



New gTLD Program
Community Priority Evaluation Report
Report Date: 10 September 2014

Application ID:	1-1097-20833
Applied-for String:	ART
Applicant Name:	Dadotart Inc

Overall Community Priority Evaluation Summary

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

Panel Summary

Overall Scoring	7 Point(s)	
<u>Criteria</u>	<u>Earned</u>	<u>Achievable</u>
#1: Community Establishment	0	4
#2: Nexus between Proposed String and Community	0	4
#3: Registration Policies	4	4
#4: Community Endorsement	3	4
Total	7	16
Minimum Required Total Score to Pass <u>14</u>		

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

The community is defined in the application as follows:

How the community is delineated from Internet users generally.

The global arts community has hallmarks of identification and commonality that set it apart from these Internet users. These hallmarks include:

- (1) Identification through production, support and affinity
- (2) Continued participation
- (3) Shared action and participation around numerous traditions, genres and styles.

The first question any community faces is, can its members be identified? The most common way to identify a community is to look at the actions of its potential members. The arts community is one of these natural communities. It is not defined by holding a license or by creation by a regulatory body or necessarily by membership in an established association or organization. It is a community of participation.

The term “art” describes a diverse range of creative human activities and the products of those activities, but is most often understood to refer to painting, film, photography, sculpture, and other visual media. Music, theatre, dance, literature, and interactive media are included in a broader definition of “art” or “the arts”. In our formulation, the arts community is comprised of individuals, groups of individuals and legal entities who identify themselves with the Arts and actively participate in or support Art activities or the organization of Art activities.

Dadotart and its PAB [Policy Advisory Board] will have no trouble identifying its members. The definition we have formulated is that the Art community is comprised of individuals, groups of individuals and legal entities who identify themselves with the Arts and actively participate in or support Art activities or the organization of Art activities.

This community definition does not delineate a clear and straightforward membership as the AGB requires. Membership in the community as defined by the applicant is unverifiable, given the absence of a requirement for any formal relationship between individuals and membership organizations, associations, or other such structures by which membership could be clearly demonstrated. In the absence of such membership structures, the application depends on individuals’ and entities’ “participation” in and “support” of art activities, but this definition is dispersed and broad. The application’s reference to those who “support Art activities or the organization of Art activities” is unclear, since “support” of the arts may include activities such as attending a concert, paying admission at a museum, or making regular membership contributions. Given the lack of clarity around these membership parameters, the Panel has determined that the membership definition provided in the application is unbound and dispersed.

In addition, according to the AGB, “community” implies “more of cohesion than a mere commonality of interest” and there should be “an awareness and recognition of a community among its members.” The community as defined in the application does not demonstrate an awareness and recognition among its members. The application materials and further research provide no substantive evidence of what the AGB calls “cohesion” – that is, that the various members of the community as defined by the application are “united or form a whole” (Oxford Dictionaries). For example, the American Photography Association (APA) is a membership-based organization created to serve the various legal and artistic interests of photographers. The APA is open to members in and outside the US and falls within one of the articulated parts of the application’s proposed community. Based on the Panel’s research, however, the APA does not show an awareness or recognition of the several other parts of the applicant’s proposed community, whether by way of interaction or an explicit statement of cohesion¹. The same lack of awareness, recognition, and/or cohesion is evident across a range of similar arts-related organizations, which have neither mentioned their perception of cohesion with other disparate groups nor demonstrated it through records of their activities or objectives.

¹ The Panel acknowledges that an exhaustive review of all proposed community member organizations is not possible and has used the APA as a representative example of the review carried out to determine awareness and recognition of the proposed community.

Additionally, the application materials and the Panel's research reveal a lack of cohesion among the individuals referenced in the application who "support the Arts." Several museums that would fall in the application's defined community, for example, see millions of visitors annually, most of whom support the arts with their patronage and ticket fees. These millions of individuals – and the innumerable others who support other arts organizations included in the application's defined community – cannot be said to cohere with one another by virtue of this support of the Arts, though they may share an interest in the arts.

