



New gTLD Program
Community Priority Evaluation Report
Report Date: 6 October 2014

Application ID:	1-959-51046
Applied-for String:	MUSIC
Applicant Name:	.MUSIC LLC

Overall Community Priority Evaluation Summary

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

Panel Summary

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

Criterion #1: Community Establishment	0/4 Point(s)
1-A Delineation	0/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as 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 (AGB), 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></p> <p>Two conditions must be met to fulfill the requirements for delineation: there must be a clear, straightforward membership definition and there must be awareness and recognition of a community (as defined by the applicant) among its members.</p> <p>The community is defined in the application as follows:</p>	

.MUSIC LLC was created with the express intent and purpose of serving a community established and known worldwide, which despite location, culture or genre, is identified and united by a single word: “music”...

The Global Music Community (GMC) is comprised of an international range of associations and organizations and the millions of individuals these organizations represent, all of whom are involved in the creation, development, publishing, recording, advocacy, promotion, distribution, education, preservation and or nurturing of the art of music...

The differentiation between general Internet users and members of the music community are clearly delineated by two well defined-criteria. They are:

1. Active participation in the creation and development of music, its advocacy and promotion, its professional support, the protection and preservation of the music community’s creative rights, as well as the nurturing of the art through music education.
2. Current registration and verifiable membership in a global music community organization that was organized and in existence prior to 2007 (as per ICANN guidelines) who are active participants in the support and representation of the creation and development of music, its advocacy and promotion, its professional support, the protection and preservation of the music community’s creative rights, as well as the nurturing of the art through music education.

The application’s defined community delineates a clear and straightforward membership, due to the requirement for members to have current and verifiable registration in a “global music community organization” (i.e. membership organization). The membership mechanism is therefore clear, and the groups of possible members must be active in creating, supporting, representing, protecting and/or nurturing music. This is a transparent and verifiable membership structure that adequately meets the AGB’s first criterion for Delineation.

However, 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 Guitar Foundation of America (GFA) falls within one of the articulated segments of the application’s proposed community.¹ Based on the Panel’s research, however, the GFA does not show an awareness or recognition of the several other segments of the applicant’s proposed community, whether by way of interaction or an explicit statement of cohesion.² The same lack of awareness, recognition, and/or cohesion is evident across a range of similar music-related organizations, which have neither mentioned their perception of cohesion with other disparate groups nor demonstrated it through records of their activities or objectives. While the Panel acknowledges that many of the members in the proposed community share an interest in music, the AGB specifies that a “commonality of interest” is not sufficient to demonstrate the requisite awareness and recognition of a community among its members.

Another example relates to members of the musician category, in particular amateur musicians, who do not, in most cases³, demonstrate the requisite recognition and awareness of a community with other member

¹ The group falls firmly within the membership structures defined by the applicant and has submitted a letter of support.

² The Panel acknowledges that an exhaustive review of all proposed community member organizations is not possible and has used the GFA as a representative example of the review carried out to determine awareness and recognition of the proposed community.

³ While an exhaustive review of such organizations is impossible, the Panel’s representative survey included member organizations catering exclusively to amateur musicians, defined in some cases as individuals with an interest in music

categories. The application does not refer to professional or amateur musicians specifically, but rather refers to “music creators”, which would include both types of musicians. The Panel reviewed the websites and other publicly available information for a number of organizations that specifically cater to amateur musicians⁴. These member organizations do not (a) demonstrate cohesion with other organizations for amateur musicians, nor do they (b) demonstrate cohesion with music industry professionals. The Panel’s review found that:

- a. The representative activities and stated objectives of amateur organizations do not typically indicate any demonstrable association or cohesion with organizations and their members.⁵ This reflects the broad array of musical interests to which such organizations cater, as well as the wide geographic dispersion of these organizations.
- b. There is insufficient evidence of awareness and recognition between amateur musicians and music industry professionals,⁶ such as promoters, distributors, and attorneys. Many of the amateur musicians’ organizations are explicitly restricted to members who have no business ties to the music industry.⁷ The representative activities and stated objectives of amateur organizations do not typically indicate any demonstrable association or cohesion with music industry professionals.

With respect to the member categories, particularly those discussed above, the Panel determined that there is insufficient awareness and recognition of a community among the proposed community members, and that they do not therefore cohere as a community as required by the AGB. While the Panel acknowledges that some of the individuals in the community as defined by the applicant have a commonality of interest in music, and even that some member categories cohere, the defined community as a whole, in all its member categories, does not meet the AGB’s requirement for community awareness and recognition.

