission.²

Another shortfall of the NGPC proposal, in responding to GAC advice, is by not requiring relationships with applicable key regulators. By only requiring registry operators to post contact information as opposed to requiring them to have ongoing, established relationships with the regulators responsible for these corporate registrations, you have ignored the spirit and the intent of the GAC advice in a critical area. When U.S. Secretaries of State and Attorney Generals begin to investigate claims of fraud and abuse, and try to determine how this was possible in the first place, they will undoubtedly turn to ICANN for answers. ICANN will need to answer why the NGPC proposal chose to water down GAC advice instead of proactively putting in real protections.

We also remain concerned that the NGPC proposal does not appropriately address the GAC Advice which stated "...that in those cases where a community, which is clearly impacted by a set of new gTLD applications in contention, has expressed a collective and clear opinion on those applications, such opinion should be duly taken into account, together with all other relevant information..."

Recently, NASS³ has told ICANN that corporate identifier TLDs should be run as community registries and on several occasions individual Secretaries of States⁴. While we are confident in the prospects of CPE, ICANN's refusal to acknowledge these requests is troubling and exhibits a disregard for the offices these key public officials hold and the role they serve in corporate identifiers within their jurisdiction.

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We urge you to strengthen your proposal to ensure that corporate identifier TLDs require stringent registrant verification, have ongoing working relationships with appropriate regulators and reflect the wishes of the community as embodied by the numerous communications you have received from the U.S. Secretaries of State and NASS.

Sincerely

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Shaul Jolles

CEO

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Respondent:

Applicant Name	Dot Registry, LLC
Application ID	1-880-35508
Applied for TLD (string)	LLP

GAC Advice Response Form for Applicants



December 16, 2013

Dear Cherine and Members of the NGPC:

Thank you for the opportunity to provide Dot Registry LLC's thoughts on GAC advice.

Dot Registry LLC is the only Community Applicant for the "corporate identifier" strings (.corp, .inc, .llp and .llc). In developing our applications, we spent months in dialog with all Secretaries of State to determine the best approach to operate a registry for these sensitive strings. As a result, we have established the most restrictive registration and enforcement policies of any applicant for these TLDs. The lack of restrictive policies and protection mechanisms by other applicants, coupled with the recent proposal from the NGPC; which stops short of requiring these types of policies and protections as asked for by the Government Advisory Committee (GAC) in their Beijing Communiqué, concerns us.

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Recently, NASS³ has told ICANN that corporate identifier TLDs should be run as community registries and on several occasions individual Secretaries of States⁴. While we are confident in the prospects of CPE, ICANN's refusal to acknowledge these requests is troubling and exhibits a disregard for the offices these key public officials hold and the role they serve in corporate identifiers within their jurisdiction.

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Respondent:

Applicant Name	Dot Registry, LLC
Application ID	1-880-35979
Applied for TLD (string)	INC

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December 16, 2013

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Dot Registry LLC is the only Community Applicant for the "corporate identifier" strings (.corp, .inc, .llp and .llc). In developing our applications, we spent months in dialog with all Secretaries of State to determine the best approach to operate a registry for these sensitive strings. As a result, we have established the most restrictive registration and enforcement policies of any applicant for these TLDs. The lack of restrictive policies and protection mechanisms by other applicants, coupled with the recent proposal from the NGPC; which stops short of requiring these types of policies and protections as asked for by the Government Advisory Committee (GAC) in their Beijing Communiqué, concerns us.

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Respondent:

Applicant Name	Dot Registry, LLC
Application ID	1-880-39342
Applied for TLD (string)	CORP

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December 16, 2013

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Respondent:

Applicant Name	Dot Registry, LLC
Application ID	1-880-44249
Applied for TLD (string)	LTD

GAC Advice Response Form for Applicants



December 16, 2013

Dear Cherine and Members of the NGPC:

Thank you for the opportunity to provide Dot Registry LLC's thoughts on GAC advice.

Dot Registry LLC is the only Community Applicant for the "corporate identifier" strings (.corp, .inc, .llp and .llc). In developing our applications, we spent months in dialog with all Secretaries of State to determine the best approach to operate a registry for these sensitive strings. As a result, we have established the most restrictive registration and enforcement policies of any applicant for these TLDs. The lack of restrictive policies and protection mechanisms by other applicants, coupled with the recent proposal from the NGPC; which stops short of requiring these types of policies and protections as asked for by the Government Advisory Committee (GAC) in their Beijing Communiqué, concerns us.

In developing the new gTLD program, ICANN placed significant emphasis on fraud and abuse mitigation mechanisms to reduce such criminal activity on the Internet today. In our application responses to these types of safeguard questions, we outlined a rigid pre-verification process for anyone attempting to register a domain in any of our TLDs. These registration policies were developed in cooperation with U.S. Secretaries of State and with the National Association of Secretaries of State (NASS). Through extensive work with these offices, we were able to develop a system of security protocols and verification to combat fraud and consumer harm by potential criminal registrants in these TLDs. Our pre-verification system is a safety and security mechanism requested by the U.S. Secretaries of State, who are under Oath of Office and act as regulators for corporate registrations in the United States.

The NGPC's proposal is a step back from what the GAC has asked for related to the registry operation of these strings. By only requiring registrants to affirm, and not verify, that they have the proper credentials necessary to register a corporate domain, only encourages fraudsters and criminals to use these types of TLDs for nefarious activity. To understand shortcomings of self affirmation, we would ask you to look at Whois Accuracy where registrants are supposed to attest that the information they supply is accurate and complete. In ICANN's recent compliance findings, you will see that WHOIS Inaccuracy remains a substantial industry wide problem. As such, under the current NGPC proposal, a criminal can tick the box that they have met the necessary credentials to register a corporate domain without fear or worry of verification or validation. While the 2013 RAA does provide some new safeguards against false Whois information, through additional verification requirements, these requirements fall short as there are no "universal" methods in place for global address verification. Enforcement will continue to be reactive versus taking a proactive and preemptive approach. In our application, we have taken measures to address this preventable situation.

As members of the NGPC and the ICANN Board of Directors, you have the power to put appropriate safeguards in place to prevent fraud and consumer harm; however, your proposal to the GAC stops

GAC Advice Response Form for Applicants

Response:



considerably short of that. This presents a problem for ICANN and its role in protecting the security and stability of the Internet and that of the public interest.

During remarks in June of 2013, ICANN CEO Fadi Chehadé described the relationship between ICANN and new gTLD Registries as one of Licensor and Licensee. As such, ICANN has the requisite authority to not only grant registry licenses, but the responsibility to ensure their operation is in a secure and stable manner which protects the public interest¹. In considering a more stringent requirements approach, you have affirmatively decided against requiring them and are creating a scenario where these TLDs could become incubators ripe for fraud, criminal activity and consumer harm. This approach is nowhere near in the best interest of the public or consumer confidence and is counter productive to what the GAC and the community has asked for. NASS' President recently raised similar concerns in a letter to the Federal Trade Commission.²

Another shortfall of the NGPC proposal, in responding to GAC advice, is by not requiring relationships with applicable key regulators. By only requiring registry operators to post contact information as opposed to requiring them to have ongoing, established relationships with the regulators responsible for these corporate registrations, you have ignored the spirit and the intent of the GAC advice in a critical area. When U.S. Secretaries of State and Attorney Generals begin to investigate claims of fraud and abuse, and try to determine how this was possible in the first place, they will undoubtedly turn to ICANN for answers. ICANN will need to answer why the NGPC proposal chose to water down GAC advice instead of proactively putting in real protections.

We also remain concerned that the NGPC proposal does not appropriately address the GAC Advice which stated "...that in those cases where a community, which is clearly impacted by a set of new gTLD applications in contention, has expressed a collective and clear opinion on those applications, such opinion should be duly taken into account, together with all other relevant information..."

Recently, NASS³ has told ICANN that corporate identifier TLDs should be run as community registries and on several occasions individual Secretaries of States⁴. While we are confident in the prospects of CPE, ICANN's refusal to acknowledge these requests is troubling and exhibits a disregard for the offices these key public officials hold and the role they serve in corporate identifiers within their jurisdiction.

¹ See section 3 of the Affirmation of Commitments <http://www.icann.org/en/about/agreements/aoc/affirmation->

² Letter from Tennessee Secretary of State Tre Hargett to FTC Commissioners. <http://dotregistry.org/pdf/11-15-2013-Tre-Hargett.pdf>

³ Email from Leslie Reynolds to ICANN Board, regarding resolution by the National Association of Secretaries of State Regarding the Issuance of New gTLDs with Corporate Identifiers
<http://www.icann.org/en/news/correspondence/reynolds-to-icann-board-26jul13-en>

⁴ Correspondence to ICANN <http://dotregistry.org/about/correspondence>

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As the only community applicant for these sensitive corporate identifier TLDs, we understand the tremendous responsibility that comes with operating these registries. For this reason, we have worked hand in glove with U.S. Secretaries of State to ensure our operating policies reflect the needs and wishes of the community we seek to serve. Allowing registries to operate in any manner other than the parameters set forth in our community application is a disservice to the community, the regulators and consumers who have come to expect security and trust in the new gTLD program and operability of the Internet.

We urge you to strengthen your proposal to ensure that corporate identifier TLDs require stringent registrant verification, have ongoing working relationships with appropriate regulators and reflect the wishes of the community as embodied by the numerous communications you have received from the U.S. Secretaries of State and NASS.

Sincerely

A handwritten signature in blue ink, appearing to read "Shaul Jolles".

Shaul Jolles

CEO

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Dotversicherung-registry GmbH
Application ID	1-891-92750
Applied for TLD (string)	VERSICHERUNG

Response:

dotversicherung-registry GmbH welcomes and supports the GAC Advice as published in Buenos Aires, as the GAC Advice has been established in the Applicant Guidebook as an instrument to reject gTLD applications which e.g. violate national laws and / or do not recognize and incorporate public interests such as consumer protection.

We also welcomes and support the proposal made by the NGPC published on Oct. 29, 2013 – (<https://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en>)

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Dotreise GmbH
Application ID	1-892-71956
Applied for TLD (string)	REISE

Response:

dotreise GmbH welcomes and supports the GAC Advice as published in Buenos Aires, as the GAC Advice has been established in the Applicant Guidebook as an instrument to reject gTLD applications which e.g. violate national laws and / or do not recognize and incorporate public interests such as consumer protection.

We also welcome and support the proposal made by the NGPC published on Oct. 29, 2013 – (<https://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en>)

GAC Advice Response Form for Applicants

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Respondent:

Applicant Name	IEEE Global LLC
Application ID	1-966-50066
Applied for TLD (string)	ieee

Response:

Applicant’s applied-for string, ieee, does not appear on either the Category 1 or Category 2 Safeguard Advice list. Therefore, applicant believes that it is not required to submit any response to the GAC Buenos Aires Communiqué. Applicant is nonetheless grateful for the opportunity to comment on the GAC’s meeting in Buenos Aires with the Brand Registry Group (BRG) regarding the group’s proposal for a streamlined process for the approval of country names and 2-letter and character codes at the second level. Applicant understands that the GAC is considering this proposal and has committed to respond to the BRG in due course.

Applicant strongly supports such a streamlined process. As the BRG has rightly pointed out, brand TLDs have unique interests in making lawful, non-confusing use of country names at the second level. Applicant’s affiliate, the Institute of Electrical and Electronics Engineers, has members in over 160 countries. Being able to use country names at the second level would be very helpful in structuring its presence in the new .ieee gTLD. The BRG’s proposed approach for a fast-track, low-bureaucracy approval process for country names balances the interests of governments, brand owners, and the public, and should be approved.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	myLLC GmbH
Application ID	1-1013-43904
Applied for TLD (string)	LLC

Response:

myLLC GmbH (myLLC), as an Applicant for the .LLC TLD, is pleased to submit this response to the GAC Buenos Aires Communiqué.

myLLC supports the efforts of ICANN and the Governmental Advisory Committee (GAC) to deploy the new TLDs in a safe, secure and responsible manner. As detailed in our application, myLLC will design and position the .LLC TLD to be known as one of the premiere professional resources on the Internet. The mission of the .LLC TLD is to provide businesses a namespace on the Internet to establish meaningful and relevant identities and to promote their LLC entity. The primary purpose is to foster a sense of professionalism and trust among customers, businesses and organizations.

In its Buenos Aires Communiqué, the GAC "highlights the importance of its Beijing advice on 'Restricted Access' registries, particularly with regard to the need to avoid undue preference and/or undue disadvantage." myLLC is committed to allow registrations in all jurisdictions where LLC is used as a corporate identifier, and will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination. Specification 11 of the Registry Agreement commits the Registry Operator to "operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies." myLLC fully supports this premise and urges ICANN to ensure that the GAC's Advice in this regard is entirely implemented.

myLLC understands that the commitment for a non-discriminatory operation of gTLDs, as manifested in the ICANN bylaws¹ as well as in the Approved Resolution of the NGPC in realization of the GAC Beijing advice², has special importance in the Corporate Identifier field. This commitment signifies that LLC corporations all over the world are entitled to an equal chance to strengthen their web presence and business, no matter which jurisdiction or state

¹ <http://www.icann.org/en/about/governance/bylaws>

² <https://www.icann.org/en/groups/board/documents/resolutions-new-gtld-25jun13-en.htm>

GAC Advice Response Form for Applicants



they are operating from. In no case should any legal LLC entity be excluded from the ability to register domains under the TLD .LLC due to questionable restrictions - particularly not under the guise of a community application taking precedence over other applicants.

myLLC would also like to reiterate that it is committed to registrations under .LLC as postulated in the GAC Beijing communiqué in the form suggested in the NGPC implementation plans³. myLLC will gladly cooperate with relevant national supervisory authorities in this regard.

Additionally we strongly support the NTAG letter “Implementation of Category 1 and Category 2 GAC Advice” from the 20th December 2013 and are looking forward to proceed with our application.

³ <http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en.pdf>

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	myLLP GmbH
Application ID	1-1013-89480
Applied for TLD (string)	LLP

Response:

myLLP GmbH (myLLP), as an Applicant for the .LLP TLD, is pleased to submit this response to the GAC Buenos Aires Communiqué.

myLLP supports the efforts of ICANN and the Governmental Advisory Committee (GAC) to deploy the new TLDs in a safe, secure and responsible manner. As detailed in our application, myLLP will design and position the .LLP TLD to be known as one of the premiere professional resources on the Internet. The mission of the .LLP TLD is to provide businesses a namespace on the Internet to establish meaningful and relevant identities and to promote their LLP entity. The primary purpose is to foster a sense of professionalism and trust among customers, businesses and organizations.

In its Buenos Aires Communiqué, the GAC "highlights the importance of its Beijing advice on 'Restricted Access' registries, particularly with regard to the need to avoid undue preference and/or undue disadvantage." myLLP is committed to allow registrations in all jurisdictions where LLP is used as a corporate identifier, and will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination. Specification 11 of the Registry Agreement commits the Registry Operator to "operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies." myLLP fully supports this premise and urges ICANN to ensure that the GAC's Advice in this regard is entirely implemented.

myLLP understands that the commitment for a non-discriminatory operation of gTLDs, as manifested in the ICANN bylaws¹ as well as in the Approved Resolution of the NGPC in realization of the GAC Beijing advice², has special importance in the Corporate Identifier field. This commitment signifies that LLP corporations all over the world are entitled to an equal chance to strengthen their web presence and business, no matter which jurisdiction or state

¹ <http://www.icann.org/en/about/governance/bylaws>

² <https://www.icann.org/en/groups/board/documents/resolutions-new-gtld-25jun13-en.htm>

GAC Advice Response Form for Applicants



they are operating from. In no case should any legal LLP entity be excluded from the ability to register domains under the TLD .LLP due to questionable restrictions - particularly not under the guise of a community application taking precedence over other applicants.

myLLP would also like to reiterate that it is committed to registrations under .LLP as postulated in the GAC Beijing communiqué in the form suggested in the NGPC implementation plans³. myLLP will gladly cooperate with relevant national supervisory authorities in this regard.

Additionally we strongly support the NTAG letter "Implementation of Category 1 and Category 2 GAC Advice" from the 20th December 2013 and are looking forward to proceed with our application.

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GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	HOTEL Top-Level-Domain S.à.r.l.
Application ID	1-1032-95136
Applied for TLD (string)	HOTEL

Response:

HOTEL Top-Level-Domain S.à.r.l., as the only Community Applicant for the .hotel TLD, is pleased to submit this response to the GAC Buenos Aires Communiqué. HOTEL Top-Level-Domain S.à.r.l. supports the efforts of ICANN and the Governmental Advisory Committee (GAC) to deploy the new TLDs in an appropriate, secure and responsible manner.

In its Buenos Aires Communiqué, the GAC “highlights the importance of its Beijing advice on 'Restricted Access' registries, particularly with regard to the need to avoid undue preference and/or undue disadvantage.” HOTEL Top-Level-Domain S.à.r.l. is committed to allow registrations for all eligible registrants as specified in our Community Application and will operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination.

HOTEL Top-Level-Domain S.à.r.l. acknowledges Specification 11 of the Registry Agreement which commits the Registry Operator to “operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies.”

HOTEL Top-Level-Domain S.à.r.l. would also like to point out that, as a Community Applicant with established and active relationships within the global Hotel Community, it has committed itself in its application to verify and validate registrations under .hotel.

HOTEL Top-Level-Domain S.à.r.l. also urges ICANN to ensure that any Public Interest Commitments or changes to applications and TLD operations based on Safeguards filed

GAC Advice Response Form for Applicants



by applicants in Contention Sets are being bindingly implemented and monitored after being approved as Change Request.

Despite the Safeguards HOTEL Top-Level-Domain S.à.r.l. directs attention to this article published in April 2013 at

http://www.circleid.com/posts/20130421_what_may_happen_to_gac_advice_3_fearless_predictions/ which highlights the dangerous deficiencies of the current process:

“GAC Advice has to be executed before contention resolution for applicants in contention sets starts. Otherwise an applicant might succeed in the Contention Set who will be thrown out because of GAC Advice later in the process. This timing would not make sense.

The GAC Advice process should take into account the process and timing of the whole Application Process. The process following the execution of GAC Advice has to be finished before the Contention Resolution Process is being initiated. Otherwise an applicant who is willing to provide the safeguards being asked for in the GAC Advice may have been eliminated in the process (e.g. by an auction), while the winner of the Contention Resolution is an applicant who is not willing to abide by the GAC Advice. A TLD could then not be awarded at all although a suitable candidate was in place, making the GAC Advice meaningless.”

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Dot London Domains Ltd
Application ID	1-1252-62369
Applied for TLD (string)	LONDON

Response:

The GAC Buenos Aires Communiqué addresses Geographic TLDs:

5. Special Launch Program for Geographic and Community TLDs

The GAC recognizes the importance of the priority inclusion of government and locally relevant name strings for the successful launch and continued administration of community and geographic TLDs.

The GAC appreciates that the Trademark Clearing House (TMCH) is an important rights protection mechanism applicable across all the new gTLDs and has an invaluable role to fulfill across the new gTLD spectrum as a basic safety net for the protection of trademark rights.

a. The GAC Advises the ICANN Board:

i. that ICANN provide clarity on the proposed launch program for special cases as a matter of urgency.

We agree with the GAC and urge the ICANN Board and New gTLD Program Committee to provide, as soon as possible, clarity on the launch program for geographic TLDs that will protect the priority of government and locally-relevant second-level domains.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	United TLD Holdco Ltd.
Application ID	1-1255-39674
Applied for TLD (string)	GIVES

Response:

United TLD Holdco Ltd. ("United TLD"), a registry operator and applicant for new generic top level domain names (gTLDs) wishes to thank ICANN for the opportunity to comment on the communiqué issued by the Government Advisory Committee (GAC) from Buenos Aires, Argentina on November 20, 2013 (the "GAC Communiqué"). United TLD would like to make two comments with respect to Section II of the GAC Communiqué related to GAC Advice to the Board. This comment is applicable to all of United TLD's applied for strings that have been the subject to GAC Advice including: .AIRFORCE, .ARMY, .ENGINEER, .GIVES, .GREEN, .NAVY, .REHAB, and .RIP (the Application Numbers for each are referenced at the end of this Response).

United TLD values the GAC's advice regarding proposed safeguards for certain applied for new gTLDs and applauds ICANN's work to formulate additional public interest commitments (PICs) to be adopted by the respective registry operators to address the GAC's advice. United TLD believes these additional PICs, in conjunction with the strong PIC Dispute Resolution Process that has been designed through close collaboration between ICANN staff and the stakeholder community, is an effective method to implement the GAC's advice regarding safeguards for the new gTLDs. United TLD urges ICANN to hold the briefing requested by the GAC during the month of January 2014 and approve the adequacy of the PIC specifications for fully implementing the GAC's advice.

Secondly, with respect to the GAC's advice to the ICANN Board advising it to re-categorize the string, .DOCTOR, as falling within Category 1 related to highly regulated sectors, United TLD asks the GAC and the ICANN Board to consider the fact that the term "doctor" is not exclusively used

GAC Advice Response Form for Applicants



in connection with regulated medical services. For example, a person who has completed a certain graduate level is a Doctor of Philosophy (PhD) and a person in the United States who is a lawyer has earned the degree Juris Doctor (JD), neither pertaining to regulated medical services. A simple search for “doctor” in various search engines reveals the existence of hundreds of businesses and individuals using the term “doctor” to refer to a specialist who solves an array of problems. A “script doctor” is the term given to a specialist who helps edit and write plays, movies and films. Then there are the individuals who use term in their business such as www.lawndocor.com, www.plumbingmd.com, and www.kitchendoctorsd.com. Medical practitioners are not the only individuals that use the term “doctor” in connection with expert services nor does the term “doctor” necessarily imply a regulated sector. Consequently, categorizing .DOCTOR as a highly regulated sector is unjustified and unfairly restricts choice and opportunities for those users who identify with being a “doctor” but who are not associated with the medical profession.

