

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 IV, Annex I, and Annex II of the [GAC Beijing 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 GAC Advice” (for example “1-111-11111 Response to GAC Advice”). All GAC Advice Responses must be received no later than 23:59:59 UTC on 10-May-2013.

Respondent:

Applicant Name	Top Level Design, LLC
Application ID	1-1086-100
Applied for TLD (string)	.art

Response:

Raymond King
742 Ocean Club Place
Fernandina Beach, FL 32034-6520

May 8th, 2013

ICANN
12025 Waterfront Drive
Suite 300
Los Angeles, California 90094

Subject: Response to the Beijing Communiqué (11 April, 2013)

To the Board of the Internet Corporation for Assigned Names and Numbers’ (ICANN) and the full membership of its Governmental Advisory Committee (GAC):

We would like to not only acknowledge receipt of the GAC’s most recent communiqué from the April 2013 ICANN meeting in Beijing, but would also like to thank the entire GAC for their continued, tireless efforts in helping create a safe and successful program to introduce new TLDs.

We foresee no problems implementing any of the GAC advice that is approved as policy by the ICANN Board, both for applications cited in the GAC’s “Safeguard Advice,” and the rest of our portfolio. We look forward to guidance from the ICANN Board on requirements and implementation.

In our Annex, we address specific points within the GAC’s Beijing Communiqué.

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We have always have had every intention to comply with all decisions reached by the ICANN Board, including those arising from interaction with the GAC, such as but not limited to, protections for geographic names, IGOs, the IOC and Red Cross, etc.

We note that there is no clearly defined process for incorporating and committing operations to the relevant GAC advice and that the ICANN Board has not yet determined how it will interpret, incorporate, and enforce the GAC Advice. We acknowledge the advice and will comply with all relevant decisions. However, we are not prepared to submit formal change requests to our applications at this stage. Instead, we suggest a process to incorporate any requirements into the Registry Agreements of the TLDs in question as required or requested by the ICANN Board. It is important that this process does not further delay the New TLD Program.

We also encourage the Board to discuss whether the current GAC advice follows the definition and role of the process as outlined in the Applicant Guidebook. It is our view that the majority of the current advice does not follow the focused role of GAC advice as defined in the Applicant Guidebook. While this current GAC document seems to be more aligned with top-down policy development, it does not forestall our ability to implement and comply with all relevant decisions.

We look forward to continuing to work with the GAC and all other ICANN stakeholders to bring innovation and greater identity to the top level. We reaffirm our commitment to adhere to all relevant agreements and further participate in the development of best practices for new TLD registries and the DNS industry as a whole.

Ray King
Top Level Design, LLC

Annex

The following feedback addresses points brought up by the GAC in Section IV of its Beijing CommuniquÃ©:

1. We are of the opinion that blocking all IGO names as outlined by the GAC in previous advice will remove a significant number of important acronyms and terms from use that do not threaten to confuse users or impede the work of the IGO in question. We believe that the likelihood of user confusion with regards to specific TLDs should be considered in the implementation process for IGO related blocks. We look forward to the timely resolution of this issue and intend to comply in full with the outcome.
2. We join the GAC in commending the parties involved in the RAA discussions on their progress and hope that wide support and adoption of a new RAA can resolve any need to explicitly link it to our own New TLD Registry Agreements. We are opposed to establishing this link at this time as it creates a precedent of linking disparate negotiations while the negotiations remain ongoing. We are not aware of any such precedent and we believe that any attempt to utilize ongoing discussions and negotiations between ICANN and one of its contracted parties to

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influence separate, concurrent negotiations with another contracted party is contrary to ICANN's established multistakeholder model.

3. We request guidance from the ICANN Board regarding any unique way of incorporating GAC Advice other than the change request process outlined in the Applicant Guidebook. We are concerned that the change request process will significantly affect the timing for signing our Registry Agreements and launching our TLDs. We encourage the Board to develop a model that addresses these very serious timing concerns.

II.

Three of our applied for TLDs were specifically mentioned in the GAC's Annex I, Category 1, "Consumer Protection, Sensitive Strings, Regulated Markets," they are: .llc, design, .art.

We would like to note that "art" and "design" are not regulated in the same way banks, hospitals, and legally incorporated entities are. Thus, no section of the art/design markets should be seen as having special authority in a .art/.design TLD. However, it seems that the GAC has narrowed its concern with .art and .design to the intellectual property realm. We stress that our protections for our entire portfolio will guarantee that their concerns related to intellectual property are seriously and adequately addressed.

We believe that, in contrast to .design and .art, .llc (recognized acronym for "limited liability company") does in fact represent a regulated market as there is a clear entry barrier for recognition and participation in this space. We have provided our intent to monitor this space effectively in our original application for .llc (#1-1086-42934) and once again confirm those intentions here.

To address the numbered GAC points in this section:

1. We will hold the registrants of these 3 TLDs to a rigorous Acceptable Use Policy (AUP), which will be crafted to address all GAC Advice as implemented by the ICANN Board.
2. All of our registrar partners will be required to have registrants acknowledge and agree to our acceptable use policy.
3. This provision does not naturally apply to these TLDs given that .llc, .art, and .design have no logical connection to financial or health related registration requirements and we will not be soliciting related information from our registrants.
4. There is no regulatory body that should be given authority over .art or .design, and we disagree with any claims otherwise for the aforementioned reasons. We note that LLC eligibility is recognized in the USA and is determined at the state level by the secretary of state or similar authority with jurisdiction over the applying entity. We will work with these empowered authorities to ensure that our registrants represent legitimate limited liability companies. This is already outlined in our original application (#1-1086-42934) and we refer those concerned to that document. To summarize, legitimate LLC standing will be verified via a pre-registration process and we hope to have a close working relationship with the secretaries of state, though

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LLC status is verifiable via public, query-based databases and so successful follow-through on our commitment does not depend on the active participation of all relevant offices.

III.

The GAC goes on to further advise the board that some of the strings specified should require pre-registration verification. While the specific strings are not identified, we believe that in our case this only logically applies to .llc.

As noted above, we will utilize pre-registration verification of LLC status for the successful registration of the .llc TLD; we will reach out to and welcome the active participation of all relevant authorities to help develop policies and procedures to ensure that registrations are verified as efficiently as possible.

IV.

We note the many questions asked by the GAC related to PICs in their Annex II and would like to stress that the ambiguities of the program influenced our decision to not submit PICs.