Therefore, the Panel determined that the community as defined in the application satisfies one of the two conditions to fulfill the requirements for delineation, and thereby does not receive credit 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 disperse geographically and across a wide array of music-related activities, ranging from production to legal advocacy. Based on the Panel’s research, there is no entity mainly dedicated to the entire community as defined by the applicant, nor does the application include reference to such an organization in its sample list of member organizations. Research showed that those organizations that do exist represent members of the defined community only in a limited geographic area or only in certain fields within the community. According to the application:

To date, there are forty-two (42) clearly delineated, organized and pre-existing music community organizations that have provided individual written statements of support. This unparalleled level of global music community representation is referred to as the Charter Member Organizations of the Global Music Community (GMC). Collectively they represent over 4 million individual members within more than 1,000 associations in over 150 countries. Although these Charter Member Organizations are not the exhaustive list of every possible organizational member of the GMC, they do represent the largest, most well known, credible, and diverse membership of the GMC.

but who receive no payment for their performances or who have no contract or other formal link to a record label or management company.

⁴ These organizations clearly meet the proposed community’s eligibility requirements (including a verifiable membership structure).

⁵ See, as an example, the Japan Amateur Orchestras and amateur choruses in UK and New York: <http://www.piertownchorus.com/home.html>, <http://www.lowereastsidings.vocis.com/>, <http://www.jao.or.jp/e/>

⁶ For instance, the industry community members classified by NAICS codes 512210 and 711410. <http://www.naics.com/free-code-search/naicsdescription.php?code=512210>

⁷ See e.g. <http://www.nycclassical.com/aboutacma1.html> and restrictions on professional musicians

According to the AGB, "organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities." In the excerpt above, the application refers to 42 entities that, in and of themselves, are clearly delineated and organized. These organizations, however, represent only segments of the defined community, and the list does not include an organization that represents the entire proposed community. 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 and organizations in the fields of creation, development, publishing, recording, advocacy, promotion, distribution, education, preservation and or nurturing of the art of music, and that entity must have documented evidence of activities. 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) and must display an awareness and recognition of a community among its members.

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.

The application makes reference to the list of organizations that have supported its application, which it says are representative of the community as a whole. The organizations listed were active prior to 2007. However, the fact that each organization was active prior to 2007 does not mean that these organizations were active as a community prior to 2007, as required by the AGB guidelines. That is, since those organizations and their members do not themselves form a cohesive community as defined in the AGB, they cannot be considered to be a community that was active as such prior to 2007.

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 the longevity of 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 .MUSIC as defined in the application is large both in terms of geographical reach and number of members. According to the applicant:

The Global Music Community (GMC) is comprised of an international range of associations and organizations and the millions of individuals these organizations represent, all of whom are involved in the creation, development, publishing, recording, advocacy, promotion, distribution, education,

preservation and or nurturing of the art of music... To date, there are forty-two (42) clearly delineated, organized and pre-existing music community organizations that have provided individual written statements of support. This unparalleled level of global music community representation is referred to as the Charter Member Organizations of the Global Music Community (GMC). Collectively they represent over 4 million individual members within more than 1,000 associations in over 150 countries.

However, as previously noted, the community as defined in the application does not show evidence of “cohesion” among its members, as required by the AGB.⁸ Therefore, it fails the second criterion for Size.

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 a 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 appears to be attempting to use the gTLD to organize the various groups noted in the application documentation, as opposed to applying on behalf of an already organized and cohesive community. As previously stated, the community as defined in the application does not have awareness and recognition among its members. Failing this kind of “cohesion,” the community defined by the application does not meet the AGB’s standards for a community. Therefore, as a construed community, the proposed community cannot meet the AGB's requirements for 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)
<p>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.</p> <p>To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus, the applied-for string must identify the community. “Identify” means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.</p> <p>The applied-for string (.MUSIC) does not match or identify the name of the community. The applicant limits the proposed community to individuals and entities that have a “current registration and verifiable membership in a global music community organization”. The string MUSIC, however, identifies all individuals and entities involved in the creation of music, regardless of whether or not they have verifiable membership in a music-related organization. The application itself does not provide an estimate for the</p>	

⁸As stated previously, according to the AGB, “community” implies “more of cohesion than a mere commonality of interest...There should be: (a) an awareness and recognition of a community among its members...” Failing such qualities, the AGB’s requirements for community establishment are not met.

number of musicians who have registered with one of the proposed community’s organizations (of which it lists 42 examples), but one of the largest musician’s membership organizations in the US, the American Society of Composers, Authors, and Publishers (ASCAP) has about 500,000 members⁹. The Indian equivalent of ASCAP (also a supporter of the application) has fewer than 3,000 members¹⁰. The number of amateur musicians worldwide is unknown but is estimated to be about 200 million¹¹ – far surpassing the application’s estimate of 4 million individuals registered with musical organizations. Therefore, there are many individual musicians identified by the applied-for string who do not fall within the membership of the proposed community. This difference between the proposed community and those identified by the string is substantial and is indicative of the degree to which the applied-for string substantially over-reaches beyond the community defined by the application.