United TLD has included all required PICs as well as additional, voluntary PICs into each of its registry agreements with ICANN and looks forward to receiving final confirmation from ICANN that its applications that were subject to Category 1 GAC Advice, may move forward in the contracting and delegation process.

The above Comment applies to applied for strings below:

<u>Strings</u>	<u>Application Numbers</u>
.airforce	1-1255-29190
.army	1-1255-29986
.engineer	1-1255-37010
.gives	1-1255-39674
.green	1-1255-2257
.navy	1-1255-53893
.rehab	1-1255-34333
.rip	1-1255-66111

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Respondent:

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Applied for TLD (string)	GIVES

Response:

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United TLD values the GAC's advice regarding proposed safeguards for certain applied for new gTLDs and applauds ICANN's work to formulate additional public interest commitments (PICs) to be adopted by the respective registry operators to address the GAC's advice. United TLD believes these additional PICs, in conjunction with the strong PIC Dispute Resolution Process that has been designed through close collaboration between ICANN staff and the stakeholder community, is an effective method to implement the GAC's advice regarding safeguards for the new gTLDs. United TLD urges ICANN to hold the briefing requested by the GAC during the month of January 2014 and approve the adequacy of the PIC specifications for fully implementing the GAC's advice.

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GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	United TLD Holdco Ltd.
Application ID	1-1255-39674
Applied for TLD (string)	GIVES

Response:

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.rehab	1-1255-34333
.rip	1-1255-66111

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	TLDDOT GmbH
Application ID	1-1273-63351
Applied for TLD (string)	GMBH

Response:

TLDDOT GmbH, as the only Community Applicant for the .GMBH TLD, is pleased to submit this response to the GAC Buenos Aires Communiqué. TLDDOT supports the efforts of ICANN and the Governmental Advisory Committee (GAC) to deploy the new TLDs in an appropriate, secure and responsible manner.

In its Buenos Aires Communiqué, the GAC "highlights the importance of its Beijing advice on 'Restricted Access' registries, particularly with regard to the need to avoid undue preference and/or undue disadvantage." As a Community Applicant, TLDDOT is committed to avoid undue preference and/or advantage. TLDDOT will allow registrations of a .GMBH domain name for companies which are at the time of the registration registered with the legal form of a GmbH (including mbh, gGmbH, GesmbH and Ges.m.b.H.) in an official company register in Austria, Germany, Liechtenstein, Switzerland.

TLDDOT acknowledges Specification 11 of the Registry Agreement which commits the Registry Operator to "operate the TLD in a transparent manner consistent with general principles of openness and non-discrimination by establishing, publishing and adhering to clear registration policies."

TLDDOT would also like to reiterate that, as a Community Applicant, it has committed itself in its application to verify and validate registrations under .GMBH as postulated in the Safeguards 1 Advice. As documented in our support statements, TLDDOT has

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already established active working relationships with the relevant national supervisory authorities in this regard.

TLDDOT also urges ICANN to ensure that any Public Interest Commitments or changes to applications and TLD operations based on Safeguards filed by applicants in Contention Sets are being bindingly implemented and monitored after being approved as Change Request.

Despite the Safeguards TLDDOT directs attention to its article published in April 2013 at http://www.circleid.com/posts/20130421_what_may_happen_to_gac_advice_3_fearless_predictions/ which highlights the dangerous deficiencies of the current process:

“GAC Advice has to be executed before contention resolution for applicants in contention sets starts. Otherwise an applicant might succeed in the Contention Set who will be thrown out because of GAC Advice later in the process. This timing would not make sense.

The GAC Advice process should take into account the process and timing of the whole Application Process. The process following the execution of GAC Advice has to be finished before the Contention Resolution Process is being initiated. Otherwise an applicant who is willing to provide the safeguards being asked for in the GAC Advice may have been eliminated in the process (e.g. by an auction), while the winner of the Contention Resolution is an applicant who is not willing to abide by the GAC Advice. A TLD could then not be awarded at all although a suitable candidate was in place, making the GAC Advice meaningless.”

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Respondent:

Applicant Name	Giving Limited
Application ID	1-1284-21841
Applied for TLD (string)	giving

Response:

Dear ICANN

As specified in the application it is our intention to run the .giving TLD in a very controlled manner.

We will adhere to the proposed advice by the GAC and will as a minimum implement safeguards 1-3 as detailed below:

1. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Registry operators will include a provision in their Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law

We will continue to abide by the applicable governing law in our primary place of business.

Best regards

Giving Limited

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Bharti Enterprises (Holding) Private Limited
Application ID	1-1287-43279
Applied for TLD (string)	BHARTI

Response:

Founded in 1976, by Sunil Bharti Mittal, Bharti Enterprises (Holding) Private Limited (BEHPL) [popularly known as Bharti or Bharti Enterprises] has grown from being a manufacturer of bicycle parts to one of the largest and most respected business groups in India. With its entrepreneurial spirit and passion to undertake business projects that are transformational in nature, Bharti has created world-class businesses in telecom, financial services, retail and foods.

Bharti started its telecom services business by launching mobile services in Delhi (India) in 1995. Since then there has been no looking back and Bharti Airtel, the group's flagship company, has emerged as one of top telecom companies in the world and is amongst the top five wireless operators in the world.

Through its global telecom operations Bharti group operates under the 'Airtel' brand in 19 countries across Asia and Africa– India, Sri Lanka, Bangladesh, Seychelles, Burkina Faso, Chad, Congo Brazzaville, Democratic Republic of Congo, Gabon, Ghana, Kenya, Madagascar, Malawi, Niger, Nigeria, Sierra Leone, Tanzania, Uganda and Zambia. In addition, the group also has mobile operations in Jersey, Guernsey.

Over the past few years, the group has diversified into emerging business areas in the fast expanding Indian economy. With a vision to build India's finest conglomerate by 2020 the group has forayed into the retail sector by opening retail stores in multiple formats – small and medium - as well as establishing large scale cash and carry stores to serve institutional customers and other retailers. The group offers a complete portfolio of financial services – life insurance, general insurance

and asset management – to customers across India. Bharti also serves customers through its fresh and processed foods business. The group has growing interests in other areas such as telecom software, real estate, training and capacity building, and distribution of telecom and IT products.

What sets Bharti apart from the rest is its ability to forge strong partnerships. Over the years some of the biggest names in international business have partnered with Bharti. Currently Singtel, IBM, Ericsson, Nokia Siemens and Alcatel-Lucent are our key partners in telecom. Axa Group is the partner for the financial service business and Del Monte Pacific for the processed foods division.

The mission of .bharti is to be the entry point for all ventures of Bharti – across geographies and businesses. It is to build brand recall and trust and build a seamless, consistent web experience. Numerous and often non-synergized conventions/cybersquatting in the existing TLDs may mislead our customers to various phishing/malicious web sites, leading to possible online fraud. Bharti wants to have an exclusive ownership of a TLD, as it intends to have complete control on the second-level domain names to have consistent presence worldwide for the brand Bharti and provide a certain comfort level to customers, thereby consolidating and simplifying its online identity. Bharti will be using .bharti **exclusively** for its group companies and products, services, campaigns, partners and customers of its group companies.

As stated in our application, Bharti Enterprises plans to invest in owning its own TLD (.bharti) in order to achieve the following key business goals and benefits:

1. Consistent web experience
2. Perception of enhanced security
3. Platform for global branding, marketing and visibility
4. Better Search Engine Optimization
5. Brand association for strategic partners
6. Platform for innovation
7. Linking products with a master brand
8. Shorter URLs
9. Phishing related costs/cybersquatting reduction
10. Excellent opportunity to secure online namespace

Registry reserved names

We will reserve the following classes of domain names, which will not be made available to registrants:

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- All of the reserved names required in Specification 5 of the new gTLD Registry Agreement.
- The geographic names required in Specification 5 of the new gTLD Registry Agreement.
- The registry operator's own name and variations thereof, and registry operations names (such as registry.tld, and www.tld), for internal use.
- Names related to ICANN and Internet standards bodies (iana.tld, ietf.tld, w3c.tld, etc.), for delegation of those names to the relevant organizations upon their request.
- The list of reserved names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know which names have been set aside.

Conclusion

Hence as described and explained above, Bharti Enterprises will be using the .bharti TLD exclusively for its group companies, products, services, campaigns and partners. Bharti appreciates the willingness of the ICANN Board to consider the company's response to the concerns raised by the GAC. Should the Board need additional information, the company would be happy to provide it.

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Respondent:

Applicant Name	Application ID	Applied for TLD (string)
Knob Town, LLC	1-1340-40734	accountants
Lone Maple, LLC	1-1343-89689	app
Spring Frostbite, LLC	1-1342-7920	architect
Baxter Tigers, LLC	1-1344-70608	art
Baxter Hill, LLC	1-1345-27582	associates
Victor North, LLC	1-1348-99321	attorney
Holly Castle, LLC	1-1349-23181	audio
Auburn Hollow, LLC	1-1350-42613	band
Foggy Way, LLC	1-1359-21671	bet
Sand Cedar, LLC	1-1360-70873	bingo
Double Bloom, LLC	1-1361-60591	book
Goose North, LLC	1-1365-11798	broadway
Spring North, LLC	1-1364-8001	broker
Delta Mill, LLC	1-1375-20218	capital
Goose Cross, LLC	1-1374-92093	care
Delta Lake, LLC	1-1381-76948	cash
Binky Sky, LLC	1-1382-33633	casino
Corn Lake, LLC	1-1384-49318	charity
Snow Sky, LLC	1-1389-12139	city
Black Corner, LLC	1-1390-429	claims
Goose Park, LLC	1-1392-58392	clinic
Dash Cedar, LLC	1-1393-18458	cloud
Cotton Fields, LLC	1-1407-41397	corp
Trixy Canyon, LLC	1-1411-59458	cpa
Snow Shadow, LLC	1-1410-93823	credit
Binky Frostbite, LLC	1-1412-63109	creditcard

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Romeo Birch, LLC	1-1605-75916	data
Puff House, LLC	1-1418-57248	degree
Tin Birch, LLC	1-1421-91857	dental
Outer Lake, LLC	1-1422-97537	dentist
Black Avenue, LLC	1-1425-38025	design
Pioneer Hill, LLC	1-1426-25607	diet
Dash Park, LLC	1-1427-39640	digital
Holly Hill, LLC	1-1431-6328	discount
Brice Trail, LLC	1-1430-52453	doctor
Little Birch, LLC	1-1434-1370	eco
Romeo Canyon, LLC	1-1436-74788	engineering
Spring Falls, LLC	1-1445-68403	exchange
Atomic Pipe, LLC	1-1448-73190	fail
Goose Glen, LLC	1-1449-26710	fan
Big Dynamite, LLC	1-1455-48217	fashion
Outer Avenue, LLC	1-1452-20905	film
Cotton Cypress, LLC	1-1454-18725	finance
Just Cover, LLC	1-1453-71764	financial
Brice Orchard, LLC	1-1457-79967	fitness
Over Keep, LLC	1-1465-93738	free
John Castle, LLC	1-1467-34522	fund
Foggy Beach, LLC	1-1470-40168	games
Extra Dynamite, LLC	1-1477-91047	gmbh
Pioneer Tigers, LLC	1-1481-2922	gratis
Corn Sunset, LLC	1-1486-63504	gripe
Goose Fest, LLC	1-1489-82287	health
Silver Glen, LLC	1-1492-32589	healthcare
Baxter Sunset, LLC	1-1271-68369	inc
Auburn Park, LLC	1-1512-20834	insurance
Pioneer Willow, LLC	1-1516-617	insure
Holly Glen, LLC	1-1521-75718	investments
Goose Gardens, LLC	1-1522-61364	juegos
Corn Dynamite, LLC	1-1523-55821	law
Atomic Station, LLC	1-1531-96078	lawyer
Victor Trail, LLC	1-1540-49920	lease
Blue Falls, LLC	1-1536-79233	legal
Big Fest, LLC	1-1542-96415	limited
Foggy North, LLC	1-1546-93002	llc
June Woods, LLC	1-1544-18264	loans
Over Corner, LLC	1-1550-65638	ltd
Victor Way, LLC	1-1553-52336	market

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Lone Hollow, LLC	1-1556-47497	mba
Grand Glen, LLC	1-1560-69674	media
Steel Hill, LLC	1-1561-23663	medical
Outer McCook, LLC	1-1567-79679	money
Outer Gardens, LLC	1-1564-75367	mortgage
New Frostbite, LLC	1-1570-42842	movie
Victor Cross, LLC	1-1571-12951	music
Hidden Bloom, LLC	1-1573-27315	news
Bitter Frostbite, LLC	1-1574-83272	online
Foggy Sky, LLC	1-1585-29698	pictures
Binky Mill, LLC	1-1587-4615	poker
Tin Dale, LLC	1-1593-8224	radio
Dash Bloom, LLC	1-1598-77594	realty
New Cypress, LLC	1-1606-68851	reisen
Half Bloom, LLC	1-1617-57149	sale
Delta Orchard, LLC	1-1624-75239	sarl
Little Galley, LLC	1-1622-67844	school
Outer Moon, LLC	1-1627-1624	schule
Snow Beach, LLC	1-1633-36635	show
Over Birch, LLC	1-1621-97265	software
Foggy Sunset, LLC	1-1619-92115	spa
Dog Bloom, LLC	1-1596-35125	sucks
Tin Avenue, LLC	1-1569-96051	surgery
Storm Orchard, LLC	1-1562-9879	tax
Blue Tigers, LLC	1-1641-67063	theater
Sugar Station, LLC	1-1648-61876	tours
Koko Moon, LLC	1-1655-79604	town
Pioneer Orchard, LLC	1-1650-66027	toys
Little Manor, LLC	1-1654-94203	trading
Little Station, LLC	1-1651-77163	university
Wild Dale, LLC	1-1642-14231	vet
Holly Shadow, LLC	1-1538-23177	vin
Lone Tigers, LLC	1-1480-90854	video
June Station, LLC	1-1515-14214	wine
Hidden Way, LLC	1-1508-57100	wtf

Donuts, the parent of the applicants for the above-listed gTLDs, appreciates the opportunity to comment on the GAC's Buenos Aires communiqué related to its Category 1 Safeguard Advice as well as on certain strings addressed in the communiqué.

Response:

Timing

As we have commented prior, Donuts firmly believes the time for developing policy relating to the New gTLD Program is long-since over, and ICANN's focus should be on completing the program's implementation. The contract between ICANN and applicants—the Applicant Guidebook—cites the following about GAC advice: “To be considered by the Board, the GAC advice on new TLDs must be submitted by the close of the objection filing period.” This period ended in March 2013.

The GAC's Beijing advice arrived in April, after its deadline. Nonetheless, the Board, staff, applicants and community worked in good faith to address GAC concerns. Today, however (approaching one year after the GAC's deadline), any new advice should not be part of the new gTLD process—the GAC certainly may advise the Board on any issue at any time, but new policy must go through the bottom-up, multi-stakeholder process and **apply to all TLDs**, not just new entrants.

Category 1 Strings

Donuts supports the efforts of the New gTLD Program Committee's (NGPC) to finalize the Category 1 safeguard issue, as detailed in ICANN Chairman Steve Crocker's letter of 29 October 2013 to GAC Chair Heather Dryden,¹ and reiterated in the NGPC's interaction with the GAC in Buenos Aires on 17 November 2013.²

In reviewing Dr. Crocker's letter, Donuts believes the NGPC's modifications to safeguard language are appropriate and recognize the realities of operational implementation. Thus, Donuts encourages the Board to consider the Category 1 issue resolved.

.DOCTOR

Notwithstanding the advice of the GAC, the .DOCTOR TLD should not be categorized in the list of gTLDs that represent highly regulated industries nor should it be restricted to only licensed medical doctors.

The generic term simply has wider utility than its application to such credentialed practitioners (in fact, its origin in Latin refers to “teacher,” “advisor,” or “scholar”). We respectfully point out that there are approximately 62,000 uses of the term “doctor” in the .COM gTLD, many having nothing to do with physicians. As ICANN Board member Chris Disspain noted in the NGPC-GAC meeting in Buenos Aires:

“...in many, many countries, the term “doctor” is used as a name of businesses. A computer doctor. If you -- There are often -- It's a term that is used. It's not a regulated term. It's a term that is used in business names, in company names for people who fix things. And there is no prohibition on the use of that term. It is an open term. And the reason is because it's actually a medical doctor, and the -- I mean, there are all sorts of reasons.”

Indeed, “doctor” can refer to other types of academic credentials—Doctor of Philosophy, Juris Doctor, or Doctor of Dental Surgery, for example. Some registrants use “doctor” names to review medical doctors or provide directories of medical doctors. They are not licensed medical practitioners, but certainly have the right to continue to use the DNS to provide important information in a lawful manner.

¹ <http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en>

² <http://buenosaires48.icann.org/en/schedule/sun-gac-ngpc/transcript-gac-ngpc-17nov13-en>

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As a business term, it is widely used without harm. Examples include:

<u>Name</u>	<u>Usage</u>
DoctorSmith.com	Products for infants
RugDoctor.com	Carpet cleaning supplies and services
DoctorReferral.org	Medical transcription services
HTML5Doctor.com	IT services
ShockDoctor.com	Sports equipment
DrillDoctor.com	Drill bit sharpening products
StudentDoctor.net	Information about medical schools
TheBikeDoctor.net	Bicycle repair services
ServiceDoctor.net	Home renovations
TheWichDoctor.net	Restaurant

This list is but a sampling produced by a search engine query on the term “doctor.” Donuts conducted research on a random sample of 100 registrations in existing zone files to further demonstrate this point.

This list is but a sampling produced by a search engine query on the term “doctor.” Additionally, Donuts conducted research on a random sample of 100 registrations in existing zone files to further demonstrate this point. Of the 100 randomly selected domain names containing the generic word “doctor,” no more than half appear to have been registered by a licensed medical practitioner and include domain names such as:

SocialCreditDoctor.com
QuantumSpinDoctors.com (Ph.D.s)
InternetCarDoctor.com
FireplaceDoctorInc.com
TopDoctorsSouthwestFla.com (Doctor reviews)
BicycleDoctorNYC.com

These alternative uses are perfectly legitimate and should not be the subject of discriminatory restriction. Donuts respectfully points out that registrations in .DOCTOR are already protected by law (in multiple jurisdictions) against unlawful use. Persons representing themselves as licensed medical doctors when they are not are subject to prosecution. Enforcement against the potential few that attempt such a representation via a domain name logically should be applied after such a registration is so identified—not in a manner that demands justification of use before the name is registered.

The availability of protections via public interest commitment specifications (as requested by the GAC and granted by the Board)³ should not be overlooked. While the additions to Specification 11 of the New gTLD Registry Agreement is extensive, the following are particularly applicable:

1. *Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision **requiring registrants to comply with all applicable laws**, including those that relate to privacy, data collection, consumer protection (**including in relation to misleading and deceptive conduct**), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.*
2. *Registry operators will include a provision in their Registry-Registrar Agreements that **requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.***

Registrants who contemplate deceptive behavior are thus not only sufficiently forewarned, but are subject to all applicable law and remediation of problem behavior.

It should be clear to the Board that, given protections available to the gTLD, it should not restrict .DOCTOR to one use of the generic term. The ICANN Board should not create new law by censoring specific uses of a generic term or by picking and choosing between various business models of different applicants. This term was not restricted in the AGB, it is not restricted by law, and the ICANN policy should not be altered to restrict the TLD at this point.

.WINE and .VIN

The matter of protection of geographic indicators (GIs) in .WINE and .VIN has been in discussion for some time now.

Donuts notes that the GAC's communication stands on this issue. On 12 September 2013, the GAC concluded:

*"With reference to Module 3.1.1 of the Applicant Guidebook and the Durban Communiqué 2.a regarding .wine and .vin, the GAC advises the ICANN Board that the GAC has finalized its considerations of the strings .wine and .vin and further advises that the applications should proceed through the normal evaluation process."*⁴

The Buenos Aires communiqué did not reverse that advice, and Donuts believes the applications should continue to proceed. We further observe that GIs have long been the subject of extensive and sometimes complex trade agreements between regions and countries. As the GAC noted in its Buenos Aires communiqué, some GAC members "consider that it would be inappropriate and a serious concern if the agreed international settings on GIs were to be redesigned by ICANN."

Further, we remind the Board that adequate mandatory protections are in place. As noted by the Australian and US governments, while domain names could be used in a deceptive or misleading way, the GAC anticipated such scenarios in its work on safeguards for sensitive gTLDs. It is their belief these safeguards are sufficient to address concerns about the treatment of GIs in .WINE and .VIN.

³ See pp. 3-4 of the Crocker to Dryden letter of 29 October 2013, and <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-ii-agenda-2b-25jun13-en.pdf>

⁴ <https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee>

They further believe poorly formed additional safeguards could impact free speech, restrict trade, affect the commercial viability of the TLDs, or apply the law of one jurisdiction to another.

.SPA

Donuts restates its previously articulated position:

- Donuts did not declare in its application for .SPA that it intends the TLD to be associated with the City of Spa. Further, it is clear from the application (and our intent) that the primary purpose of the TLD is not related to the city.

According to the Applicant Guidebook (Sec. 2.2.1.4.2):

The following types of applied-for strings are considered geographic names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

2. *An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. City names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired. An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:*

(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and

(b) The applied-for string is a city name as listed on official city documents.

B is footnoted with the following:

City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

The gTLD is *not* targeted to the City of Spa, city officials did not elect to lodge an objection to the application, and ICANN and its independent geographic evaluation panelists did not require city approval of our .SPA application. As such, it is inappropriate for our application to be held hostage on the basis of a city government's perceived harm.

- Other applications for various city names (that also are generic dictionary terms) have not been delayed. These include .TOURS (France), .PINK (Oklahoma, US), and .ORANGE

(multiple cities worldwide.