The Panel acknowledges that some of the individuals in the community as defined by the application may have a commonality of interest and, as the application states, "identify themselves with the arts." However, this (1) is too broad a delineating measure and (2) does not ensure that such groups cohere in any way with one another, though they may share an interest in the arts. Therefore, based on the Panel's research the applied-for community does not demonstrate the cohesion as a community intended in the AGB.

The Panel determined that the community as defined in the application does not satisfy either of the two conditions to fulfill the requirements for delineation.

Organization

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

The community as defined in the application is geographically disperse and exists across a wide array of fields of the arts. There is no entity mainly dedicated to the entire community as defined by the applicant, as the application itself concedes. Research showed that those organizations that do exist represent members of the defined community only in limited geographic scope, only certain fields within the community, or in the case of some supporters, not at all. According to the application:

The arts community is very loosely structured and organized for the most part simply around participation - - and by virtue of participation. Certainly, there are organized groups within the arts community but the vast majority of artists and participants in the arts are not structured and are not formally organized in a hierarchical manner of local/regional, national and international legal entities. In many ways the strength of the art community lies in its natural openness. The .ART gTLD will provide a globally available locus of communication and identification for the many millions of arts participants who are not organized as well as for those who are....

By the very nature of art, there is no hierarchical system of legal bodies to officially represent the arts community, nor an alliance of groups that might claim this authority. Dadotart is owned and directed by deviantArt, an innovator in creating an Arts community online which has proven its commitment to support the Arts community online with more than 20 million members and 60 million monthly unique visitors.

According to the AGB, "organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities." As described above, there is no entity(ies) that represents all of the types of "art" member categories outlined by the applicant. The application states that the applied for gTLD might provide a seed for such organization, but this does not meet the AGB's requirement that the defined community currently be organized. Moreover, an "organized" community, according to the AGB, is one that is represented by at least one entity that encompasses the entire community as defined by the applicant. There should, therefore, be at least one entity that encompasses and organizes "individuals, groups of individuals and legal entities who identify themselves with the Arts and actively participate in or support Art activities or the organization of Art activities." The application references the applicant's parent company, deviantArt, but the Panel has determined that the community it serves is also limited in scope and does not encompass the proposed community. Based on information provided in the application materials and the Panel's research, there is no entity that organizes the community defined in the application, in all the breadth of categories explicitly defined.

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

Pre-existence

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

The community as defined in the application was not active prior to September 2007. According to section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to obtain a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). The Panel determined that this application refers to a “community” construed to obtain a sought-after generic word as a gTLD string, and that the application is attempting to organize the various groups mentioned in the documentation through a gTLD. The proposed community therefore could not have been active prior to the above date (although its constituent parts were active).

The Panel determined that the community as defined in the application does not fulfill the requirements for pre-existence.

1-B Extension

0/2 Point(s)

The Panel determined that the community as identified in the application did not meet the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the application did not fulfill the requirements for size, nor demonstrate longevity for the community. The application received a score of 0 out of 2 points under criterion 1-B: Extension.

Size

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

The community as defined in the application is of considerable size. The community for .ART as defined in the application is large both in terms of geographical reach and number of members. According to the applicant:

The global arts community at large is constantly growing and embraces the majority of the world’s population in one way or another. As production and enjoyment of art lie within the human nature, the arts community has a global presence in every culture.

However, as previously stated, the community as defined in the application does not have awareness and recognition among its members. Failing such qualities, the community cannot be said to have the “cohesion” required by the AGB.

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

Longevity

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

The community as defined in the application does not demonstrate longevity. According to section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, the CPE process is conceived to identify qualified community-based applications, while preventing both “false positives” (awarding undue priority to an application that refers to a “community” construed merely to get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application).

The Panel determined that this application refers to a proposed community construed to obtain a sought-after generic word as a gTLD. Moreover the applicant is attempting to use the gTLD to organize the various groups noted in the application documentation. Additionally, as previously stated, the community as defined in the application does not have awareness and recognition among its members. Therefore, the Panel has determined that the proposed community's lack of cohesion does not meet the requirements for receiving credit for longevity. That is, a construed community is not a community according to the AGB and precludes the possibility of it having longevity.

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

Criterion #2: Nexus between Proposed String and Community

0/4 Point(s)

2-A Nexus

0/3 Point(s)

The Panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The string does not identify or match the name of the community as defined in the application, nor is it a well-known short-form or abbreviation of the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.