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 does not demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. This is based on the Panel’s determination that the applied-for string “.MUSIC” reaches substantially beyond the community as defined in the application so does not identify it by AGB standards. 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

1/4 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 domain registration to individuals who are “members of or affiliated with at least one Member Organizations of the Global Music Community.” The Panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.

3-B Name Selection

0/1 Point(s)

The Panel determined that the application does not meet the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria). The application does not provide evidence that the name selection rules included are consistent with the articulated community-based purpose of the applied-for TLD. The application therefore received a score of 0 points 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 Panel determined that the application did not satisfy the condition of consistency with the articulated community-based purpose of the applied-for string. There was no evidence in the application of restrictions or guidelines

⁹ <http://www.ascap.com/about/>

¹⁰ <http://www.iprs.org/cms/IPRS/AnnualReport/DirectorsReport20112012.aspx>

¹¹ <http://thenextweb.com/apps/2012/06/06/sezion-lets-anyone-collaborate-on-a-song-could-be-the-instagram-for-amateur-musicians/>

for name selection that arose out of the community-based purpose of the application, nor was it articulated that the other name selection rules (not related to the community-based purpose) were otherwise sufficient and in accordance with the community-based purpose of the application. In section 20(c) on its community-based purpose, the applicant states,

“Registration policies will safeguard the exclusive nature of the community by requiring potential registrants to have a bona fide membership with an at least one Organization Member of Global Music Community, before they can acquire a .music address.”

This, however, is sufficient only to guarantee the CPE Eligibility requirements as in 3-A above. The application does not refer to its community-based purpose in discussion of name selection rules, despite its articulation of several community values that could come to bear on name selection.

3-C Content and Use **0/1 Point(s)**

The Panel determined that the application does not meet the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria). The application does not provide evidence that the content and use rules included are consistent with the articulated community-based purpose of the applied-for TLD. The application therefore received a score of 0 points under criterion 3-C: Content and Use.

To fulfill the requirements for Content and Use, the registration policies for content and use must be consistent with the articulated community-based purpose of the applied-for gTLD. (Comprehensive details are provided in Section 20e of the applicant documentation). The Panel determined that the application did not satisfy the condition of consistency with the articulated community-based purpose of the applied-for string. There was no evidence in the application of requirements, restrictions or guidelines for content and use that arose out of the community-based purpose of the application, nor does the application articulate that the other content and use rules (not related to the community-based purpose) were otherwise sufficient and in accordance with the community-based purpose of the application. In section 20(c) on its community-based purpose, the applicant states,

“Registration policies will safeguard the exclusive nature of the community by requiring potential registrants to have a bona fide membership with an at least one Organization Member of Global Music Community, before they can acquire a .music address.”

This, however, is sufficient only to guarantee the CPE Eligibility requirements as in 3-A above. The application does not refer to its community-based purpose in discussion of content and use rules, despite its articulation of several community values that could come to bear on content and use.

3-D Enforcement **0/1 Point(s)**

The Panel determined that the application does not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the AGB. The application provides specific enforcement measures but does not include a coherent and appropriate appeals mechanisms. The application received a score of 0 points 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 makes reference to an appeals process that will be overseen by its Policy Advisory Board, but it does not provide a clear description of an appeals process. The Panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement and therefore scores 0 points.

Criterion #4: Community Endorsement **2/4 Point(s)**

4-A Support **1/2 Point(s)**

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.

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.

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). A recognized community institution or member organization is one which not only (1) represents the entirety of the community as defined by the application (in all its breadth of categories as described in Delineation), but is also (2) recognized by the same community as its representative. No such organization among the applicant’s supporters demonstrates the kind of structure required to be a “recognized” organization, as per AGB guidelines. However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.

4-B Opposition

1/2 Point(s)

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

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

The Community Priority Evaluation panel determined that there is opposition to the application from a group of non-negligible size and from an organization within the communities explicitly addressed by the application, making it relevant. The entity has a strong reputation in the music representation and marketing fields, and a subsidiary company that is involved in distribution and promotion. These activities fall within the applicant’s proposed membership segments. The entity was founded in 2006, has several full-time employees, and has an impact in the music community that reaches thousands of people, in addition to partnerships with major international brands. The grounds of the entity’s objection do not fall under any of those excluded by the AGB (such as claims that are “spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction”), but rather relate to how the community is delineated and the rules for name selection. Therefore, the Panel determined that the applicant satisfied the requirements for Opposition partially.

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>.