- Notwithstanding, Donuts has voluntarily agreed to provide the City of Spa with additional safeguards, including the ability of the city to block the registration of certain domain names, the ability of the city to register certain domain names, and a term of use covering the entire gTLD that would help protect the city's interests, . We are awaiting the city's reply to the specific measures we propose to implement should we become the Registry Operator. We will not, however, agree to "compensate" the city with a portion of revenue from registry operations as it requested. We refer you to our GAC advice reply for additional information.⁵

IGO/INGO Protection

Donuts participated extensively in the bottom-up, multi-stakeholder GNSO process that produced the community's advice to the Board regarding protection of IGO and INGO names and acronyms.⁶

On the basis of that experience, we believe the working group carefully considered multiple points of view and it arrived at a strong set of recommendations, which the community well supports, even if there remain pockets of disagreement. This is a very good example of where the bottom-up, multi-stakeholder process performs admirably and efficiently.

Donuts supports the recommendations in the final report, regards the report as a reaffirming of the ICANN process, and urges the Board to adopt the GNSO Council's recommendations, and reject any advice that differs from such community recommendations.

Conclusion

We thank the Board for the opportunity to comment on the issues above and invite your questions should they arise.

⁵ <http://newgtlds.icann.org/sites/default/files/applicants/28aug13/gac-advice-response-1-1619-92115-en.pdf>

⁶ <http://gnso.icann.org/en/issues/igo-ingo-final-10nov13-en.pdf>

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Respondent:

Applicant Name	Discover Financial Services
Application ID	1-1439-20671
Applied for TLD (string)	cashbackbonus

Response:

1 Introduction

The Governmental Advisory Committee ("GAC") has issued advice to the ICANN Board of Directors regarding new gTLD applications. Among other things, the GAC has recommended specific Safeguard Advice for multiple categories of strings. One such category is financial strings like .finance, .bank, .creditcard, and .insurance. The GAC has identified the application for .CASHBACKBONUS filed by Discover Financial Services ("Discover") (Application ID 1-1439-20671) (the "Application") as one of the financial strings to which Safeguard Advice should apply. Discover submits the following information to the ICANN Board of Directors in response to the Safeguard Advice for .CASHBACKBONUS.

As an initial matter, Discover fully supports the GAC's Safeguards and agrees that strings linked to regulated or professional sectors should operate in accordance with applicable laws. Discover also agrees that such strings are likely to involve a level of implied trust from consumers and carry higher levels of risk associated with consumer harm. As a result, Discover promotes the GAC's Safeguard Advice as it applies to open registries. Discover notes, however, that its Application for .CASHBACKBONUS is for a single-registrant, single-user, brand registry that will not be made available to third parties. As a result, the specific Safeguard Advice set forth by the GAC meant to inform, instruct, and bind third parties is inapplicable to Discover's Application. In addition, all of the Safeguard Advice will be met through the very operation of a single-registrant, single-user registry.

2 The .CASHBACKBONUS Registry Is Based on Existing, Incontestable Trademark Rights Identical to the Registry String.

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Unlike the other strings identified by the GAC for the financial group, the .CASHBACKBONUS string is based on Discover's existing trademark rights. The Application expressly states that the string is one of Discover's core brands (see, e.g., response to Question 18(a)). For example, Discover owns a United States trademark registration for CASHBACK BONUS for use with "offering a purchase rebate program for credit card users" (U.S. Registration No. 1,538,444). Discover has been using the CASHBACK BONUS trademark in United States commerce since at least as early as July 15, 1986. Its U.S. registration for CASHBACK BONUS registered on May 9, 1989, and it now enjoys incontestable status. Attached hereto as Exhibit A is a true and correct screenshot of the United States Patent & Trademark Office database showing the current status of its incontestable registration for CASHBACK BONUS. Therefore, it appears that Discover's Application was incorrectly included in GAC Advice for generic TLDs. Nevertheless, as all of the GAC Safeguards will be satisfied by the operation of a single-registrant, single-user, brand registry, Discover will address each Safeguard and how it will be met by the very operation of its registry.

3 The GAC Safeguards Will Be Satisfied by the Nature of the .CASHBACKBONUS Registry.

As stated throughout Discover's Application, the .CASHBACKBONUS TLD will be a single-registrant, single-user, brand registry. The intended mission and purpose of the .CASHBACKBONUS TLD is to serve as a trusted, secure, and intuitive namespace for consumers to actively view Discover's CASHBACK BONUS-related products, services, and information, interact with peers regarding Discover's offerings, and purchase authentic Discover products and services at trusted and secure sites. In addition, the .CASHBACKBONUS TLD will provide a secure platform for Discover to directly communicate with consumers through a recognizably secure top-level domain (see, e.g., response to Question 18(a)). To support these initiatives, as well as maintain the integrity of its underlying trademark, it is essential that Discover—and only Discover—register all second-level domain names within the TLD. Furthermore, Discover's business objective is not to sell second-level domain names as a source of funding or otherwise. Rather, the .CASHBACKBONUS registry is intended to supplement Discover's existing business activities, namely, operation of a financial services organization. Accordingly, as explained in more detail below, each GAC Safeguard will be satisfied by Discover's operation of a single-registrant, single-user, brand registry.

3.1 Safeguard One: Each registry operator will include in its acceptable use policy that registrants comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.

Discover understands that this Safeguard is intended to bind third-party second-level domain name registrants who will not have contracts with ICANN nor any other regulatory schemes to cover the operation of their second-level domains. In this case, however, Discover will be the only second-level domain name registrant in the .CASHBACKBONUS registry, and Discover will already be bound to comply with all applicable laws in its operation of the registry pursuant to its Registry Agreement. Without any third-party second-level domain name registrants in the .CASHBACKBONUS registry, there will be no third parties for Discover to bind pursuant to an acceptable use policy. Moreover, it is unnecessary for Discover to bind itself to terms already contained in the Registry Agreement with ICANN. In addition, Discover must comply with an array of laws, regulations, and guidelines as a publicly-traded financial services company in the

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highly regulated financial industry. Therefore, Safeguard One will be satisfied in .CASHBACKBONUS by both the operation of the registry as well as existing agreements with ICANN and other regulatory structures.

3.2 Safeguard Two: Registry operators will require registrars at the time of registration to notify registrants of this requirement.

Discover understands this Safeguard to require a notification system to third-party second-level domain name registrants regarding the requirements of Safeguard One. In this case, however, there will be no third-party second-level domain name registrants. As a result, it is unnecessary for Discover to require its registrars to advise Discover of Safeguard One. This circular result demonstrates why Safeguard Two does not apply to single-registrant, single-user, brand registries such as .CASHBACKBONUS. Therefore, Safeguard Two is inapplicable to a single-registrant, single-user, brand registry and will be satisfied by operation of .CASHBACKBONUS.

3.3 Safeguard Three: Registry operators will require that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law and recognized industry standards.

Discover understands that this Safeguard is intended to bind third-party second-level domain name registrants who will not have contracts with ICANN nor any other regulatory schemes to cover the operation of their second-level domains. However, because Discover will be the only registrant in the .CASHBACKBONUS registry, there will be no third-party registrants who collect sensitive health or financial information. Moreover, Discover—the only second-level domain name registrant—will be bound by the Registry Agreement and all applicable laws and regulations. In fact, Discover filed the Application for .CASHBACKBONUS to fortify its current data privacy and security efforts. As stated in the Application, the .CASHBACKBONUS TLD will provide enhanced protection against the security risks that are inherently heightened within the online financial services community (see, e.g., response to Question 18(b)(1)). Therefore, Safeguard Three will be satisfied by the very operation of .CASHBACKBONUS.

3.4 Safeguard Four: Establish a working relationship with the relevant regulatory, or industry self-regulatory, bodies, including developing a strategy to mitigate as much as possible the risks of fraudulent, and other illegal, activities.

As a publicly-traded financial services company, Discover already has working relationships with the various regulatory bodies relevant to its business. Furthermore, the risks of fraudulent and illegal activities underscore one of the primary purposes of the .CASHBACKBONUS TLD—to create a secure and trusted online environment for Discover's customers. In fact, operation of .CASHBACKBONUS will be part of Discover's comprehensive strategy to mitigate the risks of fraudulent activities. Therefore, Safeguard Four is already required by existing regulatory schemes, is currently met, and will be satisfied by the operation of .CASHBACKBONUS.

3.5 Safeguard Five: Registrants must be required by the registry operators to notify to them a single point of contact which must be kept up-to-date, for the notification of complaints or reports of registration abuse, as well as the contact details of the relevant regulatory, or industry self-regulatory, bodies in their main place of business.

Discover understands this Safeguard to require third-party second-level domain name registrants to provide up-to-date contact information for a single point of contact and the relevant regulatory bodies. In this case, however, there will be no third-party second-level domain name registrants. Rather, Discover will be the only registrant in the .CASHBACKBONUS registry. As a result, it is unnecessary for Discover to notify itself of its own contact information. Likewise, Discover has well-established relationships with the various regulatory bodies relevant to its business, and it is not necessary for Discover to advise itself of the contact information for these regulatory bodies. Indeed, this illogical result shows that Safeguard Five, like the other Safeguards before it, does not apply to single-registrant, single-user, brand registries such as .CASHBACKBONUS.

In addition to the five Safeguards above, the GAC has identified three additional Safeguards that should apply to strings associated with market sectors with clear and/or regulated entry requirements. For the reasons stated herein, Discover is distinct from the other strings identified in the financial group. Nevertheless, the operation of .CASHBACKBONUS as a single-registrant, single-user, brand registry will also ensure that the three additional Safeguards are satisfied as explained here.

3.6 Safeguard Six: At the time of registration, the registry operator must verify and validate the registrants' authorisations, charters, licenses and/or other related credentials for participation in that sector.

Discover understands this Safeguard to require third-party second-level domain name registrants to prove that they are legitimate and licensed institutions in the relevant sector. Discover fully agrees that all registrants in financial TLDs should be required to verify that they are legitimate institutions in the relevant sector. However, because Discover will be the only second-level domain name registrant in the .CASHBACKBONUS registry, it is unnecessary for Discover to verify and validate its own credentials. Also, since there will be no third-party second-level domain name registrants in .CASHBACKBONUS, Discover will not need to validate any third-party credentials. Therefore, Safeguard Six is inapplicable to a single-registrant, single-user, brand registry and will be satisfied by operation of .CASHBACKBONUS.

3.7 Safeguard Seven: In case of doubt with regard to the authenticity of licenses or credentials, Registry Operators should consult with relevant national supervisory authorities, or their equivalents.

Discover understands this Safeguard to require registry operators to consult with relevant authorities if such registry operators have any doubts about the credentials submitted by third-party second-level domain name registrants pursuant to Safeguard Six. Discover agrees that registry operators would benefit from consultation with relevant authorities when reviewing third-party credentials. However, in this case, Discover will not be reviewing third-party credentials since .CASHBACKBONUS will be a single-registrant, single-user registry. Therefore, Safeguard Seven is inapplicable to a single-registrant, single-user, brand registry and will be satisfied by the operation of .CASHBACKBONUS.

3.8 Safeguard Eight: The registry operator must conduct periodic post-registration checks to ensure registrants' validity and compliance with the above requirements in order to ensure they

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continue to conform to appropriate regulations and licensing requirements and generally conduct their activities in the interests of the consumers they serve.

Discover understands this Safeguard to require registry operators to periodically verify that all third-party second-level domain name registrants are in compliance with relevant regulations and licensing requirements. In this case, Discover will be the only registrant in the .CASHBACKBONUS registry, and there will be no third-party registrants. Therefore, it is unnecessary for Discover to verify its own continued compliance with all pertinent laws and regulations. As a publicly-traded financial services company, Discover is required to maintain its good standing with all relevant authorities and regulatory bodies. Moreover, under the Registry Agreement to be executed with ICANN, Discover must represent and warrant that it is in good standing under the laws of the United States (see Paragraph 1.3(a)(ii)). Accordingly, Safeguard Eight is inapplicable to a single-registrant, single-user, brand registry and will be satisfied by the operation of .CASHBACKBONUS.

4 Conclusion

As stated herein and throughout the Application, the .CASHBACKBONUS registry will be a single-registrant, single-user, brand registry. Consequently, the nature of the .CASHBACKBONUS registry ensures that both the letter and intent of the GAC Safeguards will be satisfied through the very operation of the registry itself. Therefore, Discover submits to the ICANN Board of Directors that it should be excluded from the Safeguard Advice and requests that the Board respond to the GAC accordingly. Should any further information be needed, Discover requests that Outreach be conducted to the primary contact in this Application.

Exhibit A



United States Patent and Trademark Office

An Agency of the Department of Commerce

Trademark Status and Document Retrieval

USPTO > Trademark > TSDR > Trademark Search

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USPTO will deploy a small maintenance release for Trademark Status and Document Retrieval (TSDR) system. Deployment will start at 10:00 p.m. on Friday, April 26 and end at 5:00 a.m. on Saturday, April 27. TSDR will be unavailable during the deployment period.

Trademark Status & Document Retrieval (TSDR)

SEARCH

MULTI-SEARCH

US Registration No.

1538444



Status: Registered

STATUS

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Mark: CASHBACK BONUS

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Print Review

US Serial Number: 70742513

Application Filing Date: Aug 08, 1998

US Registration Number: 1538444

Registration Date: May 09, 1999

Registrar: Principal

Mark Type: Service Mark

Status: The registration has been renewed

Setback Date: Mar 30, 2009

Publication Date: Jan 24, 1999

Mark Information

Mark Literal Elements: CASHBACK BONUS

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) (LETTERS) NUMBERS

Disclaimer: "CASHBACK"

Display All

Goods and Services

Note:

The following symbols indicate that the registrant owner has amended the goods/services:

- Brackets [] indicate deleted goods/services.
- Double parentheses () identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * identify additional (new) wording in the goods/services.

FOR OFFERING A PURCHASE REBATE PROGRAM FOR CREDIT CARD USERS

International Class(es): 036 - Primary Class U.S. Class(es): 101, 102

Class Status: ACTIVE

Basic: 1(a)

First Use: Jul 15, 1980

Use in Commerce: Jul 15, 1980

Basis Information (Case Level)

Filed Use:	Yes	Currently Use:	Yes	Amended Use:	No
Filed ITU:	No	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 56A:	No	Currently 56A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: DISCOVER FINANCIAL SERVICES

Owner Address: 2500 LAKE COOK ROAD
RIVERWOODS, ILLINOIS 60015
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where
Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Sujata Choudhri

Attorney Primary Email: brademw@di.com

Address:

Correspondent

Correspondent: Sujata Choudhri

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Fax: 212-675-0071

Correspondent e-mail
Authorized: Yes

Domestic Representative - Not Found

▼ Prosecution History

Date	Description	Proceeding Number
Mar 30, 2009	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS.)	59130
Mar 30, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Mar 26, 2009	ASSIGNED TO PARALEGAL	59130
Mar 23, 2009	TEAS SECTION 8 & 9 RECEIVED	
Aug 08, 2008	CASE FILE IN TCRS	
Aug 25, 2007	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Apr 25, 2007	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Sep 20, 2006	REVIEW OF CORRESPONDENCE COMPLETE	57149
Oct 29, 2004	PAPER RECEIVED	
Oct 27, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jan 21, 2003	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Oct 09, 1995	REGISTERED - SEC. 8 (5-YR) ACCEPTED & SEC. 15 ACK.	
Jan 27, 1995	REGISTERED - SEC. 8 (5-YR) & SEC. 15 FILED	
May 09, 1989	REGISTERED-PRINCIPAL REGISTER	
Jan 24, 1988	PUBLISHED FOR OPPOSITION	
Dec 27, 1986	NOTICE OF PUBLICATION	
Dec 24, 1986	NOTICE OF PUBLICATION	
Oct 11, 1986	APPROVED FOR PUB. - PRINCIPAL REGISTER	
Oct 03, 1986	EXAMINER'S AMENDMENT MAILED	
Sep 20, 1986	ASSIGNED TO EXAMINER	53030

▼ Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 6 - Accepted
 Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: May 09, 2009

▼ TM Staff and Location Information

TM Staff Information : None

File Location

Current Location: POST REGISTRATION

Date in Location: Mar 30, 2009

- Assignment Abstract Of Title Information - Click to Load

▼ Proceedings - Click to Load

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- Federal Activities Inventory Reform (FAIR) Act
 - Notification and Federal Employee Antidiscrimination and Retaliation (NEFEAR) Act
 - Budget & Performance
- Freedom of Information Act (FOIA)
 - Department of Commerce
 - NEFEAR Act Report
 - Regulations.gov
 - STOPFARA.gov
- Security, Targeting, Overseas Policy (STOP) Information Query Guidelines
 - Department of Commerce
 - USPTO Webmaster

The Governmental Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section II of the [GAC Buenos Aires Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for their consideration. Complete this form and submit it as an attachment to the ICANN Customer Service Center via your [CSC Portal](#) with the Subject, “[Application ID] Response to Buenos Aires GAC Advice” (for example “1-111-11111 Response to Buenos Aires GAC Advice”). All GAC Advice Responses to the GAC Buenos Aires Communiqué must be received no later than 23:59:59 UTC on 06-January-2014.

Respondent:

Applicant Name	DOTPAY SA
Application ID	1-1750-33973
Applied for TLD (string)	PAY

Response:**Response to II.1.a and II.1.b.**

Dotpay SA was heartened to read section II.1.a of the GAC’s Buenos Aires Communiqué.

Dotpay SA has applied for the .pay TLD with the intent of running an open registry for the TLD. Specifically, the application states (18.a): “The proposed .pay TLD is an open Top Level Domain”. We are committed to running the TLD as an unrestricted registry designed to serve the public interested. Registrants and registrars alike would be required to accept and follow non-discriminatory Acceptable Use Policy and to meet non-discriminatory Eligibility Criteria.

Dotpay SA takes its responsibility in providing a trusted and secure vehicle for professional financial services provider very seriously. We would run .pay as a complete next generation payment solution connecting professional financial services providers, buyers and sellers in a way that is practical and easy for them to use. To truly serve the public interest, it is important to offer services that are as safe as they are accessible. If the service provided is not safe, it will not be used. Likewise, if the service is not accessible enough in the way it is presented and functions, it will not be used.

Dotpay SA has been refining the idea of using the DNS to improve the way online payments can be executed for both users and merchants since long before the new gTLD program. In fact in 2005, two years before the GNSO finalised the set of

recommendations that became the program, Dotpay SA has patented unique technology to achieve this aim in both the US and Russia, and included the outline of a .pay TLD in its ideas (the TLD is mentioned by name in the patent application).

By working to be as open to all as it is safe to use, our .pay carries the potential for a strong new service to be delivered to Internet users worldwide. Our TLD includes authentication measures for both ends of a financial transaction: the merchants selling goods or services online, and the clients buying them. The full TLD supply chain will contribute to maximum security of use. As the registry, we will authenticate payment service providers. We will also work with the new gTLD program's TM protection mechanisms such as the TMCH to safeguard Intellectual Property. As the entities with direct contact to .pay end customers, i.e. domain registrants, registrars will also be involved in the authentication process.

But although Dotpay SA has its roots in the financial industry, our proposal for .pay is as a technical operator only. This is why our system has been constructed to maximise user benefit, whilst leaving the actual financial work to that industry's experts. They will use .pay as authenticated providers, safe in the knowledge that the financial transactions they seek to handle through the TLD will be executed to the highest levels of safety and technical proficiency.

Our response to the GAC's Beijing Advice goes into further details on our technical application of the technology we have developed for .pay:
<http://newgtlds.icann.org/sites/default/files/applicants/23may13/gac-advice-response-1-1750-33973-en.pdf>. We also remain at the GAC's disposal to answer any further questions on the innovative use of the DNS that we hope to have an opportunity to bring to life through .pay.

We are in full agreement with the GAC's Advice for Exclusive Access registries as provided in the Beijing Communiqué
(https://gacweb.icann.org/download/attachments/27132037/Beijing%20Communique%20april2013_Final.pdf?version=1&modificationDate=1365666376000&api=v2) and especially that "for strings representing generic terms, exclusive registry access should serve a public interest goal". As highlighted here and described in our previous correspondence to the GAC and application to ICANN, we feel that in the case of .pay, the public interest can only truly be served by an open registry model such as the one we have put forward.

Yet as a small applicant (.pay is our only application), we are in contention with a volume applicant whose view of .pay is as a closed model that serves only itself. When challenged on this by the Beijing GAC Advice, said applicant's only response was that the GAC's desire to look after the public interest was actually an attempt to rewrite the new gTLD program's rules and should therefore not be pursued

(<http://newgtlds.icann.org/sites/default/files/applicants/23may13/gac-advice-response-1-1317-64413-en.pdf>).

As the new gTLD program's processes state that such contention must be resolved through an auction, it is vitally important for TLD projects such as ours to be given a fair chance in that process. As a small applicant, we are guided by an entrepreneur spirit to put innovation and forward thinking to make the ideal of expanding the Internet root for the good of its users a reality. As currently described, the auction process only favors those with the deepest pockets, whether they are committed to the values held dear by the GAC as defenders of the public interest, or not.

Hence we would also like to address clause 1.b of the GAC's

We believe that the current auction policies undermine the commitment by ICANN to "diversity and innovation" and diverge from the "public interest goal" set forth in the GAC's Beijing communiqué, disregarding therefore the value that the new gTLDs could bring to the Internet community and humankind as a whole, and forcing the applicants to compete solely on the strength of their financial power.

We notice, in particular, that the current auction rules

1. Allowing unlimited bids after a sufficiently high deposit has been made;
2. Setting the winning price at the second highest bid;
3. Limiting penalties for defaulting bidders;

being put together create a competitive advantage for a bidder in an auction, where said bidder is the only bidder with the unlimited bidding capability.

The strategy for such a single unlimited bidder would be to make the deposit of USD 2 million, which enables unlimited bidding, and make a bid of USD 20 million, then automatically win and pay only the second highest bid, which will be on average less than USD 5 million, as is known from current statistics. This strategy is really available only to portfolio applicants who by their very nature have overwhelming financial powers.