To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus, the applied-for string must identify the community. "Identify" means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.

The applied-for string (.ART) does not match or identify the name of the community. The application for .ART defines the community of participants and supporters of art-related activities who identify themselves with the arts. According to the application documentation:

The .ART gTLD serves the Art community. The TLD string "art" matches the name of the community, Art, in the generally accepted sense of the word, in French and English and in many other internationally-used languages it is seen as "arte", a form to which the string "Art" is readily identified. Membership to sub-communities within the arts, e.g. the music or actors' community, does in no way affect their identification with the art community at large.

While the string identifies the name of the core community members (i.e. artists and organized members of the arts community) it does not match or identify the art supporters that are included in the definition of the community as described in Criterion 1-A. The definition of "supporters" in the application materials, as addressed above, is unbound and unclear, conceivably including audiences, consumers, and donors. They may be associated with art, but they are not identified by the word art as are artists and art organizations. Given the range of individuals and entities potentially included in the "support" category, it is also of considerable size. Such individual supporters are not likely to be known by any commonly shared community name or identifier, and therefore the application over-reaches in its use of "Art" to refer to the "support" category of its membership definition.

The Panel determined that the applied-for string does not match or identify the name of the community as defined in the application, nor is it a well-known short-form or abbreviation of the community. It therefore does not meet the requirements for Nexus.

2-B Uniqueness

0/1 Point(s)

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

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application cannot demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. This is based on the Panel’s determination that the applied-for string “.Art” does not identify the whole breadth of the community as defined in the application. Therefore, since the string does not identify the community, it cannot be said to “have no other significant meaning *beyond identifying the community*” (emphasis added, AGB). The Panel determined that the applied-for string does not satisfy the condition to fulfill the requirements for Uniqueness.

Criterion #3: Registration Policies

4/4 Point(s)

3-A Eligibility

1/1 Point(s)

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

To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. The application demonstrates adherence to this requirement by restricting eligibility to artists and those who have an identifiable engagement with the arts, etc. (Comprehensive details are provided in Section 20e of the applicant documentation). The Panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.

3-B Name Selection

1/1 Point(s)

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

To fulfill the requirements for Name Selection, the registration policies for name selection for registrants must be consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by outlining restrictions on reserved names as well as a sunrise and landrush program that will provide special provision of trademarks, amongst other rules. (Comprehensive details are provided in Section 20e of the applicant documentation). The Panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.

3-C Content and Use

1/1 Point(s)

The Panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.

To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by noting that a registrant’s use of a domain name must be accepted as legitimate, demonstrate membership in the art community, and be conducted in good faith. (Comprehensive details are provided in Section 20e of the applicant documentation). The Panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.

3-D Enforcement

1/1 Point(s)

The Panel determined that the application met the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB as the application provided specific enforcement

measures and appropriate appeal mechanisms. The application received a maximum score of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. The applicant outlines a comprehensive list of investigation procedures and circumstances in which the registry is entitled to suspend domain names. The application also outlines an appeals process, which will be managed by the registry service provider. (Comprehensive details are provided in Section 20e of the applicant documentation). The Panel determined that the application satisfies both the conditions to fulfill the requirements for Enforcement.

Criterion #4: Community Endorsement	3/4 Point(s)
4-A Support	1/2 Point(s)
<p>The Panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.</p> <p>To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. “Recognized” means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. “Relevance” refers to the communities explicitly and implicitly addressed.</p> <p>The Panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support. This entity does not, however, represent a majority of the community as defined by the applicant. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.</p>	
4-B Opposition	2/2 Point(s)
<p>The Panel determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB, as the application did not receive any relevant opposition. The application received the maximum score of 2 points under criterion 4-B: Opposition.</p> <p>To receive the maximum score for Opposition, the application must not have received any opposition of relevance. To receive a partial score for Opposition, the application must have received opposition from, at most, one group of non-negligible size.</p> <p>The application received letters of opposition, which were determined to not be relevant, as they were either from individuals or groups of negligible size, or were from entities/communities that do not have an association to the applied for string. The Community Priority Evaluation Panel determined that the applicant satisfies the requirements for Opposition.</p>	

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