Effectively, the current auction rules are advantageous for portfolio applicants rather than for small and innovative applicants, which is at odds with the "diversity and innovation" policy.

Detailed analysis

It is known¹ from the auctions already held that average winning prices were in the USD 1.2 - 1.5 million range. This is not significantly less than the USD 2 million deposit that awards bidders an unlimited “bidding limit”, so each powerful applicant will very likely make a USD 2 million deposit, thus gaining unlimited bidding.

If the deposit is less than USD 2,000,000, the bidder may only bid ten times the amount of the deposit. Thus, the highest bid any such bidder can make is 10 x USD 1,999,999 = USD 19,999,990. Therefore the unlimited bidder could make a USD 20 million bid, just USD 10 higher than the highest bid possible for other bidders, and prevail in the auction automatically.

According to the auction rules, the winning bidder will not have to pay the amount of the winning bid, but only the amount of the runner-up bid, which as remarked earlier is bound to be substantially less and, as is known from the current statistics of earlier actions, does not exceed USD 5 million.

Effectively, the unlimited bidder knows in advance and with assurance that the winning price will be at exactly the highest price the financially weaker parties can afford, which minimizes expenditures for the unlimited bidder while guaranteeing success, which seems contrary to the spirit of an auction.

It is seen, therefore, that the current auction rules can be used by power houses as an instrument to win an auction with certainty and without any significant financial penalty. We regard that as an unfair advantage given to single unlimited bidder.

The current rules of defaulting in auctions make this strategy financially feasible even when multiple unlimited bidders participate in an auction, because the maximum penalty will never exceed USD 2 million, even if bids worth tens or hundreds of millions are made by more than one bidder and the winning bidder is in fact unable or unwilling to pay the winning price.

We, therefore, regard that the current auction rules as advantageous for unlimited bidders, which as we remark above, is practically synonymous with portfolio applicants.

Request

The Applicant’s Guidebook indicates that auctions should only be used as a last resort in contention, and advises that contention should be settled “through voluntary agreement among the involved applicants”.

¹ <http://domainincite.com/14182-second-private-auction-nets-1-2m-per-gtld>

However, the current policies and rules do not incentivize applicants to seek a “voluntary agreement among the involved applicants”. As a result of this policy, certain portfolio applicants seem to have neglected the advice to settle contention “through voluntary agreement among the involved applicants” and rely on auctions significantly, if not exclusively.

For example, Amazon EU S.à r.l. is currently scheduled to participate in 34 auctions, out of its 75 active applications, while Charleston Road Registry, Inc. is currently scheduled to participate in 57 auctions, out of its 97 active applications. The numbers of the scheduled actions are still equal to the numbers of the contention sets for these applicants and no indications have been publicly given so far that would suggest that either applicant is negotiating a “voluntary agreement”.

We believe the current situation calls for an action. We specifically request that a policy be established that would discourage an applicant from, or penalize an applicant for resolving contention through auctions routinely.

Such a policy could, for example:

- Require the auction winners to pay their own highest bids rather than the second highest bid, at least if such winner have used the unlimited bidding capability;
- Limit the total number of auctions an applicant (taking affiliation into account) can be party to;
- Limit the total number of auctions an applicant (taking affiliation into account) can be party to at no extra cost. Above this limit, the applicant will be penalized increasingly for each successive auction. Since most, if not all, applicants currently in a large number of contention sets are corporations with significant financial power, the penalties should be such that they are more than a token penalty for them;
- Require portfolio applicants to prove via experts or arbiters approved by ICANN, at their own expense and for each contention set they are party to, that their intended use of the TLD string is aligned with the “public interest goal” and introduces more “diversity” and “innovation” than the intended use by their contenders;
- Require portfolio applicants to prove via experts or arbiters approved by ICANN, at their own expense and for each contention set they are party to, that their intended use of the TLD string is essentially different from the intended use of the other strings they have applied for;
- Inhibit unlimited bidding in auctions where only a single party has made a deposit that would normally allow unlimited bidding;
- Require that the deposits for all the auctions an applicant (taking affiliation into account) intends to participate in must be made before the first auction starts and

held until the last auction finishes.

- Abolish the limit on penalties for defaulting bidders, and introduce a legally binding liability when defaulting on excessive bids.

Response to II.1.c.

The acceptable use policy of the .pay TLD will be consistent with the UN Convention on the Rights of the Child and reasonable precautions will be implemented to protect children.

Response to clause II.1.d: not applicable.

Response to clause II.1.e.

Dotpay SA believes that PAY is a generic term (with further evidence provided below) and that it has been applied for by Amazon EU S.à r.l. that intends to operate the .pay TLD in an “exclusive registry access” mode. However, it is not listed in the Category 2 list of generic-term strings of the GAC Beijing Advice.

We believe, consequently, that the Category 2 list of generic string must be amended to include PAY.

The United States Patent and Trademark Office (USPTO) defines generic terms in TMEP §§1209.01(c) as follows:

Generic terms are terms that the relevant purchasing public understands primarily as the common or class name for the goods or services. *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1811 (Fed. Cir. 2001); *In re American Fertility Society*, 188 F.3d 1341, 1346, 51 USPQ2d 1832, 1836 (Fed. Cir. 1999).

In a less formal description of Trademark basics, USPTO states that “generic words are the common, **everyday name for goods and services** and everyone has the right to use such terms to refer to their goods and services, they are not protectable”² (emphasis added).

USPTO (please refer to supplemental file 85601584.pdf) explains that determining whether a mark is generic requires a two-step inquiry:

² <http://www.uspto.gov/trademarks/basics/BasicFacts.pdf> , page 4.

1. What is the genus of goods and/or services at issue?
2. Does the relevant public understand the designation primarily to refer to that genus of goods and/or services?

In contrast to registered trademarks, generic terms can be ordinary words in a dictionary. Therefore USPTO accepts dictionaries as competent evidence and a source of generic terms. USPTO also generally accepts as competent evidence the material obtained from the Internet (please refer to supplemental file 85601584.pdf).

Dotpay SA further believes that the existing PIC specifications do not fully implement the GAC advice for Category 2 of generic terms, because the current list of Category 2 strings does not include PAY, and because the PIC was not implemented at least for the Application ID 1-1317-64413 for string .pay applied for by Amazon EU S.à r.l.

Dotpay SA has applied for the .pay TLD with the intent of running an open registry for the TLD. Specifically, the application states (18.a): “The proposed .pay TLD is an open Top Level Domain”. Consequently, the application being binding, we are naturally committed to running the TLD as an open registry, and further “public interest commitments” in this respect seem unnecessary.

The application of Amazon EU S.à r.l., on the other hand, explicitly defines the TLD as a closed exclusive-use TLD. To the best of our knowledge, Amazon EU S.à r.l. has not issued Public Interest Commitments nor has it expressed intents to change the use of the .pay TLD to non-exclusive.

The evidence that PAY is a generic term

On the 23rd of August, 2013, USPTO iteratively refused to register “DOT PAY” as a trademark. One of the reasons for refusal was **the USPTO ruling that PAY is a generic term** (please refer to supplemental file 85601584.pdf related to USPTO action for U.S. TRADEMARK APPLICATION NO. 85601584 - DOT PAY issued on 8/23/2013).

Among other materials provided in supplemental material (refer to file 85601584.pdf), USPTO cited as evidence the **Amazon’s web page that is using the term PAY as a generic term** for its Amazon Payments, Amazon Flexible Payments Service:

“Once it is integrated with your website or application, hundreds of millions of Amazon customers will be able to **pay** quickly and easily using the information stored in their Amazon accounts. . . . You can accept payments on your website for selling goods or services, execute recurring payments, and send payments. . . . You'll be notified once the **payment is processed**.” Amazon Payments, Amazon Flexible Payments Service, <http://payments.amazon.com/adui/sdui/business/devfps> (viewed on Aug-22-2013, 12:02

EDT). “Make it easier for hundreds of Amazon customers to **pay** on your site. . . . Use the payment information in your Amazon account to **pay** on sites across the web.” Amazon Payments, <http://payments.amazon.com/> (viewed on Aug-10-2013, 22:08 GM).

As remarked above, USPTO accepts evidence from the Internet.

The string of the .pay TLD domain is derived from the English verb “to pay”, which has been in frequent and common use by English speakers for centuries. In particular the English word “pay” has existed since at least the 13th century and is ultimately derived from the Latin word “pax”, which in itself was developed from the ancient Proto-Indo-European root *pak-/ *pag-³, so it can be literally said that the word has existed since time immemorial, and has been in common, everyday use ever since. The concept of “paying” also exists in languages different from the Indo-European family of languages, for example the Sino-Tibetan languages.

The term “payment” is also defined as “an amount of money that you **pay** or receive; the process of **paying** money.” MacMillan Dictionary (2013), <http://education.yahoo.com/reference/dictionary/>. Thus, the term “pay” is the apt name for payment services and the payment services industry is highly competitive and should remain so to drive the cost associated with payments down. (please refer to “Exclusivity for generic term may be a subject for antitrust case” paragraph below).

As remarked above, USPTO accepts dictionaries as competent evidence.

Given the corpus of evidence referenced in this section and in supplemental file 85601584.pdf, Dotpay SA believes that the fact that PAY is a generic term has been established beyond a reasonable doubt.

The evidence that .PAY is claimed for an exclusive registry access

We believe that the application by Amazon EU S.à r.l. for the .pay TLD specifies “exclusive registry access” for the TLD. Specifically, the application states: “Amazon and its subsidiaries will be the only eligible registrants”.

For the avoidance of doubt, the GAC has ruled that the Amazon EU S.à r.l. application for the .store TLD, which is textually identical to the Amazon EU S.à r.l. application for the .pay TLD, is for “exclusive registry access”, hence the application for the .pay TLD by Amazon EU S.à r.l. should also be treated as one “proposing to provide exclusive registry access”.

³ http://www.etymonline.com/index.php?term=peace&allowed_in_frame=0

Because we also find, as explained above, that the word PAY is a generic term, we believe that the .pay TLD should be included in the Category 2 list of generic-term TLDs per the GAC Advice and that Amazon EU S.à r.l. should be required to amend its application for the .pay TLD with a PIC.

Exclusivity is an obstacle for contention resolution

Dotpay SA is currently in contention for the .pay string with Amazon EU S.à r.l. We have found that resolving the contention “through voluntary agreement among the involved applicants” in accordance with the Applicant’s Guidebook is not possible by default because of Amazon EU S.à r.l.’s intent to keep the .pay string for its exclusive use, which eliminates any chance for Dotpay SA to take part in the development of .pay together with Amazon EU S.à r.l. although Dotpay SA is ready to resolve the contention “through voluntary agreement among the involved applicants” through formation of a joint venture.

We believe that such impossibility to resolve the contention “through voluntary agreement among the involved applicants” is a result of inconsistency in ICANN’s approach wherein the .pay string has not been included into the Category 2 list of generic terms, which initially appeared in a non-exhaustive form in the GAC’s Beijing communiqué. This inconsistency lets Amazon EU S.à r.l. forgo a PIC for the .pay TLD enabling Amazon EU S.à r.l. to operate the .pay TLD in an “exclusive registry access” mode, thus making it impossible to agree on a joint development of the generic-term .pay TLD.

We also believe that in other cases of exclusive use of generic strings first of all by portfolio applicants the impossibility to agree on a joined venture will repeat itself. This require ICANN to step in and follow GAC advice in each case requiring the “exclusive registry access” applicants to commit providing public registry access for each particular generic string.

Exclusivity for generic term may be a subject for antitrust case

As cited by USPTO in the provided supplemental material (please refer to file 85601584.pdf) Amazon possess Amazon Payments, Amazon Flexible Payments Service <https://payments.amazon.com/home>.

USPTO advises that the exclusive use of a generic term may “prevent of others from using it to identify potentially competing products or services.”⁴ The exclusive use of generic TLD by an applicant may also limit the ability of its competitors and general public to use the TLD for “competing products and services” which in the case is highly competitive payment services industry and thus may limit the competition that is a subject to EU antitrust regulation including a “refusing to innovate to the prejudice of consumers” (Article 102 of the Treaty⁵ on the Functioning of the European Union) and the US antitrust regulation through the “Single Firm Conduct”⁶ including “Exclusive agreement”⁷ and “Refusal to deal”⁸.

Summary

It is thus anticipated that ICANN further will include the “.pay” string into the Category 2 list of strings and will secure a PIC specification with Amazon EU S.à r.l. for the .pay application filed by Amazon EU S.à r.l.

⁴ <http://www.uspto.gov/trademarks/basics/BasicFacts.pdf> , page 4

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E102:EN:NOT>

⁶ <http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/single-firm-conduct>

⁷

[http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/single-firm-conduct/exclusiv
e-supply-or](http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/single-firm-conduct/exclusiv-e-supply-or)

⁸

[http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/single-firm-conduct/refusal-d
eal](http://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/single-firm-conduct/refusal-d-eal)

To: Inspire Commerce, Inc. (Lpearson@exemplarlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85601584 - DOT PAY - N/A
Sent: 8/23/2013 7:35:22 AM
Sent As: ECOM113@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
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[Attachment - 22](#)
[Attachment - 23](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 85601584

MARK: DOT PAY

85601584

CORRESPONDENT ADDRESS:

LARA PEARSON
EXEMPLAR LAW LLC
3RD FLOOR SUITE 4005 4 FANEUIL HALL

CLICK HERE TO RESPOND TO THIS LETTER

http://www.uspto.gov/trademarks/teas/response_forms.jsp

MARK

ET PLACE
BOSTON, MA 02109

APPLICANT: Inspire Commerce, Inc.

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

Lpearson@exemplarlaw.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 8/23/2013

On January 29, 2013, action on this application was suspended pending the disposition of Cancellation No. 92056693. The proceeding has concluded. The registration that was the subject of the proceeding, Registration No. 4129967, remains valid. Accordingly, examination is herein resumed.

Previously, the following refusals were made final:

- 1) Section 2(d) Refusal
- 2) Section 2(e)(1) Refusal
- 3) Sections 1, 2, 3, and 45 Refusal – Failure to Function

Upon further review of this application, the Failure to Function refusal is **withdrawn**.

In response to the previously issued Final Office action, the applicant filed a request for reconsideration that contains substantive argument along with the following statement:

In the event that the Examiner maintains the 2(e) refusal to register and that such refusal is upheld by the Board on appeal, then Applicant respectfully withdraws its disclaimer of PAY and requests that this application instead be amended to seek registration on the Supplemental Register.

The applicant may not amend to the Supplemental Register following appeal. TMEP §816.05. Therefore, this statement is construed as an amendment to the Supplemental Register, provided in the alternative to the substantive argument. TMEP §816.04. This alternative argument presents a new issue, namely, a refusal on the basis that the mark is generic. Accordingly, a new refusal on that basis is now issued in the

alternative to the original Section 2(e)(1) refusal, which is **maintained and continued**.

Additionally, the previously issued Section 2(d) refusal is **maintained and continued**.

Summary of Issues Applicant Must Address

- Section 2(d) Refusal
- Section 2(e)(1) Refusal
- Section 23 Refusal

Section 2(d) Refusal – Likelihood of Confusion

Registration of the applied-for mark was refused because of a likelihood of confusion with the mark in U.S. Registration No. 4129967. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

The applicant has applied to register DOT PAY in standard-character form for:

Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through pre-paid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Stored value card services, in Class 36.

The registered mark is .COMMUNITYPAY in standard-character form for:

banking services, in Class 36.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely that a potential consumer would be confused or mistaken or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). The court in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) listed the principal factors to be considered when determining whether there is a likelihood of confusion under Section 2(d). *See* TMEP §1207.01. However, not all the factors are necessarily relevant or of equal weight, and any one factor may be dominant in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1355, 98 USPQ2d 1253, 1260 (Fed. Cir. 2011); *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity of the services, and similarity of trade channels of the services. *See In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); TMEP §§1207.01 *et seq.*

The applicant's request for reconsideration does not include additional argument for this refusal. Therefore, the following is a restatement of the previously provided reasons for the refusal, including the reasons the applicant's previously provided argument was found to be unpersuasive.

Comparison of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Vitterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In*

re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Here, applicant's mark, **DOT PAY**, is confusingly similar to the registered mark, **.COMMUNITYPAY**. Both marks consist of an element that will be pronounced "dot" followed by the term **PAY**. That registrant also includes the term **COMMUNITY** does not obviate the likelihood of confusion because the composite **.COMMUNITYPAY** has the overall impression of a subset of **DOT PAY**. Thus, while purchasers will readily perceive the differences between the marks, they *will not* perceive the differences between the sources of the services. That is, purchasers are likely to conclude that **.COMMUNITYPAY** is a sub-offering of **DOT PAY**, all rendered by the same entity.

To that end, the shared portions of the mark are identical in sound, appearance, meaning and overall commercial impression. Purchasers are likely to pronounce the decimal point in the registered mark as "**dot**" and the term **PAY**, meaning "compensate someone for something" creates the impression of monetary compensation equally in the marks. *See Attachment 2 – MoneyGlossary.com definition of PAY*. While applicant uses the phonetic equivalent of the decimal point in the registered mark, that difference does not change the sound, meaning or overall impression of the mark in a manner that would obviate the likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *see In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b)(iv).

Finally, the applied-for mark is phonetically encompassed within the registered mark. Likelihood of confusion is often found where the entirety of one mark is incorporated within another. *See In re Denisi*, 225 USPQ 624, 626 (TTAB 1985)(PERRY'S PIZZA for restaurant services specializing in pizza and PERRY'S for restaurant and bar services); *Johnson Publishing Co. v. International Development Ltd.*, 221 USPQ 155, 156 (TTAB 1982)(EBONY for cosmetics and EBONY DRUM for hairdressing and conditioner); and *In re South Bend Toy Manufacturing Company, Inc.*, 218 USPQ 479, 480 (TTAB 1983) (LIL' LADY BUGGY for toy doll carriages and LITTLE LADY for doll clothing).

Ultimately, as a result of the use of the same punctuation with the same term, purchasers are likely to mistakenly conclude that the services of applicant and registrant emanate from a common source. To the extent that they do not, purchasers will be confused or mistaken or deceived within the meaning of the Trademark Act. **Thus, the marks are confusingly similar.**

Comparison of the Services

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) ("[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods."); TMEP §1207.01(a)(i).

The respective goods and/or services need only be "related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source." *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); *Gen. Mills Inc. v. Fage Dairy Processing Indus. SA*, 100 USPQ2d 1584, 1597

(TTAB 2011); TMEP §1207.01(a)(i).

Here, applicant's services are closely related to registrant's services. Specifically, the application identifies:

Class 36 – “Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through pre-paid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Stored value card services.”

The registration identifies:

Class 36 – “Banking services.”

In the present case, the application identifies a variety of services featuring and relating to electronic payments. **Electronic payments** are “any kind of non-cash payment that doesn't involve a paper check” and include “credit cards, debit cards and the ACH (Automated Clearing House) network.” *See Attachment 3 – HowStuffWorks.com article How Electronic Payment Works.* Electronic payments of the type identified in the application are regularly processed and performed by **banks**. *See Attachment 4 – Encyclopædia Britannica. Encyclopædia Britannica Online Academic Edition article “Bank”.* In fact, registrant's **.COMMUNITYPAY** services feature **electronic payments**. *See Attachment 5 – registrant's specimens of record.* Thus, registrant's broadly identified “banking services” featuring and include the specific payment processing services identified in the application.

Ultimately, when purchasers encounter the identical financial services and related computer services of applicant and registrant, they are likely to be confused as to the sources of the services by the obvious overlap and clear association between them. **Thus, the services are closely related.**

Applicant argues:

(1) The services are distinct;

Applicant argues that the amended services remove or eliminate use of the applied-for mark in the field of banking, which renders the services distinct. Initially, the fact that the services of the parties differ is not controlling in determining likelihood of confusion. The issue is not likelihood of confusion between particular services, but likelihood of confusion as to the source or sponsorship of those services. *In re Majestic Distilling Co.*, 315 F.3d 1311, 1316, 65 USPQ2d 1201, 1205 (Fed. Cir. 2003); *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1689 (Fed. Cir. 1993); TMEP §1207.01.

Moreover, as detailed above, applicant's specifically identified financial transaction processing services are part and parcel of registrant's broadly identified banking services. *See Attachment 7 – websites of institutions offering banking services and financial transaction processing services.* Despite the differences in the identification of the services, registrant's banking services do, in fact, encompass the services in the application. *See Attachment 8 – Office of the Comptroller of the Currency Publication Activities Permissible for a National Bank, Cumulative.*

(2) The decimal point/DOT in mark does not imply similarity of origin;

Applicant argues that the inclusion of the decimal point/dot does not imply similarity of origin and, by way of example, offers that purchasers “recognize quite clearly that .net is very different from .com.” This argument is not persuasive.

The initial refusal was not predicated merely on the similarities between the decimal point and **DOT**. As was articulated previously and herein, the marks begin with a phonetically equivalent element and end with the term **PAY**. To the extent that the term **COMMUNITY** in the registered mark, which denotes that the banking services are rendered by institutions that are “locally owned and operated”, is descriptive, purchasers will look to the mark as a whole for source-identification. Because the applied-for mark is phonetically encompassed within the registered mark, purchasers will readily conclude, mistakenly, that the **.COMMUNITYPAY** services are merely a subset of the broader **DOT PAY** services.

(3) There are many applications that include similar phrases as appear in the applied-for mark;

Initially, applicant is advised that list of registrations does not make such registrations part of the record. *In re Promo Ink*, 78 USPQ2d 1301, 1304 (TTAB 2006); TBMP §1208.02; TMEP §710.03. To make third party registrations part of the record, an applicant must submit copies of the registrations, or the complete electronic equivalent from the USPTO’s automated systems, prior to appeal. *In re Jump Designs LLC*, 80 USPQ2d 1370, 1372-73 (TTAB 2006); *In re Ruffin Gaming*, 66 USPQ2d, 1924, 1925 n.3 (TTAB 2002); TBMP §1208.02; TMEP §710.03.

Moreover, the applications to which applicant refers have “no probative value other than as evidence that the application was filed.” *In re Phillips-Van Heusen Corp.*, 63 USPQ2d 1047, 1049 n.4 (TTAB 2002).

However, even if the applicant referenced only registrations and the registrations were properly of record, it would not change the outcome herein. The existence on the register of other seemingly similar marks does not provide a basis for registrability for the applied-for mark. *AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Total Quality Group, Inc.*, 51 USPQ2d 1474, 1477 (TTAB 1999). In the present case, the evidence of record aptly demonstrates that the services are closely related. Given the similarities between the marks, purchasers are likely to be confused as to the sources of the services by the contemporaneous use of **.COMMUNITYPAY** and **DOT PAY** in connection with financial services.

(4) The purchasers of applicant’s and registrant’s services are distinct ;

Applicant reads limitations and restrictions into the scope of the application identification that are not present therein. In fact, the services in the application are broadly identified and include not only developers and merchants but the general purchasing public. Moreover, the registration does not limit or restrict its classes of purchasers to exclude the developers and merchants to whom applicant may market its services.

With respect to applicant’s and registrant’s goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See, e.g., Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). .

At the very least, there is doubt as to the likelihood of purchaser confusion. Any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Therefore, because the marks are confusingly similar and the services are closely related, purchasers encountering these services are likely to mistakenly believe that they are provided by a common source. Accordingly, the refusal to register pursuant to Section 2(d) of the Trademark Act is ***maintained and continued***.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration.

Applicant should note the following additional ground for refusal.

Section 2(e)(1) Refusal – Merely Descriptive

Registration was previously refused because the applied-for mark merely describes the field of applicant's services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); *see* TMEP §§1209.01(b), 1209.03 *et seq.*

A mark is merely descriptive if "it immediately conveys knowledge of a quality, feature, function, or characteristic of [an applicant's] goods or services." *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012) (quoting *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 963, 82 USPQ2d 1828, 1831 (Fed. Cir. 2007)); TMEP §1209.01(b); *see DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Abcor Dev. Corp.*, 588 F.2d 811, 814, 200 USPQ 215, 218 (C.C.P.A. 1978)).

The applicant has applied for registration of the mark DOT PAY in standard character form for:

Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through pre-paid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Stored value card services, in Class 36.

Here, applicant's mark combines a **DOT**, the word form of a decimal point, with the term **PAY**, meaning "compensate someone for something" for services featuring transaction processing services and technology that allows purchasers to **compensate someone for something**. *See Attachment 2 – MoneyGlossary.com definition of PAY.*

The applicant is also referred to the attached additional dictionary entry, which defines "pay" as "To give money to in return for goods or services rendered: *pay the cashier*; To discharge or settle (a debt or obligation): *pay the bill*." *American Heritage® Dictionary of the English Language*, <http://education.yahoo.com/reference/dictionary/>. Payment processing services like the applicant's enable users to pay for goods and services selected online, and also to settle existing obligations.

In fact, applicant's specimens and documentation submitted indicate that the **DOT PAY** services include "Payment services", the ability to "pay in one easy place", "enterprise level payment processing", etc. Applicant's website makes clear that the fundamental nature of the services is to render payment to

others. That applicant uses the verb form of the term **PAY** as opposed to the noun **PAYMENT** does not change the descriptive significance of the term because services literally allow purchasers to **PAY** or compensate others.

Applicant's inclusion of the phonetic equivalent of a punctuation mark also does not alter the descriptive significance of the mark. Adding punctuation marks to a descriptive term will not ordinarily change the term into a non-descriptive one. *In re Vanilla Gorilla, L.P.*, 80 USPQ2d 1637, 1639 (TTAB 2006) (holding 3-0'S merely descriptive of car wheel rims); *In re Samuel Moore & Co.*, 195 USPQ 237, 240 (TTAB 1977) (holding SUPERHOSE! merely descriptive of hydraulic hose); see *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1253-54, 103 USPQ2d 1753, 1757-58 (Fed. Cir. 2012) (holding the Board failed to support findings that SNAP!, where the exclamation point appeared broken in half, was not merely descriptive of medical syringes using snap-off plungers); TMEP §1209.03(u).

Moreover, as indicated previously, the manner in **DOT** is used in the applied-for mark creates the perception that the mark is a top-level domain. Purchasers do not perceive TLDs as source-identifier but as mechanisms for accessing the internet. See *Attachment 10 – example of the public perception of gTLDs based on the widespread coverage of the TLD expansion by ICANN*. As a result, the addition of the period or decimal point before the term **PAY** does not change the descriptive significance of that term nor does it serve to function as an identifier of the source of the services.

In addition to the previously provided evidence showing use of DOT as the phonetic equivalent of “.” in TLDs, the applicant is also referred to the excerpts from articles from the LexisNexis® database attached to this Office action providing additional examples of DOT used in this manner.

Material obtained from computerized text-search databases, such as LexisNexis®, is generally accepted as competent evidence. See *In re The Boulevard Entm't, Inc.*, 334 F.3d 1336, 1342-43, 67 USPQ2d 1475, 1479 (Fed. Cir. 2003) (accepting LexisNexis® evidence to show offensive nature of a term); *In re Giger*, 78 USPQ2d 1405, 1407 (TTAB 2006) (accepting LexisNexis® evidence to show surname significance); *In re Lamb-Weston Inc.*, 54 USPQ2d 1190, 1192 (TTAB 2000) (accepting LexisNexis® evidence to show descriptiveness); *In re Wada*, 48 USPQ2d 1689, 1690 (TTAB 1998) (accepting LexisNexis® evidence to show geographic location is well-known for particular goods); *In re Decombe*, 9 USPQ2d 1812, 1815 (TTAB 1988) (accepting LexisNexis® evidence to show relatedness of goods in a likelihood of confusion determination); TBMP §1208.01; TMEP §710.01(a)-(b).

Ultimately, when purchasers encounter applicant's services using the mark **DOT PAY**, they will immediately understand the mark as identifying the field of applicant's services and not as an indication that applicant is the source of the services.

Applicant's Argument

The applicant has argued that the placement of the term DOT before the term PAY is equivalent to the use of punctuation in unexpected locations, which the applicant has argued creates a distinctive mark. The applicant has argued that it provides its services to sophisticated purchasers who would not believe that the applicant operates a TLD in this format. The applicant has also submitted a disclaimer of the term PAY. The applicant has argued that this disclaimer is equivalent to disclaimers accepted for other marks, the registrations of which the applicant has made of record.

Location of Punctuation

The applicant has argued that the placement of the term DOT before PAY is equivalent to placement of

punctuation in an unexpected location. Thus, the applicant argues that this construction of the mark results in a distinctive mark.

The Board considered a similar argument in *In re theDot Communications Network LLC*, and found that consumers will generally perceive marks consisting of "dot _____" or "._____" as top level domain names. 101 USPQ2d 1062 (2011). Further, the Board found that when such marks are composed of a descriptive term, such as music, the mark is merely descriptive of on-line services in that field. *Id.* at 1069. Similarly, in this case, the mark DOT PAY composed of the term DOT and the descriptive term PAY is merely descriptive as a whole when used for on-line payment processing services.

Sophisticated Purchasers

The applicant has argued that it provides its services to sophisticated purchasers who will not perceive the mark as equivalent to a top-level domain name.

The applicant's services are not limited to any particular class of purchasers, and they consist of payment processing services that are commonly provided to ordinary consumers. To the extent that the applicant has argued that its services consist of an API for use by developers, the applicant's services do not include software of this type, and thus, the fact that the applicant may also be using the mark for an API sold exclusively to developers is not relevant to the consumers impression of the mark as used for payment processing services.

Further, even if the applicant's consumers were limited to application developers who are more knowledgeable of computer technology than ordinary consumers, those consumers would likely be more familiar with ICANN'S gTLD expansion than the average consumer, and thus would be even more likely to perceive the applicant's mark as a top level domain name.

As the applicant has indicated, there are currently two applicants for the .PAY TLD. Therefore, it is likely in the future that .PAY will be in use by another entity as a TLD, and as result, the applicant's use of DOT PAY will be perceived as a reference to that TLD.

Additionally, one of the applicant's for the .PAY TLD plans to use the mark for payment processing services. Specifically, the ICANN application for DOTPAY SA states the following:

The proposed .pay TLD is an open Top Level Domain, globally commercialized to provide an identity associated with internet-based payment processing services. . . . The applicant intends to establish a TLD which identifies the domain name with patented payment facilities and offers the registrant a range of multi-vendor and multi-payment services."

Applicant's 01/21/2013 Request for Reconsideration, TSDR, at 51.

Further, the additional evidence provided by the applicant showing its use of the applied-for mark shows the mark as an alternative to its .PAY mark, which is in the standard gTLD format. The applicant is referred in particular to the following:

"We are proud to announce our .pay™ (DOT PAY™) brand of Financial Transaction services, products, solutions & resources." *Applicant's 01/21/2013 Request for Reconsideration, TSDR, at 123, 127.*

Material obtained from applicant's website is acceptable as competent evidence. *See In re N.V. Organon*, 79 USPQ2d 1639, 1642-43 (TTAB 2006); *In re Promo Ink*, 78 USPQ2d 1301, 1302-03 (TTAB 2006); *In re A La Vieille Russie Inc.*, 60 USPQ2d 1895, 1898 (TTAB 2001); TBMP §1208.03; TMEP §710.01(b).

Disclaimer

The applicant has provided a disclaimer of the term PAY. However, because the entire mark has been found to be unregistrable under Section 2(e)(1), this does not make the mark as a whole registrable, especially since the wording not included in the disclaimer has been found to be equivalent to non-distinctive punctuation.

The applicant has argued that its disclaimer should be accepted based on the acceptance of disclaimers for similar marks in prior registrations. Specifically, the applicant has referenced and made of record, the following third-party registrations:

The third-party registrations referenced by the applicant are the following:

Registration No. 4206054, .RE = REAL ESTATE and design with disclaimer of “.RE” and “REAL ESTATE”.

Registration No. 4212780, .RE and design with disclaimer of .RE.

Registration No. 4034187, .GOLFER and design with disclaimer of GOLFER.

Registration No. 3385769, .RUS in standard character form with disclaimer of RUS for “Alcoholic beverages except beer; alcoholic beverages of fruit; vodka; distilled spirits of potato or corn,” in Class 33.

Registration No. 2902300, .PST WIZARD in typed drawing form, with disclaimer of .PST.

Registration No. 3938471 .PRINT in standard-character form, registered on the Principal Register with a Section 2(f) claim and a disclaimer of PRINT, for “computer hardware, computer software used to facilitate and enhance operation of computer printers in server-based computing,” in Class 9.

Registration No. 3801578 for .TEL and design, with a disclaimer of .TEL.

Registration No. 313153 for .TRAVEL and design with disclaimer of TRAVEL.

With the exception of Registration Nos. 3385769 and 3938471, the marks referenced by the applicant combine a mark that may be perceived as a TLD with other registrable wording or design elements. Therefore, the disclaimers of the TLD or the term without the leading period were accepted because there were other wording and designs to carry the marks. The applicant's mark does not include any additional wording or design elements comparable to those in the referenced registrations.

As to Registration No. 3938471, this mark is registered on the Principal Register with a Section 2(f) claim and a disclaimer of the descriptive term. Thus, this mark was found to be merely descriptive in its entirety, and does not support the applicant's argument. Further, in contrast to the applicant's on-line services, this mark was registered for goods.

As to Registration No. 3385769, this mark appears to present a unique case: the mark combined a geographical abbreviation with the leading dot, but the country code TLD for that geographic location uses a different abbreviation. Thus, it appears the rare case that would be found to be registrable for similar reasons to this mark with a disclaimer of the wording following the DOT. Additionally, the .RUS mark is also registered for goods, specifically beverages, and not online services like the applicant's in this case.

Therefore, the mark is merely descriptive of the subject matter of applicant's services and the refusal to register pursuant to Section 2(e)(1) of the Trademark Act is ***maintained and continued***.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration.

Applicant should note the following additional ground for refusal.

As discussed above, the applicant's statement that it would amend to the Supplemental Register if the Section 2(e)(1) refusal is affirmed on appeal is construed as an amendment to the Supplemental Register in the alternative to the argument that the mark is not merely descriptive. Accordingly, the following refusal is now issued in the alternative to the above Section 2(e)(1) Refusal.

Section 23 Refusal – Generic

Registration is refused on the Supplemental Register because the applied-for mark is generic and thus incapable of distinguishing applicant's services. Trademark Act Section 23(c), 15 U.S.C. §1091(c); *see* TMEP §§1209.01(c) *et seq.*

As discussed above in the Section 2(e)(1) refusal, the mark as a whole would be perceived as combining the term PAY with the phonetic equivalent of non-distinctive punctuation.

Determining whether a mark is generic requires a two-step inquiry:

- (1) What is the genus of goods and/or services at issue?
- (2) Does the relevant public understand the designation primarily to refer to that genus of goods and/or services?

In re 1800Mattress.com IP, LLC, 586 F.3d 1359, 1363, 92 USPQ2d 1682, 1684 (Fed. Cir. 2009) (quoting *H. Marvin Ginn Corp. v. Int'l Ass'n of Fire Chiefs, Inc.*, 782 F.2d 987, 989-90, 228 USPQ 528, 530 (Fed. Cir. 1986)); TMEP §1209.01(c)(i).

Regarding the first part of the inquiry, the genus of the goods and/or services is often defined by an applicant's identification of goods and/or services. *See In re Country Music Ass'n*, 100 USPQ2d 1824, 1827-28 (TTAB 2011) (citing *Magic Wand Inc. v. RDB Inc.*, 940 F.2d 638, 640, 19 USPQ2d 1551, 1552 (Fed. Cir. 1991)).

In the present case, the identification, and thus the genus, is payment processing services.

The term "payment" is defined as "an amount of money that you pay or receive; the process of paying money." *MacMillan Dictionary* (2013), <http://education.yahoo.com/reference/dictionary/>. Thus, the term

“pay” in the mark is the apt name for the applicant’s services.

The following websites that provide payment processing services also use the term “pay” refer to payment processing:

“Choose your **payment processor** and **pay** now. You can **pay** by debit or credit card whether you e-file, paper file or are responding to a bill or notice. It's safe and secure - the IRS uses standard service providers and commercial card networks. Your **payment will be processed by a payment processor** who will charge a processing fee, which may be tax deductible. The fees vary by service provider.” IRS, Pay your Taxes by Debit or Credit Card, <http://www.irs.gov/uac/Pay-Taxes-by-Credit-or-Debit-Card> (viewed on Aug-13-2013, 01:22 GMT).

“With CCBill online **payment processing**, the answers are all yes. All major credit cards from around the globe are accepted forms of payment. Furthermore, consumers can **pay** by electronic check or telephone.” CCBill.com, *Payment Processing*, <http://www.ccbill.com/online-merchants/payment-processing.php> (viewed on Aug-11-2013, 07:53).

“The service gives people simpler ways to send money without sharing financial information, and with the flexibility to **pay** using their account balances, bank accounts, credit cards or promotional financing. With 132 million active accounts in 193 markets and 25 currencies around the world, PayPal enables global commerce, **processing** more than 7.7 million **payments** every day.” PayPal™, *About PayPal™*, <https://www.paypal-media.com/about> (viewed on Aug-22-2013, 10:50 EDT).

“PayTrust is a complete online solution for bill delivery, payment and management. It works with any bank and any payee you may have. With PayTrust, you can **pay** from up to 10 different banks accounts. While many banks offer the ability to issue **payments online**, you're still required to track and manage all of the paper bills that come to your house. By receiving your bills and **managing the process online**, PayTrust truly removes the burden of handling monthly bill payments. And PayTrust allows you to make payments to anyone-even someone who doesn't normally send you a bill. So you can have fewer headaches, fewer worries and a lot more free time.” PayTrust®, *PayTrust Online Bill Pay Frequently Asked Questions*, <http://paytrust.intuit.com/paytrust-online-bill-pay-faqs.jsp> (viewed on Aug-22-2013, 11:26 EDT).

“Make payments quickly, securely, and easily from an iPhone or an Android phone, without storing sensitive payment information on the phone. Connect with merchants, send them a message, place an order, and **pay** - all through the ProPay Link application. . . . All payment information is stored in ProPay’s secure **payment processing** platform.” ProPay, *ProPay® Link™ for Consumers*, <http://www.propay.com/products-services/accept-payments/link/consumers> (viewed on Aug-22-2013, 11:49 EDT).

“Once it is integrated with your website or application, hundreds of millions of Amazon customers will be able to **pay** quickly and easily using the information stored in their Amazon accounts. . . . You can accept payments on your website for selling goods or services, execute recurring payments, and send payments. . . . You'll be notified once the **payment is processed**.” Amazon Payments, *Amazon Flexible Payments Service*, <http://payments.amazon.com/adui/sdui/business/devfps> (viewed on Aug-22-2013, 12:02 EDT).

“Make it easier for hundreds of Amazon customers to **pay** on your site. . . . Use the payment

information in your Amazon account to **pay** on sites across the web.” Amazon Payments, <http://payments.amazon.com/> (viewed on Aug-10-2013, 22:08 GM).

See the image for Google Wallet, which uses the wording “Pay With” to indicate the function of the “Buy with Google” button.” Google Wallet, *Buy Online*, <http://www.google.com/wallet/buy-online> (viewed on Aug-22-2013, 11:41 EDT).

“**Pay** out same day. Balanced now offers same-day ACH payouts to Wells Fargo bank account holders. **Pay** all other merchants via next-day ACH.” Balanced, *Payments for Marketplaces*, <https://www.balancedpayments.com/> (viewed on Aug-12-2013, 07:00 GMT).

Material obtained from the Internet is generally accepted as competent evidence. *See In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-03 (TTAB 2009) (accepting Internet evidence to show relatedness of goods in a likelihood of confusion determination); *In re Rodale Inc.*, 80 USPQ2d 1696, 1700 (TTAB 2006) (accepting Internet evidence to show genericness); *In re White*, 80 USPQ2d 1654, 1662 (TTAB 2006) (accepting Internet evidence to show false suggestion of a connection); *In re Joint-Stock Co. “Baik”*, 80 USPQ2d 1305, 1308-09 (TTAB 2006) (accepting Internet evidence to show geographic significance); *In re Consol. Specialty Rests. Inc.*, 71 USPQ2d 1921, 1927-29 (TTAB 2004) (accepting Internet evidence to show geographic location is well-known for particular goods); *In re Gregory*, 70 USPQ2d 1792, 1793, 1795 (TTAB 2004) (accepting Internet evidence to show surname significance); *In re Fitch IBCA Inc.*, 64 USPQ2d 1058, 1060-61 (TTAB 2002) (accepting Internet evidence to show descriptiveness); TBMP §1208.03; TMEP §710.01(b).

The additional evidence provided by the applicant also shows the applicant’s use of “pay” and its past tense form, “paid” as a generic term for the applicant’s services. In particular, the applicant is referred to the following:

"With InspirePay™, getting**paid** is as easy as sending a payment request using .pay™ brand technologies . . . You even get a web page created by us, hosted by us, and we even manage your DNS for you to send all of your customers so they can **pay** in one easy place. *Applicant's 01/21/2013 Request for Reconsideration, TSDR, at 123.*

".Pay™ gets you**paid**!" *Applicant's 01/21/2013 Request for Reconsideration, TSDR, at 127.*

"Getting **paid** doesn't have to be painful. . . .Pay™ gets you**paid** like a: Rock Star Celebrity CEO Nerd-Do-Well Jedi Master..." *Applicant's 01/21/2013 Request for Reconsideration, TSDR, at 215.*

Thus, the relevant public would understand this designation to refer primarily to that genus of services.

Accordingly, registration is refused on the Supplemental Register under Section 23.

Response Guidelines

To expedite prosecution of the application, applicant is encouraged to file its response to this Office action online via the Trademark Electronic Application System (TEAS), which is available at <http://www.uspto.gov/trademarks/teas/index.jsp>. If applicant has technical questions about the TEAS response to Office action form, applicant can review the electronic filing tips available online at http://www.uspto.gov/trademarks/teas/e_filing_tips.jsp and email technical questions to TEAS@uspto.gov.

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

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TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

FOR .XXX DOMAIN, BUSINESS IS BOOMING; ICM REGISTRY HAS HAULED IN 'EIGHT- OR NINE-DIGIT SUMS' Pittsburgh Post-Gazette September 27, 2012 Thursday

September 27, 2012 Thursday
SOONER EDITION

SECTION: BUSINESS; Pg. D-4

LENGTH: 710 words

HEADLINE: FOR .XXX DOMAIN, BUSINESS IS BOOMING;
ICM REGISTRY HAS HAULED IN 'EIGHT- OR NINE-DIGIT SUMS'

BYLINE: Jeff Ostrowski, Palm Beach Post

BODY:

PALM BEACH GARDENS, Fla. -- Stuart Lawley has made millions in his short stint as an Internet porn impresario, but the mild-mannered Brit seems more buttoned-down businessman than Hugh Hefner-style high-roller.

Mr. Lawley runs ICM Registry, the Palm Beach Gardens-based owner of the newly launched **dot-xxx** domain. The content on **dot-xxx** is risqué, but company headquarters is just plain boring. It's a 3,000-square-foot cubicle farm in an office building. The space is decorated in bland colors, with nary a stripper pole in sight.

ICM Registry has sold some 230,000 domain names. Mr. Lawley acknowledges that fully 80,000 were so-called defensive registrations bought by organizations such as retailer Target, the University of Kansas and Northwestern University. They purchased **dot-xxx** addresses to keep someone else from snapping up their names and posting dirty content.

Mr. Lawley in 2003 began working to create the .xxx domain. He spent seven years and ran up a hefty legal bill fighting the Internet Corporation for Assigned Names and Numbers, or ICANN, which the U.S. government established in 1998 to run the Internet's address system.

Now that Mr. Lawley has the .xxx domain up and running, he has bigger plans. This week marks the launch of a **dot-xxx** search engine as part of a partnership with Google. The next step, he said, is an iTunes-like payment plan that will let porn viewers pay for content.

Dot-pizza anyone? ICANN stokes demand for new Internet top-level domains The Philadelphia Inquirer
June 21, 2012 Thursday

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The Philadelphia Inquirer

June 21, 2012 Thursday
WEB Edition

SECTION: BUSINESS; P-com Biz; Pg. WEB

LENGTH: 982 words

HEADLINE: **Dot**-pizza anyone? ICANN stokes demand for new Internet top-level domains

BYLINE: Jeff Gelles

BODY:

After a year of anticipation, the big Internet land rush is under way, and large companies, cities, and other prospectors are staking claims. It's not yet clear whether the new rules will affect the Internet's functioning. But the new look could take some getting used to — and perhaps stir a fair amount of confusion along the way.

The land rush was triggered last June by the Internet Corporation for Assigned Names and Numbers, when it decided to dramatically expand a landscape long dominated by addresses ending in familiar suffixes.

Corporate domains such as Apple.com and Ford.com were so generic and predictable that a generation of Web companies came to be known as "**dot**-coms." In the worlds of nonprofits, colleges and government, "**dot**-org," "**dot**-edu" and "**dot**-gov" served the same role.

But if ICANN goes ahead as planned, we're likely to encounter a wave of new so-called "top-level domains" within the next year — domains that may come to replace the com in many **dot**-coms' home addresses. Last week, ICANN announced that it had received 1,930 applications to register more than 1,400 new top-level domains.

Some of the new domains would create fancy new addresses for multibillion-dollar corporations, familiar cities, or valuable brands. Proposed new suffixes include **dot**-Apple, **dot**-NFL, **dot**-Rio, and even **dot**-Transformers, a domain proposed by Hasbro International, the toy company.

Other generic new domains would be more downscale, though very descriptive. Four companies have proposed **dot**-pizza, for example, and similar numbers have proposed **dot**-poker, **dot**-soccer, and **dot**-casino.

Dot-Music, Dot-Sport and (Security Experts Hope) Dot-Secure The New York Times Blogs(Bits) May 15, 2012 Tuesday

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The New York Times Blogs
(Bits)

May 15, 2012 Tuesday

SECTION: TECHNOLOGY

LENGTH: 797 words

HEADLINE: **Dot**-Music, **Dot**-Sport and (Security Experts Hope) **Dot**-Secure

BYLINE: NICOLE PERLROTH

HIGHLIGHT:

The Internet Corporation for Assigned Names and Numbers, or Icann, is about to throw open the floodgates to new top-level domain names. While most security experts have criticized the change, one group sees an opportunity by creating what it says will be a secure top-level domain.

BODY:

Will the new Internet with hundreds of new top-level domain names be more secure or a wild free for all?

Until now, the Web has been organized into 22 familiar top-level domains -- those two or three letters that come after the period -- like .com, .org, .net, .gov and so on. But now, with the Internet crunched for space, the body that governs the domain name system, the Internet Corporation for Assigned Names and Numbers, or Icann, is about to throw open the floodgates to thousands of new top-level domains.

Icann started accepting applications for new domains in January and will announce the winners this year. One year from now, you might find yourself browsing a site that ends in .coffee, .sport, .travel, or a non-English, or even non-Latin, script. Icann has already received 2,100 applications from 1,300 applicants, quadruple the number of applications expected.

The expansion has been controversial to say the least. Rod Beckstrom, Icann's departing president, praised the change as a "new domain name system revolution." But others have predicted World War Web.

The loudest critics have been security specialists who paint a frightening, Wild West landscape rife with turf wars between cybersquatters and companies, as well as hackers who can more easily game the system.

For now, anyone browsing Apple.com can be reasonably confident they are, in fact, communicating with Apple. The new system will not be so straightforward. Complicating matters is the fact that any trademark, anywhere, can be used by an applicant to establish ownership. Google, for example, will not have a hard time securing .google. But Icann will have a harder time deciding who should own .apple: Apple, or the Washington State Apple Commission.

The application process itself has already been a bit of a disaster. Icann had to pull its application site off line on April 12 after a bug made it possible for applicants to view other applications (no small blunder when you consider that it costs each applicant \$185,000 to apply).

But one group of security experts plans to use the top-level domain changes to carve out a trusted, hacker-free zone on the Web. Alex Stamos, a security expert at Artemis Internet Inc., a security firm based in San Francisco, said he filed an application for a .secure domain.

"In the end, we're all just professional critics unless we do something about this," Mr. Stamos said in an

interview. "This is an opportunity to create a part of the Internet where the old rules don't apply."

Mr. Stamos says security technologies are still optional on the Web and it is often the user's job to decipher whether or not they are browsing safely.

"If you want to securely browse the Web at Starbucks, or use a social network in Syria, you have to be a security expert to notice if something's wrong. I can only name 2,000 cryptographers who are qualified to do that," said Mr. Stamos.

Jeremiah Grossman, a chief technology officer at Whitehat Security, said: "I'm surprised the Web has survived this long. The only thing keeping it alive, at this point, is the fact the bad guys don't want to bring it down."

Mr. Stamos said he hopes .secure will be the closest anything has come to a safe browsing experience on the Web. Anyone who wants to host their site on the domain -- think BankofAmerica.secure or Facebook.secure -- will have to be personally vetted by an Artemis security expert and required to abide by certain security standards.

To establish those security requirements, Artemis put together a working group of security experts from a broad range of technology and financial institutions. Mr. Stamos said five companies had already committed to the Domain Policy Working Group.

He said it was too early to disclose which ones, but he qualified them as a software provider, three major Internet companies and a major payments company -- most likely PayPal. In a blog post on Thursday, Brad Hill, who leads security at PayPal, confirmed that PayPal had been invited to join the working group and praised the effort.

Once security standards are established, Mr. Stamos said Artemis will police subdomains with scanning technologies to determine if they are up to snuff. Minor loopholes will elicit a warning or suspension until the problem is fixed. More egregious security holes will get a subdomain owner kicked to the curb.

"We want this to be a safe, gated neighborhood on the Web," Mr. Stamos said. "So if you want to be a member, we're going to make sure you aren't running the online equivalent of a meth lab in your garage."

Ready or not, here come hundreds of dot-whatevers USA TODAY February 2, 2012 Thursday

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USA TODAY

February 2, 2012 Thursday
FINAL EDITION

SECTION: NEWS; Pg. 10A

LENGTH: 589 words

HEADLINE: Ready or not, here come hundreds of dot-whatevers

BODY:

Internet users are familiar with the handful of helpful names -- the dot-coms, the dot-orgs and dot-govs -- that proclaim a website's general category. There are just 22 such "generic top-level domain names," as the suffixes to the right of the dot are known, and it took two decades to carefully develop them.

Now ICANN -- the powerful and little-known Internet Corporation for Assigned Names and Numbers -- wants to expand that number to as many as 1,000 as a way to promote innovation and relieve dot-com crowding. Last month, ICANN began taking applications from those seeking to buy the rights to operate this new generation of domain names.

The new domains would go live in 2013. Banks, for example, might adopt dot-bank or dot-financial. Attorneys might capture dot-law and restaurants dot-food.

Will this flood of domains be confusing to the public? Potentially.

Expensive for business? Absolutely. It costs \$185,000 just to apply for the operating rights, and some businesses worry they will be forced to buy up names just to prevent cybersquatters from grabbing them.

And a lure to criminals? Most likely.

The small compliance office at ICANN, a non-profit given the job in 1998 as a substitute for government control, can't keep up with problems involving the current crop, the Federal Trade Commission said recently. The unprecedented increase in domain names and operators "only increases the risk of a lawless frontier," the FTC warned.

Internet crooks already use copycat names -- ones similar to, but not exactly like, those of real businesses -- to lure customers to fake sites. One scammer used more than 5,500 copycat Web addresses to divert Internet users to sites that bombarded them with online gambling and pornography ads. More top-tier domains will open more opportunities for fraud.

Sometimes it's tough even to locate suspected crooks because a massive database of website and domain name owners -- also overseen by ICANN -- is, in the words of an ICANN study group, "broken." More than one in five entries is inaccurate.

The businesses that register owners, all of which must have contracts with ICANN, aren't required to verify anything about registrants. Some obviously don't even try. Thus, the database lists registrants such as God, Mickey Mouse and Amandahugandkiss. This disarray hides wrongdoers and thwarts law enforcement.

Even when suspected scammers can be found, they have broad rights under the First Amendment to use any website name they want, unless evidence shows fraud. The leader of an operation that the FTC sued for bilking consumers retaliated by opening websites in the names of FTC lawyers and takeoffs on the FTC name itself. A judge refused to take down the sites.

ICANN essentially says "trust us," we're fixing it, and just unveiled a plan for doing so. But its track record doesn't inspire confidence. In 2009, law enforcement agencies from around the world called on ICANN to clean up the database, maintain accurate and complete registrant data, and take other actions to prevent fraud. More than two years later and on the verge of opening the way for hundreds of new domains, ICANN has just gotten around to those issues.

ICANN notes that it has spent six years developing its plan, which includes some new protections for consumers and businesses.

Even so, given ICANN's status as the most powerful organization you've never heard of, a wiser course would be to test drive its plan with a handful of new domains before the public is confronted with 1,000 new dot-anythings.

A 'revolving door' at nonprofit keeper of domain names The Washington Post August 21, 2011 Sunday

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The Washington Post

August 21, 2011 Sunday
Every Edition

SECTION: BUSINESS; Pg. G03

DISTRIBUTION: Every Zone

LENGTH: 1321 words

HEADLINE: A 'revolving door' at nonprofit keeper of domain names

BYLINE: Eric Engleman

BODY:

ICANN, based in Marina del Rey, Calif., oversees 22 generic top-level domains, known as gTLDs, including the dot-com, dot-org and dot-net suffixes, which together account for almost 120 million Internet addresses.

The group has about 130 employees and operates under a zero-dollar contract with the Commerce Department. It collects fees from companies such as VeriSign, GoDaddy.com and Top Level that generate revenue by helping businesses and consumers obtain domain names. For the year that ended June 30, ICANN reported \$68.3 million in revenue, much of it from fees.

At a June 20 meeting in Singapore, ICANN's board of directors voted 13 to 1, with two abstentions, to increase the number of domain names and consider almost any word in any language as a Web suffix. The

vote capped years of deliberations over the program, which the group has said would provide companies with new ways to reach customers.

Market potential

ICANN's decision created a potential new market for companies such as Top Level, which is publicly traded on the London Stock Exchange's Alternative Investment Market and says it's working with groups seeking the rights to potential suffixes including **dot**-nyc and **dot**-eco.

The Web-suffix expansion has been attacked by trade groups representing large corporations and advertisers that say the change increases businesses' costs.

The proliferation of new domain names will confuse consumers and force companies to spend hundreds of thousands of dollars to defensively register domains to protect their brands, Bob Liodice, president of the Association of National Advertisers, wrote in an Aug. 4 letter to ICANN.

"While no doubt some industry sectors will make money, most will suffer enormous costs that far outweigh the gains," wrote Liodice, whose group represents more than 400 companies including Apple and General Motors.

Under ICANN's plan, the group will accept applications for new domains from Jan. 12 to April 12. Applications will cost \$185,000 per domain name, and ICANN will allow up to 1,000 new suffixes per year, spokesman Brad White said. The new domains will be ready by late 2012 or early 2013, he said.

Dengate Thrush, a 55-year-old intellectual property lawyer from New Zealand, had served as an ICANN director since 2005 and took over as chairman in November 2007. He said he was approached by Top Level Domain Holdings on June 24, the day his term as chairman ended.

Negotiations proceeded "very rapidly," and he signed a contract July 15, he said. In a July 17 statement, the company announced his hiring as executive chairman and said Dengate Thrush would be an "outstanding asset."

"Peter championed successfully the approval of the new gTLD programme at the highest levels, and with Peter on board I have every confidence we will achieve the same success," said Antony Van Couvering, chief executive of TLDH, said in the statement.

Craig Schwartz, a former ICANN employee, last month joined the Financial Services Roundtable, a Washington-based lobbying group whose members include Bank of America and J.P. Morgan Chase.

Schwartz, who was chief gTLD registry liaison at ICANN, said he accepted a job offer from the Roundtable in May and stayed through ICANN's June 20 vote. He left ICANN June 30 and started his new job July 11.

The business group is considering creating a vehicle with the Washington-based American Bankers Association to acquire top-level domains such as **dot**-bank and **dot**-insure for use by financial institutions, said Leigh Williams, president of technology policy for the Roundtable.

"The financial community will benefit greatly from Craig's firsthand knowledge of ICANN's domain program," Williams said in a July 11 statement announcing Schwartz's hiring and noting his involvement

in the domain-name expansion.

Schwartz said he's not aware of any restrictions for departing ICANN staff and declined to disclose his compensation at ICANN and at the Financial Services Roundtable.

Cities could cash in on new domain extensions; But companies might think twice about expense of securing their .name USA TODAY July 13, 2011 Wednesday

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USA TODAY

July 13, 2011 Wednesday
FINAL EDITION

SECTION: MONEY; Pg. 3B

LENGTH: 406 words

HEADLINE: Cities could cash in on new domain extensions;
But companies might think twice about expense of securing their .name

BYLINE: Rachel Rouben, USA TODAY

BODY:

The gates are opening, but it's unclear if a flood of applicants will rush to register the name of their corporate or municipal website for a potentially longer "dot-anything" suffix, starting in January, for a whopping price tag.

The rigorous process requires applicants to spend \$185,000 to complete a lengthy form that will prevent cybersquatters and can take 18 months for approval.

While some critics say switching to or adding on a corporate domain, such as .ibm or .mcdonalds, is unnecessary and probably unlikely for big-name brands, municipalities could reap marquee display and extra cash.

New generic top-level domains, as they're known, may be right for some organizations but not all, says Brad White, spokesman for the Internet Corp. for Assigned Names and Numbers, or ICANN.

"I have a hard time seeing it right now," says Christopher Glancy, an intellectual-property attorney at White & Case. "You have to wonder whether or not owning the domain .company is really going to end up increasing your bottom line when you already own company.com."

But a city could register its name as a top-level domain for example, .tulsa then dole out second-level domains to an array of businesses, such as pizzeria.tulsa.

New York Councilwoman Christine Quinn said such cyberbranding could be an instant revenue booster. "This is a fantastic opportunity for New York City establishments and for the city of New York, which will benefit from the millions of dollars in revenue .nyc will generate."

The uses for generic top-level domain names are many: One company has found it can be used to shield children from inappropriate content.

Adult-entertainment sites that serve up pornography will be able to register shortly with ICM Registry as a .xxx. With this domain name, a consumer will have the ability to set a computer's parental controls to block .xxx sites.

"The consumer, the adult provider and the avoiders all win at the same time," says Stuart Lawley, chief executive of ICM Registry, the company that's handling all the new .xxx extensions.

He says the benefits are simple: The people who want to find the .xxx domains can find them, and the people who want to avoid them can do so easily.

What remains to be seen is how it all fits into a marketing plan, Glancy says. For companies and cities, it's a waiting game riding on changing consumer behavior.

"Ultimately, I think the consumer will be the deciding factor here," Glancy says.

Domain-name expansion likely to create turf wars The Philadelphia Inquirer June 30, 2011 Thursday

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The Philadelphia Inquirer

June 30, 2011 Thursday
CITY-C Edition

SECTION: BUSINESS; P-com Biz; Pg. C01

LENGTH: 836 words

HEADLINE: Domain-name expansion likely to create turf wars

BYLINE: By Jeff Gelles; Inquirer Columnist

BODY:

Stand aside, dot-com, king of the Web's early years. The realm of top-level domains, fiefdoms that also include dot-net, dot-edu, dot-org, and dot-gov, is about to get much more populous.

The dramatic rise in the number of new fiefdoms won't begin until 2013. But as the landscape starts to take shape in the coming months, you can expect some fascinating battles for brand-new turf - potentially valuable property created from whole cloth by the nonprofit corporation that oversees the Internet's naming system.

One local Internet lawyer foresees a fight for control of dot-Philly. New York City has already made it clear that it sees dot-NYC as a potential civic asset, and has taken steps to steer its future. And large companies will undoubtedly become lords of their own domains. You can expect to see dot-Ford, dot-Google, and dot-Microsoft.

But the rules laid down last week by ICANN, the Internet Corporation for Assigned Names and Numbers, don't stop with such obvious new entrants, which will add to the handful of top-level domains that have joined the pioneers over the last decade - such as dot-info, dot-biz, dot-mobi, dot-jobs, and dot-travel.

Come January, when the application process opens for new top-level domains, the lid comes off. ICANN initially expects only a few hundred prospective domain registrants to pay its \$185,000 application fee. But qualified applicants can seek to create domains based on just about any word in the dictionary, place name in the gazetteer, or trade name under the applicant's legitimate control.

To supporters of the more open architecture, the change is a long time coming.

"What people are looking for are domain names that reflect their preference in some way. There's no reason to be restricted to dot-com, dot-org, or dot-net," says Milton Mueller, a professor at Syracuse University active in Internet-governance issues. "If you want to try dot-music or dot-food, why not try?"

Even advocates of the new rules say they are unsure how these turf battles will play out - or even how much the outcomes will matter.

In the Web's early years, turf battles were often over control of generic names that seemed to have obvious value, such as Pets.com or Cars.com. Any business looking to build an online identity faced the worry that Web surfers would go to the site of a more aggressive competitor.

I'm living proof of their concerns. Well aware there may be better choices, I still reflexively type in www.weather.com when I want a quick forecast. I'm not choosing the Weather Channel's site over, say, AccuWeather's or the National Weather Service's. But it meets my needs and, above all, has a memorable address.

The explosion of new top-level domains could change that dynamic, says Frank Taney, chair of an information-technology group at Philadelphia's Buchanan Ingersoll & Rooney law firm. Taney says he expects the new top-level domains to eventually decrease the value of generic dot-com names, simply because there will be so many possibilities.

Since ICANN's announcement, Taney has been musing over the local impact - including the prospect of a fight over dot-philly as a new top-level domain.

"Nobody has exclusive rights to use Philly," Taney says, noting that the string of six letters, P-H-I-L-L-Y, is part of several hundred registered trademarks - including my own media company's Philly.com. "It's a nickname for the city and really for the region."

In its guidebook on how the new domains will be awarded, ICANN itself warns of the problem for "nicknames or close renderings of a city name," and suggests that a city may want to submit its own application.

Might Philadelphia do that - perhaps on its own or via some public-private partnership?

Tommy Jones, Philadelphia interim chief technology officer, says city officials have begun to weigh the possibilities.

"We're just trying to decide which one we're going for: **dot-Philly**, **dot-Phila**, or **dot-Philadelphia**," says Jones, a recent transplant from Washington who prefers **dot-Philly** but wonders if the nickname is used more by outsiders than by locals. "Within Philadelphia, there don't seem to be a lot of things that refer to the city as Philly."

While advocates see the new top-level domains as democratizing the Internet, the shift isn't without its critics. One is Esther Dyson, a pioneering Internet entrepreneur who served as ICANN's founding chairwoman.

"It's great to create things of value out of nothing. But this is creating duplication and redundancy rather than value," Dyson says. "Ultimately, it's going to enrich people who run registries and license domain names."

Dyson suggests that an explosion of new top-level domains will address a problem that doesn't exist, or perhaps one that can't be solved: people's ability to recall Web addresses.

"The big problem here is that people can't get the domain name they want," she says. "But there isn't a shortage of domain names. There's a shortage of space in people's heads."

Contact columnist Jeff Gelles

Lexis® Search Results:

body (dot and ("domain name" or tld)) 1233 Major US Newspapers 01/29/2013 17:16:27 (viewed first 60 results)

PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79035820
LAW OFFICE ASSIGNED	LAW OFFICE 101
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Examining Attorney refused registration of applicant's mark .RUS in connection with "alcoholic beverages (except beer)" because he believes this mark is geographically descriptive, or in the alternative geographically misdescriptive or deceptive.</p> <p>Applicant confirms that its goods are distilled in Russia. However, applicant submits that the mark as presented is suggestive and not merely descriptive. As evident in the attached dictionary definition, RUS. is an abbreviation for Russia. However, the applicant's mark is not an abbreviation because the dot "." is placed before the wording RUS.</p> <p>If it is not an abbreviation, then it could be perceived as a domain name. However, according to the attached webpage of a Russian domain name registrar, the top level country domain name for Russia is .RU not .RUS. The applicant's mark is therefore a mystery, neither an abbreviation for Russia nor a domain name for Russia, yet it has qualities of both.</p> <p>Applicant submits that the applicant's mark is suggestive of goods having Russian origin. This is because the appearance of a top level country domain name, but not constituting a domain name, suggests that the goods originate from a particular country. This suggestion combined with an apparent inverted abbreviation of Russia suggests that the applicant's goods originate from Russia.</p> <p>Applicant's mark is therefore highly suggestive, but not geographically descriptive. For these reasons, the Examining Attorney is respectfully requested to withdraw the refusal.</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	<u>\\TICRS2\EXPORT13\790\358\79035820\xml5\ROA0002.JP G</u>
	<u>\\TICRS2\EXPORT13\790\358\79035820\xml5\ROA0003.JP G</u>
DESCRIPTION OF EVIDENCE FILE	webpage, dictionary definition
GOODS AND/OR SERVICES SECTION (current)	

INTERNATIONAL CLASS	033
DESCRIPTION	Alcoholic beverages (except beers)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	033
DESCRIPTION	Alcoholic beverages except beer; alcoholic beverages of fruit; vodka; distilled spirits of potato or corn
CORRESPONDENCE SECTION	
NAME	John Alunit
FIRM NAME	Patel & Alunit, PC
STREET	16830 Ventura Blvd., Suite 360
CITY	Encino
STATE	California
ZIP/POSTAL CODE	91436
COUNTRY	United States
PHONE	818-380-1900
FAX	818-380-1908
EMAIL	jalunit@patelalunit.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
DECLARATION SIGNATURE	/john alunit/
SIGNATORY'S NAME	John Alunit
SIGNATORY'S POSITION	Attorney at Law
DATE SIGNED	08/29/2007
RESPONSE SIGNATURE	/john alunit/
SIGNATORY'S NAME	John Alunit
SIGNATORY'S POSITION	Attorney at Law
DATE SIGNED	08/29/2007
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Aug 29 14:41:28 EDT 2007

TEAS STAMP	USPTO/ROA-66.245.226.144- 20070829144128066416-7903 5820-38050a6185ae3cb6c15c eb6ea43bfa701a-N/A-N/A-20 070829141853036282
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PTO Form 1957 (Rev 9/2005)

OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **79035820** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney refused registration of applicant's mark .RUS in connection with "alcoholic beverages (except beer)" because he believes this mark is geographically descriptive, or in the alternative geographically misdescriptive or deceptive.

Applicant confirms that its goods are distilled in Russia. However, applicant submits that the mark as presented is suggestive and not merely descriptive. As evident in the attached dictionary definition, RUS. is an abbreviation for Russia. However, the applicant's mark is not an abbreviation because the dot "." is placed before the wording RUS.

If it is not an abbreviation, then it could be perceived as a domain name. However, according to the attached webpage of a Russian domain name registrar, the top level country domain name for Russia is .RU not .RUS. The applicant's mark is therefore a mystery, neither an abbreviation for Russia nor a domain name for Russia, yet it has qualities of both.

Applicant submits that the applicant's mark is suggestive of goods having Russian origin. This is because the appearance of a top level country domain name, but not constituting a domain name, suggests that the goods originate from a particular country. This suggestion combined with an apparent inverted abbreviation of Russia suggests that the applicant's goods originate from Russia.

Applicant's mark is therefore highly suggestive, but not geographically descriptive. For these reasons, the Examining Attorney is respectfully requested to withdraw the refusal.

EVIDENCE

Evidence in the nature of webpage, dictionary definition has been attached.

Evidence-1

Evidence-2

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:**Current:** Class 033 for Alcoholic beverages (except beers)

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.**Proposed:** Class 033 for Alcoholic beverages except beer; alcoholic beverages of fruit; vodka; distilled spirits of potato or corn**Filing Basis Section 66(a)**, Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.**CORRESPONDENCE ADDRESS CHANGE**

Applicant proposes to amend the following:

Current: RA lic.iur. Urs Weber Goethestrasse 61 CH-9008 St. Gallen SWITZERLAND**Proposed:** John Alunit of Patel & Alunit, PC, having an address of 16830 Ventura Blvd., Suite 360 Encino, California United States 91436, whose e-mail address is jalunit@patelalunit.com, whose phone number is 818-380-1900 and whose fax number is 818-380-1908.**SIGNATURE(S)****Declaration Signature**

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /john alunit/ Date: 08/29/2007

Signatory's Name: John Alunit

Signatory's Position: Attorney at Law

Response Signature

Signature: /john alunit/ Date: 08/29/2007

Signatory's Name: John Alunit

Signatory's Position: Attorney at Law

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of

the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Mailing Address: John Alunit
Patel & Alunit, PC
16830 Ventura Blvd., Suite 360
Encino, California 91436

Serial Number: 79035820
Internet Transmission Date: Wed Aug 29 14:41:28 EDT 2007
TEAS Stamp: USPTO/ROA-66.245.226.144-200708291441280
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General information:

.ru is the country-specific Internet Domain (ccTLD) from the Russian Federation.

Russia is the largest country in the world. Russia has the world's ninth-largest population. Russia shares land borders with Norway, Finland, Estonia, Latvia, Lithuania, Poland, Belarus, Ukraine, Georgia (including Abkhazia and South



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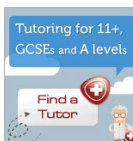
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- 1 [COUNTABLE] an amount of money that you pay or receive

*The first payment is due on January 31.***make a payment:** *You have to make a payment of \$55 every month.***meet payments (-manage to make payments):** *He failed to meet payments on his rent.***cash payment:** *Large cash payments had been made to four government officials.*

Thesaurus entry for this meaning of payment

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Collocations: payment

Collocations

payment1

• accept, authorize, delay, demand, enforce, make, meet,
receive, secure, suspend, withhold

- 2 [UNCOUNTABLE] the process of paying money

payment of: *We require prompt payment of all bills.***on payment of something (-when something has been paid):** *Membership may be renewed on payment of further subscriptions.***delay/withhold payment:** *Many companies delay payment as long as they can.*

Thesaurus entry for this meaning of payment

- 3 [UNCOUNTABLE] something that happens to you, as a reward or punishment for something that you have done

payment for: *Such an insignificant position didn't seem like fair payment for his years of loyalty.*

Thesaurus entry for this meaning of payment

PHRASE

• payment in kind

something that you give or receive instead of money

Books were offered as payment in kind.

Thesaurus entry for this meaning of payment

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Word of the Day

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PayPal is the faster, safer way to pay and get paid online, via a mobile device and in store. The service gives people simpler ways to send money without sharing financial information, and with the flexibility to pay using their account balances, bank accounts, credit cards or promotional financing. With 132 million active accounts in 193 markets and 25 currencies around the world, PayPal enables global commerce, processing more than 7.7 million payments every day. Because PayPal helps people transact anytime, anywhere and in any way, the company is a driving force behind the growth of mobile commerce and expects to process \$20 billion in mobile payments in 2013. PayPal is an eBay (Nasdaq:EBAY) company and contributed 40 percent of eBay Inc.'s revenues in 2012. PayPal is headquartered in San Jose, Calif. and its international headquarters is located in Singapore. More information about the company can be found at www.paypal-media.com.

Company's Founding Date
December 1998

Corporate Headquarters
2211 North First Street
San Jose, California 95131

Web Site Address
www.paypal.com

Worldwide Operations
12312 Port Grace Boulevard
La Vista, Nebraska 68128

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Financials

- PayPal has 132 million active registered accounts and is available in 193 markets.
- PayPal supports payments in 25 currencies including: U.S. Dollar, Australian Dollar, Canadian Dollar, Hong Kong Dollar, Singapore Dollar, Taiwan New Dollar, New Zealand Dollar, Euro, Swiss Franc, Czech Koruna, Swedish Krona, Danish Krone, Norwegian Krone, Hungarian Forint, Mexican Peso, Philippine Peso, Malaysian Ringgit, Chinese RMB, Israeli New Shekel, Pounds Sterling, Brazilian Real, Polish Zloty, Thai Baht, Turkish Lira and Japanese Yen.
- PayPal has localized marketing websites in more than 80 markets around the world.
- PayPal is headquartered in San Jose, Calif. with offices in Timonium, Md. Its European headquarters is in Luxembourg and its international headquarters is located in Singapore. PayPal has operating centers located in Dublin, Shanghai, Asia Pacific and

<https://www.paypal-media.com/about>

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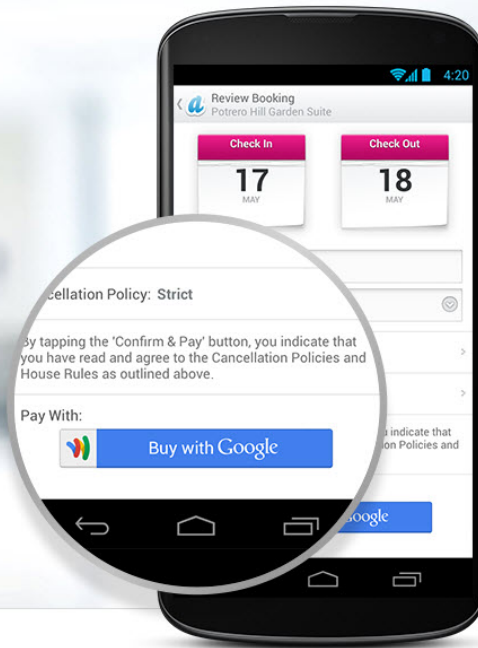
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ProPay® Link™ for Consumers

[Launch
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Social. Mobile. Secure.

ProPay Link is ProPay's Social Mobile Payment (Social M-Payment) technology, which allows consumers to communicate and connect with their favorite merchants in a new way. Make payments quickly, securely, and easily from an iPhone or an Android phone, without storing sensitive payment information on the phone. Connect with merchants, send them a message, place an order, and pay - all through the ProPay Link application. You can even stay "linked" to your favorite merchants to ensure you are up-to-date on all of their latest promotions, events or updates.

Easy

ProPay Link leverages easy-to-use, intuitive functions and features. The application is designed to "fit" with its native operating system - so if you're used to an Android phone, the application will be familiar to you, even if you've never used it before. If you have an iPhone, the application will maintain the look and feel of the iOS platform.



Secure

All payment information is stored in ProPay's secure payment processing platform, ProtectPay®. No data is stored on the phone, so there is no risk if the phone is lost or stolen. In addition, ProPay Link features multiple layers of authentication, requiring users to log in to the application and to authenticate every payment authorization. That means unauthorized users won't be able to make purchases using your phone.

To Download the ProPay Link application...

From an iPhone, simply visit the App Store and search for ProPay Link. To download the application to an Android phone, visit the Android Marketplace and search for ProPay Link. The application is free!

More Information

If you have questions or comments, please email link@propay.com or call 866.573.0951

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<http://www.propay.com/products-services/accept-payments/link/consumers/>

Amazon Flexible Payments Service

The freedom to integrate payments your way

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Amazon Flexible Payments Service is designed for developers by developers. Whether you sell physical or digital goods, Flexible Payments Service provides a robust API toolkit that enables you to integrate payments how and where you want. The APIs support a wide range of payment needs, including one-time payments, subscriptions, deferred payments, marketplace payments, and multi-use authorizations. Once it is integrated with your website or application, hundreds of millions of Amazon customers will be able to pay quickly and easily using the information stored in their Amazon accounts.

Functionality

Amazon Flexible Payments Service can support a wide range of use cases and payment needs, including:

- One-time payments: supports simple one-time payment use cases
- Recurring payments: lets customers schedule recurring payments
- Deferred payments: gives you the control to charge the customer when you want
- Multi-use payments: enables you to charge the customer multiple times based on a single authorization
- Marketplace payments: facilitates multi-payment needs between buyers and sellers in a marketplace

You can accept payments on your website for selling goods or services, execute recurring payments, and send payments. After a customer selects their payment method, you receive an authorization token. You can use this authorization token to accept one-time payments or to accept recurring payments by calling the Amazon Flexible Payments Service API. You'll be notified once the payment is processed. No matter how you integrate, the experience for your customers is simple and convenient.

Getting started

To get started, sign up for an Amazon Web Services account and an Amazon Payments business account. Sign up here and follow the instructions. Your use of this service is subject to the Amazon Web Services Customer Agreement and the Amazon Payments User Agreement. Your use of Amazon Payments is also subject to the Amazon Payments Acceptable Use Policy and Privacy Notice.

[Sign Up](#)

Integration

Amazon Flexible Payment Service APIs are categorized by use case into packages called Quick Starts, which allows for easier implementation. Review the available Quick Starts below and select the option that best meets your needs.

- **Basic Quick Start:** Accept one-time payments on your website for physical goods, digital goods, or services.
- **Advanced Quick Start:** Execute recurring, deferred, or multi-use payments. Ideal for subscription and usage-based services.
- **Marketplace Quick Start:** Facilitate transactions between a buyer and third-party seller, charge a commission for the transaction, and control which party pays the payment processing fee.

While our Quick Starts support most payment use cases, the Comprehensive API Set can be used to support applications that need access to a more granular set of payment APIs. Developers can use these lower-level APIs to create even more unique Payment Instructions, virtually without limitation, on the types of rules or conditions associated with a given transaction.

Developers can utilize the Amazon Flexible Payments Service Sandbox to build and test applications without using real money or incurring any transaction charges. You can use your Amazon Web Services account to access the sandbox. [Sign up for the Flexible Payments Service sandbox.](#)

Pricing

Amazon Payments offers low, predictable costs. You know upfront what you will pay because there are no hidden fees or add-ons for monthly use, set-up, cancellation, unused authorizations, or fraud protection. Amazon's pricing can help lower the total cost of accepting payments for your business.

Our fees for all online sellers who use Amazon Payments are assessed on a per-transaction basis. These fees are based on a percentage of the transaction amount plus a per-transaction fee. Our standard transactional rate is 2.9% + \$0.30 per transaction for transactions of \$10 or more.

Reduced Rates

Amazon Payments offers volume discounts on processing fees for transactions of \$10 or more. These discounts are available by application only. Discount levels for an account are based on the average transaction payment volume for the three months preceding the application date.

TOTAL MONTHLY PAYMENT VOLUME	U.S. CREDIT CARD	INTERNATIONAL CREDIT CARD
\$100,000 or more	1.9% + \$0.30	2.9% + \$0.30
\$10,000-99,999.99	2.2% + \$0.30	3.2% + \$0.30
\$3,000-9,999.99	2.5% + \$0.30	3.5% + \$0.30
\$0-2,999.99	2.9% + \$0.30	3.9% + \$0.30

Discounts are also available for micropayments and nonprofit organizations.

Rates for Micropayments: For transactions less than or equal to \$9.99, we offer a fee of 5.0% + \$0.05 per transaction.

Rates for Nonprofit Organizations: 501(c)(3) organizations using Amazon Payments to process donations are eligible for a discounted transaction rate of 2.2% + \$0.30 per transaction. To receive the discount, identify your organization as a nonprofit when you sign up for Amazon Payments. Once your 501(c)(3) status is verified, the reduced rate will be applied automatically.

For full pricing information by product, [see our fee schedule.](#)

Resources

- Getting Started Guide
- Basic Quick Start Developer Guide
- Advanced Quick Start Developer Guide
- Marketplace Quick Start Developer Guide
- Aggregated Payments Quick Start Developer Guide
- Account Management Quick Start Developer Guide
- Resource Center
- Amazon FPS Sandbox
- Forum
- Developer Guide (API Version 2007-01-08)
- WSDL
- Payment Marks & Graphics
- FAQs
- Reserve Policy
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Your Account

[Transaction Overview](#)
[Account Settings](#)

Personal

[Overview](#)
[Shop Online](#)
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An Easier Way to **Pay**

Make it easy for hundreds of millions of Amazon customers to **pay** on your site

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Mobile-optimized Payments

Make it easy for buyers to **pay** on any device in just three taps

[Learn more](#)

Use Your Amazon Payments Account Today

Send and receive money effortlessly.

Shop across the web easily.

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An Easier Way to **Pay**

Make it easy for hundreds of millions of Amazon customers to **pay** on your site

[Learn more](#)

My Account

Send and receive money with your Amazon Payments account.

- [Learn more](#)
- [Sign in](#)

My Account

Send and receive money with your Amazon Payments account.

- [Learn more](#)
- [Sign in](#)

Pay Online with Amazon

Use the **payment** information in your Amazon account to **pay** on sites across the web.

- [Learn more](#)

Business Solutions

Offering Amazon Payments on your website can help increase buyer confidence, drive growth, and reduce costs.

- [Learn more](#)

Your Account

[Transaction Overview](#)

[Account Settings](#)

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[Overview](#)

[Shop **Online**](#)

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Dictionary

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Word of the Day

perfunctory
 Definition: (adjective) unenthusiastic, routine, or mechanical.
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 HOUGHTON MIFFLIN
[pay >](#)
pay¹ (pā) [KEY](#)

VERB:
 paid (pād) [KEY](#) , pay-ing, pays
VERB,
 tr.

1. To give money to in return for goods or services rendered; *pay the cashier.*
2. To give (money) in exchange for goods or services; *paid four dollars for a hamburger; paid an hourly wage.*
3. To discharge or settle (a debt or obligation); *paying taxes; paid the bill.*
4.
 - a. To give recompense for; *requite: a kindness that cannot be paid back.*
 - b. To give recompense to; *reward or punish: I'll pay him back for his insults.*
5. To bear (a cost or penalty, for example) in recompense; *She paid the price for her unpopular opinion.*
6. To yield as a return; *a savings plan that paid six percent interest.*
7. To afford an advantage to; *profit: It paid us to be generous.*
8. To give or bestow; *paying compliments; paying attention.*
9. To make (a visit or call).
10. *Past tense and past participle paid or payed (pād) [KEY](#).* To let out (a line or cable) by slackening.

VERB:

intr.

1. To give money in exchange for goods or services.
2. To discharge a debt or obligation.
3. To bear a cost or penalty in recompense; *You'll pay for this mischief!*
4. To be profitable or worthwhile; *It doesn't pay to get angry.*

ADJECTIVE:

1. Of, relating to, giving, or receiving payments.
2. Requiring payment to use or operate; *a pay toilet.*
3. Yielding valuable mental in mining; *a pay streak.*

NOUN:

1. The act of paying or state of being paid.
2. Money given in return for work done; salary; wages.
3.
 - a. Recompense or reward; *Your thanks are pay enough.*
 - b. Retribution or punishment.
4. Paid employment; *the workers in our pay.*
5. A person considered with regard to his or her credit or reliability in discharging debts.

PHRASAL VERBS:**pay off**

1. To pay the full amount on (a debt).
2. To effect profit; *a bet that paid off poorly.*
3. To get revenge for or on; *requite.*
4. To pay the wages due to (an employee) upon discharge.
5. *Informal* To bribe.
6. *Nautical* To turn or cause to turn (a vessel) to leeward.

pay out

1. To give (money) out; spend.
2. To let out (a line or rope) by slackening.

pay up

To give over the full monetary amount demanded.

IDIOMS:**pay (one's) dues**To earn a given right or position through hard work, long-term experience, or suffering; *She paid her dues in small-town theaters before being cast in a Broadway play.***pay (one's) way**

To contribute one's own share; pay for oneself.

pay the piper

To bear the consequences of something.

pay through the nose *Informal*

To pay excessively.

ETYMOLOGY:Middle English *paien*, from Old French *paier*, from Late Latin *pāgare*, to appease, from Latin, to pacify, *subdue*, from *pax*, *pax*-, peace, see *pax*- in Indo-European roots**WORD HISTORY:**

Given the unpeaceful feelings one often has in paying bills or income taxes, it is difficult to believe that the word *pay* ultimately derives from the Latin word *pax*, "peace." However, it is not the peace of the one who pays that is involved in this development of meaning. From *pax*, meaning "peace" and also "a settlement of hostilities," was derived the word *pagare*, "to impose a settlement on peoples or territories." In Late Latin *pāgare* was extended in sense to mean "to appease." The Old French word *paier* that developed from Latin *pāgare* came to have the specific application "to pacify or satisfy a creditor," a sense that came into Middle English along with the word *paier* (first recorded around the beginning of the 13th century), the ancestor of our word *pay*.

[Thesaurus - synonyms for pay](#)

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- [Check or Money Order](#)
- [Understand Your IRS Notice](#)
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Pay your Taxes by Debit or Credit Card



[Choose your payment processor and pay now](#)

[Español](#)

You can **pay** by debit or credit card whether you e-file, paper file or are responding to a bill or notice. It's safe and secure - the IRS uses standard service providers and commercial card networks.

- Your **payment** will be processed by a **payment** processor who will charge a **processing** fee, which may be tax deductible. The fees vary by service provider.
- Your information will only be used to process your **payment**.
- No part of the service fee goes to the IRS.
- The types of payments ([Individual or Business](#)) and limits on how many debit or credit card payments you can make in a year, quarter, or month, vary according to the type of tax you are paying.

How to Make a Payment

You can **pay** by debit or credit card by internet or over the phone. Please note that debit or credit payments cannot usually be cancelled.

Step 1: On IRS.gov

- Choose a **payment** processor
- Select processor website or phone number

Step 2: With your Payment Processor

- Select **payment** type
- Enter personal or business information
- Enter billing information
- Review and confirm information
- Record **payment** confirmation number

You will need:






- Primary SSN (first person listed on the return) and secondary SSN (if a joint return). Businesses need the EIN.
- Card number and expiration date
- Billing address information, if requested
- Amount of tax **payment**
- E-mail address for confirmation of **payment** (internet only)
- Daytime phone number

Get Started: Choose a Payment Processor

Paying with a debit card can save you money! Below you will find the website link name in

Get Started: Choose a Payment Processor

Paying with a debit card can save you money! Below you will find the website link, name (in parenthesis) and phone number of the service provider, the fee charged for **payment** by card, and the types of cards accepted. Please note that your **payment** date will be the date that the charge is authorized.

OfficialPayments.com/fed (Official Payments Corporation) 888-872-9829 Payment 877-754-4420 Live Operator 877-754-4413 Service	\$3.95** Debit Card Flat Fee	2.35%* Credit Card Fee	Payments Accepted:  *min. convenience fee \$3.95 **MasterCard debit fee 2.35%
ChoicePay.com/fed (Official Payments Corporation) Personal Tax Payments Only 866-964-2552 Live Operator	\$3.48** Debit Card Flat Fee	1.88%* Credit Card Fee	Payments Accepted:  *min. convenience fee \$3.48 **MasterCard debit fee 1.88%
Pay1040.com (Link2GovCorporation) 888-729-1040 Payment 888-658-5465 Service	\$2.99 Debit Card Flat Fee	2.35%* Credit Card Fee	Payments Accepted:  *min. convenience fee \$2.99
Business taxpayment.com (Link2GovCorporation) 888-729-1040 Payment 888-658-5465 Service	\$2.99 Debit Card Flat Fee	2.35%* Credit Card Fee	Payments Accepted:  *min. convenience fee \$2.99
PayUSAtax.com (WorldPay US, Inc.) 888-972-9829 Payment 888-877-0450 Live Operator 877-517-4881 Service	\$3.49 Debit Card Flat Fee	1.89%* Credit Card Fee	Payments Accepted:  *min. convenience fee \$3.89

If you are e-filing your return or form and need to make a **payment**, visit [Pay by Debit or Credit Card when you E-file](#). Different fees apply to debit or credit card payments submitted via IRS e-file.

Additional Considerations

- [High balance payments](#) of \$100,000 or greater may require special coordination with the service provider you choose.
- You cannot make Federal Tax Deposits with a debit or credit card.
- You cannot get an immediate release of a Federal Tax Lien by making a debit or credit card **payment**. Please refer to [Publication 1468](#) for the recommended **payment** option when this is

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Payment Processing

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Developers Area

[Integration Center](#)

Payment Processing Services

Simplifying the process

A big part of capturing **online** sales involves convenience. Does the site visitor have a selection of **payment** methods from which to choose? Are there options available for international payments? Is the buying experience intuitive for site visitors coming from different geographic regions and countries? With CCBill **online payment processing**, the answers are all yes.

All major credit cards from around the globe are accepted forms of **payment**. Furthermore, consumers can **pay** by electronic check or telephone. CCBill's international **payment** options include specifically designed debit services for Europe, and multiple currencies and multilingual forms help ensure consumer confidence.

Online Merchant Services

Functionality meets administration

Consumer experience aside, a **payment**



ADVANCED PAYMENT PROCESSING

- More **processing** options
- More tools
- More revenue streams
- No hidden fees



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choose? Are there options available for international payments? Is the buying experience intuitive for site visitors coming from different geographic regions and countries? With CCBill **online payment processing**, the answers are all yes.

All major credit cards from around the globe are accepted forms of **payment**. Furthermore, consumers can **pay** by electronic check or telephone. CCBill's international **payment** options include specifically designed debit services for Europe, and multiple currencies and multilingual forms help ensure consumer confidence.

Online Merchant Services Functionality meets administration

Consumer experience aside, a **payment processing** service also must sufficiently meet the managerial and operational needs of the businesses that use it. Driving sales is great as long as there are corresponding administrative tools in place to support it that can easily be implemented by any sized operation.

Thanks to CCBill's large assortment of complimentary tools, integrating and customizing anything from regional pricing to electronic invoicing is easily accomplished. And the user-friendly **CCBill Admin Portal** is your one-stop shop for managing transactions, configuring account settings, viewing reports, and more. CCBill also uses **processing** servers that are globally load balanced to ensure platform stability.



ADVANCED PAYMENT PROCESSING

- More **processing** options
- More tools
- More revenue streams
- No hidden fees



START PROCESSING TODAY

"For more than 13 years, we have been **using** CCBill to process all of our consumer credit card transactions. The service levels and consistent payouts we have enjoyed during that time are second to none, and we are proud of our association with the safest credit card processor on the planet."

- Ray

Youngman
 CEO
 Watchersweb.com

DOCS ▾
HELP
LOGIN

Payments for Marketplaces
TRY IT OUT

CHARGE
cards and bank accounts
with **Balanced Processing**

PAY OUT
to bank accounts
with **Balanced Payouts**

ESCROW
funds
use all 3 with **Balanced for Marketplaces**

FANCY

Vungle

Balanced Processing
Credit cards (U.S. and international)

Accept credit cards for your business.

No PCI requirements	Soft descriptor control	Completely white-labeled
Balanced is Level 1 PCI certified, so you can pass card data directly to us without worrying about compliance. More about security	Specify the credit card statement descriptor on a per-transaction basis.	Retain your brand and keep customers on your site; buyers do not need to sign up for a Balanced account.

Balanced Payouts
Bank accounts via same-day ACH (Wells Fargo accounts) | Bank accounts via next-day ACH (U.S. only)

Use with any card processor or as a stand-alone service for same-day bank deposits.

Pay out same day	No fees to add funds	Completely white-labeled
Balanced now offers same-day ACH payouts to Wells Fargo bank account holders. Pay all other merchants via next-day ACH. More about pre-funding your account See payout schedule	To pay out, simply fund your balance with your bank account. More about pre-funding your account	Retain your brand and keep customers on your site; merchants do not need to sign up for a Balanced account.

Balanced for Marketplaces

Combine card **processing** and bank payouts with escrow.

1 Charge cards and bank accounts with **Balanced Processing**

2 Escrow funds

3 **Pay** out to bank accounts with **Balanced Payouts**

4 Collect your fees

Decide when to disburse funds
Once a card is charged, funds are implicitly placed in escrow for as long as you need. You decide when to **pay** your merchants upon fulfillment of an order or a service.
[More about escrow](#)

Define your own fee structure
Set your own fees by determining how much to collect from buyers, merchants, or both.
[View fee scenarios](#)

Integrate in minutes

Balanced provides client libraries and a RESTful API for you to easily integrate.
[View our docs](#)

Tutorials

- [How to charge a card](#)
- [How to **pay** a bank account](#)
- [How to escrow funds](#)
- [How to collect your fee](#)

Client libraries

- [Python](#)
- [Ruby](#)
- [PHP](#)
- [Java](#)
- [Perl](#)
- [Node.js](#)
- [C#](#)

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Contact us through one of our many [support channels](#)

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No monthly fees. No setup fees. No recurring fees.
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Processing credit card (per txn)	2.9% + 30¢
Processing bank account (per txn)	1% + 30¢ / \$5 CAP
Payout: bank account (per deposit)	25¢

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DESIGN MARK

Serial Number

85287962

Status

CANCELLATION TERMINATED - SEE TTAB RECORDS

Word Mark

.COMMUNITYPAY

Standard Character Mark

Yes

Registration Number

4129967

Date Registered

2012/04/17

Type of Mark

SERVICE MARK

Register

SUPPLEMENTAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

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Lane Lake Forest ILLINOIS 60045

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: banking
services. First Use: 2012/01/03. First Use In Commerce: 2012/01/03.

Filing Date

2011/04/06

Amended Register Date

2012/01/06

Examining Attorney

RAPPAPORT, SETH A.

Attorney of Record

Angelo Bufalino

.COMMUNITYPAY

To: Inspire Commerce, Inc. (Lpearson@exemplarlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85601584 - DOT PAY - N/A
Sent: 8/23/2013 7:35:23 AM
Sent As: ECOM113@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **8/23/2013** FOR U.S. APPLICATION SERIAL NO. 85601584

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **8/23/2013** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

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<http://www.uspto.gov/trademarks/basics/abandon.jsp>.

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Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Dotimmobilie GmbH
Application ID	1-1761-46474
Applied for TLD (string)	IMMO

Response:

dotimmobilie GmbH welcomes and supports the GAC Advice as published in Buenos Aires, as the GAC Advice has been established in the Applicant Guidebook as an instrument to reject gTLD applications which e.g. violate national laws and / or do not recognize and incorporate public interests such as consumer protection.

We also welcome and support the proposals made by the NGPC published on Oct. 29, 2013 – (<https://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en>)

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Shriram Capital Ltd.
Application ID	1-1857-52823
Applied for TLD (string)	SHRIRAM

Response:

Shriram Capital Limited (SCL) is the overarching holding company for the Financial Services and Insurance entities of the **Shriram Group**. The Shriram Group, which was incepted in 1974, has grown over the last three decades to become a Rs. 76,000 crore (\$ 12 billion) group. Today, Shriram has grown to become one of **India's largest financial groups**, with an increasing interest by investors. Shriram Group's businesses strive to serve the largest number of common people (referred to 'aam admi' or 'bottom of the pyramid'), through various products: Commercial Vehicle Financing, Consumer & Enterprise Finance, Retail Stock Broking, Life Insurance, Chit Funds, investment, Life Insurance and General insurance Products. Although financial services is the strength of the group (accounting for 90% of businesses), the group is growing and expanding in various non-financial businesses such as Real estate, manufacturing, engineering, IT, Infrastructure and Power and Auto Machine.

Shriram Capital, on a consolidated basis, has an overall customer base of 10.2 Million, 42,000 employees across 2,700 offices, net profit of over Rs. 21 Billion (\$ 360 million) with Assets Under Management (AUM) of over Rs. 765 Billion (\$ 12 billion).

Shriram Capital intends to own a TLD, as it is looking for having a complete control on the second level domain names. Shriram Group overall has more than 15 subsidiary companies, various investors and partners, and numerous small businesses. To bring all these companies and partners under one umbrella name, Shriram has applied for a gTLD (.shriram).

GAC Advice Response Form for Applicants

The Group would like to have complete ownership and control over the **.shriram** TLD, allowing it to market the Shriram brand, created over the past three decades, efficiently and in a standard manner. The group began in 1974, and since then has grown in numbers multifold, as well as in the view of its customers and employees. The group does not want the brand value created by Shriram over the last three decades to be misused, and hence seeks to own this gTLD.

Shriram Capital will be using **.shriram** exclusively for its internal divisions and its subsidiary group companies. Currently, Shriram group has registered more than 20 domains ending in “.com”, “.in”, or “.org”. These include all the group companies. The major goal will be to provide benefit to Internet users as website names are easily recalled and easily accessible for all of our stakeholders, especially our huge customer base. This will not only provide a level of comfort and security to the customer, but also help in aligning all companies under one name, hence marketing the ‘Shriram’ brand in a standardized manner.

As stated in our application, Shriram Capital (SCL) plans to invest in owning its own TLD (**.shriram**) in order to achieve the following business goals and benefits:

1. Direct and easy navigation to URLs, causing less inconvenience.
2. Marketing and building of the ‘Shriram’ brand in an efficient and proper manner.
3. Uniformity and standardisation in the usage of prefixes across all group companies, bringing them all under one cloud.
4. ‘Shriram’ brand protection.
5. Control over second level domain names.
6. Possibility to avoid communication errors from Company to Customers or Customers to Company. The same can be avoided in communication with other stakeholders such as employees, agents, investors, partners, and board members. This will build our relationship with all our stakeholders in the long term.
7. Showcase ourselves as a leader in this space, maintaining the reputation of our brand.
8. As most of our businesses are public, this will be a good reach for future businesses and forays, such as Banking.
9. Aligning customers into a common domain name.
10. Effective tool to avoid malicious sites and increase security.
11. Search Engine Marketing and Optimization cost reductions.
12. Greater Internet presence and control for the group.
13. Reduction in costs for site maintenance.
14. Increased opportunities for digital marketing, online branding and Campaigns.
15. Less dependence on search engines as company URLs will be easier to recall.

Registry reserved names

GAC Advice Response Form for Applicants



We will reserve the following classes of domain names, which will not be made generally available to registrants via the Sunrise or subsequent periods:

- All of the reserved names required in Specification 5 of the new gTLD Registry Agreement.
- The geographic names required in Specification 5 of the new gTLD Registry Agreement.
- The registry operator's own name and variations thereof, and registry operations names (such as registry.tld, and www.tld), for internal use.
- Names related to ICANN and Internet standards bodies (iana.tld, ietf.tld, w3c.tld, etc.), for delegation of those names to the relevant organizations upon their request.
- The list of reserved names will be published publicly before the Sunrise period begins, so that registrars and potential registrants will know which names have been set aside.

Conclusion

Hence as described and explained above, Shriram Capital will be using the .shriramTLD exclusively for its internal divisions and its subsidiary group companies. Shriram Capital appreciates the willingness of the ICANN Board to consider the company's response to the concerns raised by the GAC. Should the Board need additional information from Shriram, the company would be happy to provide it.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	TLD Registry LTD
Application ID	1-1938-29030
Applied for TLD (string)	CITY

Response:

With reference to ICANN announcement Dec 11 2013 as published on <http://newgtlds.icann.org/en/announcements-and-media/announcement-11dec13-en>

Our application for .CITY is in contention with other applicants. When solved, TLD Registry will assure the following:

Regarding GAC Advice to Board as stated in the GAC Buenos Aires Communiqué:

TLD Registry LTD as a registry operator for .CITY will implement needed actions to protect children and their rights consistent with the UN Convention on Rights of the Child.

TLD Registry will implement required protection for IGOs and Red Cross when defined by ICANN.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	TLD Registry LTD
Application ID	1-1939-78147
Applied for TLD (string)	中文网(xn--fiq228c5hs)

Response:

With reference to ICANN announcement Dec 11 2013 as published on <http://newgtlds.icann.org/en/announcements-and-media/announcement-11dec13-en>

Regarding GAC Advice to Board as stated in the GAC Buenos Aires Communiqué:

TLD Registry LTD as a registry operator for 中文网(xn--fiq228c5hs) will implement needed actions to protect children and their rights consistent with the UN Convention on Rights of the Child.

TLD Registry will implement required protection for IGOs and Red Cross when defined by ICANN.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	TLD Registry LTD
Application ID	1-1940-42600
Applied for TLD (string)	在线 (xn--3ds443g)

Response:

With reference to ICANN announcement Dec 11 2013 as published on <http://newgtlds.icann.org/en/announcements-and-media/announcement-11dec13-en>

Regarding GAC Advice to Board as stated in the GAC Buenos Aires Communiqué:

TLD Registry LTD as a registry operator for 在线 (xn--3ds443g) will implement needed actions to protect children and their rights consistent with the UN Convention on Rights of the Child.

TLD Registry will implement required protection for IGOs and Red Cross when defined by ICANN.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Vox Populi Inc
Application ID	1-2080-9277
Applied for TLD (string)	sucks

Response:

Vox Populi Inc (VoxPop) is pleased to provide our response in connection with the most recent GAC Category 1 advice detailed in the GAC Buenos Aires Communiqué. We are also providing a response to the NGPC proposed Category 1 Safeguards in the form of proposed PICs that will be part of the new Registry Agreement.

a) With regards to the GAC Buenos Aires Communiqué, the only requirements that apply to the DotSUCKS application is: “Item 4. Protection of Inter-Governmental Organisations (IGOs)” and “Item 6. Protection of Red Cross/Red Crescent Names”.

VoxPop recognizes the intent to establish permanent protection of IGO acronyms at the second level and we support continued discussions between the NGPC and the GAC in this regard. In the interim, should VoxPop continue with contracting for DotSUCKS prior to a resolution between the NGPC and the GAC, we understand and agree that the initial protections for IGO acronyms will remain in place.

We also recognize that the GAC is giving further consideration to the way in which existing protections should apply to the words “Red Cross”, “Red Crescent” and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities. VoxPop awaits the specific direction that will ensue.

b) VoxPop notes that in the NGPC proposed Category 1 Safeguards, the DotSUCKS application is specifically identified as having “Potential for Cyber Bullying/Harassment”. We are pleased to respond yet again to this specific requirement although we must point out to the Board that our application has provided provisions for Cyber Bullying/Harassment since the very beginning of the application process.

GAC Advice Response Form for Applicants



In fact, of the three contending applications for DotSUCKS, ours has and continues to be the ONLY application that has maintained and is committed to a policy on Cyber Bullying/Harassment. As a result, the VoxPop application for DotSUCKS is the ONLY application that is currently compliant with GAC Advice.

Our original response to the GAC Beijing Communiqué included a response to each of the 6 universal safeguards, the 5 safeguards applicable to Category 1 strings as well as a response to the specific requirement of GAC Advice directed at the applicants for DotSUCKS. We also committed to the relevant PIC in support of an ongoing operational commitment to enforce our CyberBullying/Harassment policies. Follows is a direct extract from the previous information provided to the Board in response to the Beijing Communiqué specifically related to the CyberBullying/Harassment issue.

---- Direct extract from our original response to the GAC Beijing Communiqué ----

VoxPop is pleased to point out that our application included relevant policies for the prevention of Cyber Bullying from the very start. In fact, ours is the ONLY application for DotSUCKS to have done so. It is referenced in our original response to Question 18 and is further detailed in our response to Question 28. Furthermore, even after GAC Early Warnings were issued referencing Cyber Bullying, competing DotSUCKS applications continued to remain silent in their intent to establish policies against Cyber Bullying. VoxPop, on the other hand, submitted a PIC acknowledging that we will be held accountable under contract for our original policy commitments in this regard.

In short, if a complaint is made that any DotSUCKS site engages in cyber bullying (as defined by <http://www.stopcyberbullying.org>) and that complaint is proved, the site will be the subject of rapid takedown policies.

Generally, the takedown process will follow these steps:

- We will first suspend the domain name
- Investigate
- Refer the matter to an independent third party expert.

In this case we will engage industry subject matter experts to assist us in the development and implementation of the required policy and processes towards implementing our Cyber Bullying take down framework. Our plan is to create a framework similar to the UDRP process that would include assessment and review by a qualified unbiased third party of alleged Cyber Bullying claims. Finally, once the assessment is complete, we will then either restore or terminate the domain name as applicable. All of these provisions have been components of our application from the very start.

VoxPop is proud of our initial stance on Cyber Bullying and we believe that it is critical to the success of the DotSUCKS platform. More importantly, we believe that incorporating such policy in our original application reflects a commercial competitive advantage of our application. And, as the only application including such policy, we believe it is an integral component of the intellectual property which forms the basis of our platform.

GAC Advice Response Form for Applicants



We consider the GACs Advice on DotSUCKS generally to require that where and if such policy does not exist in an applicant's submission, then the applicant(s) would be required to submit a formal application change request (none of the competing applications for DotSUCKS has provided provisions for Cyber Bullying). Such request must include proposed changes to the policies of their original submission to include the same (or similar) provision for Cyber Bullying which VoxPop already included in our original application. VoxPop further asserts that the ICANN Board must reject such change requests on the basis that they would be a material change to the policies of the operation of the registry, are clearly anti-competitive and would violate the intellectual property ownership contained in our original application which is now public.

The ICANN Board has the ability to reject specific applications based on non-adherence with GAC Advice. In this circumstance, the ICANN Board should clearly reject the other two applications for DotSUCKS (1-1279-43617 and 1-1596-35125) on the basis neither complies with GAC Advice to provide sufficient safeguards for Cyber Bullying. VoxPop has carefully reviewed both competitive applications as well as their filed PICs and can report that the term "Bullying" (let alone "Cyber Bullying") does not appear even once in either application. Allowing either of these applications to make such a change at this juncture is tantamount to allowing them to copy the intellectual property contained in VoxPop's original application. In so doing, such action removes a significant competitive advantage of our application and violates our intellectual property.

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Respondent:

Applicant Name	Evolving Style Registry Inc
Application ID	1-2081-48775
Applied for TLD (string)	style

Response:

Evolving Style Registry Inc (Evolving Style) is pleased to provide our response in connection with the most recent GAC Category 1 advice detailed in the GAC Buenos Aires Communiqué. We are also providing a response to the NGPC proposed Category 1 Safeguards in the form of proposed PICs that will be part of the new Registry Agreement.

a) With regards to the GAC Buenos Aires Communiqué, while the DotSTYLE string is not explicitly identified, we believe the requirements that apply to the DotSTYLE application include: "Item 4. Protection of Inter-Governmental Organisations (IGOs)" and "Item 6. Protection of Red Cross/Red Crescent Names".

Evolving Style recognizes the intent to establish permanent protection of IGO acronyms at the second level and we support continued discussions between the NGPC and the GAC in this regard. In the interim, should Evolving Style continue with contracting for DotSTYLE prior to a resolution between the NGPC and the GAC, we understand and agree that the initial protections for IGO acronyms will remain in place.

We also recognize that the GAC is giving further consideration to the way in which existing protections should apply to the words "Red Cross", "Red Crescent" and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities. Evolving Style awaits the specific direction that will ensue.

b) Evolving Style notes that in the NGPC proposed Category 1 Safeguards, the DotSTYLE string is not explicitly identified. However, we believe that the string belongs to the section: "Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-3 applicable)". In this regard, we are pleased to provide the following specific responses.

GAC Advice Response Form for Applicants



1. Evolving Style will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Evolving Style will include a provision in our Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Evolving Style will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.

Evolving Style welcomes additional question and/or comments with regards to our application and we look forward to the continuing application process.

GAC Advice Response Form for Applicants



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Respondent:

Applicant Name	Design Trend Registry Inc
Application ID	1-2082-69005
Applied for TLD (string)	design

Response:

Design Trend Registry Inc (Design Trend) is pleased to provide our response in connection with the most recent GAC Category 1 advice detailed in the GAC Buenos Aires Communiqué. We are also providing a response to the NGPC proposed Category 1 Safeguards in the form of proposed PICs that will be part of the new Registry Agreement.

a) With regards to the GAC Buenos Aires Communiqué, while the DotDESIGN string is not explicitly identified, we believe the requirements that apply to the DotDESIGN application include: “Item 4. Protection of Inter-Governmental Organisations (IGOs)” and “Item 6. Protection of Red Cross/Red Crescent Names”.

Design Trend recognizes the intent to establish permanent protection of IGO acronyms at the second level and we support continued discussions between the NGPC and the GAC in this regard. In the interim, should Design Trend continue with contracting for DotDESIGN prior to a resolution between the NGPC and the GAC, we understand and agree that the initial protections for IGO acronyms will remain in place.

We also recognize that the GAC is giving further consideration to the way in which existing protections should apply to the words “Red Cross”, “Red Crescent” and related designations at the top and second levels with specific regard to national Red Cross and Red Crescent entities. Design Trend awaits the specific direction that will ensue.

b) Design Trend notes that in the NGPC proposed Category 1 Safeguards, the DotDESIGN string is explicitly identified in the section: “Regulated Sectors/Open Entry Requirements in Multiple Jurisdictions (Category 1 Safeguards 1-3 applicable)”. In this regard, we are pleased to provide the following specific responses.

GAC Advice Response Form for Applicants



1. Design Trend will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring registrants to comply with all applicable laws, including those that relate to privacy, data collection, consumer protection (including in relation to misleading and deceptive conduct), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.
2. Design Trend will include a provision in our Registry-Registrar Agreements that requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.
3. Design Trend will include a provision in our Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision requiring that registrants who collect and maintain sensitive health and financial data implement reasonable and appropriate security measures commensurate with the offering of those services, as defined by applicable law.

Design Trend welcomes additional question and/or comments with regards to our application and we look forward to the continuing application process.