

INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

ICDR Case No. 01-14-0001-5004

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**In the matter of an Independent Review Process**

*DOT REGISTRY, LLC,*

*Claimant,*

*v.*

*INTERNET CORPORATION FOR ASSIGNED  
NAMES AND NUMBERS ("ICANN"),*

*Respondent*

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**Expert Report of Michael A. Flynn**

July 13, 2015

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## A. Introduction and Background

1. Claimant Dot Registry, LLC (“Dot Registry”) filed community-based gTLD (“generic Top-Level Domain) applications for the strings .INC,<sup>1</sup> .LLC<sup>2</sup> and .LLP<sup>3</sup> in the gTLD application round that opened on January 12, 2012, under procedures established by the Internet Corporation for Assigned Names and Numbers (“ICANN”). In 2014, these applications apparently underwent three separate Community Priority Evaluations (“CPEs”) supposedly carried out by three separate Community Priority Evaluation Panels of the Economist Intelligence Unit (“EIU”) under contract to ICANN. In three *Community Priority Evaluation Reports* dated June 11, 2014,<sup>4</sup> the EIU found that these three Dot Registry community applications “did not prevail”, owing to the fact that each received just 5 points, well short of the minimum 14 points (out of 16 possible points) needed to be granted “Community Priority” status. Dot Registry has requested an independent review of ICANN’s actions and inactions in connection with the performance and results of these three CPEs under the auspices of a panel of the International Centre for Dispute Resolution (hereinafter, the “ICDR Panel”).<sup>5</sup>
2. In connection with this ICDR proceeding between Dot Registry and ICANN, I have been asked by counsel for Dot Registry to review the record materials, to perform any research or other information gathering I deem necessary, and to form my expert opinion regarding:
  - a. Whether the determinations of the EIU in respect of Dot Registry’s community-based applications for the .INC, .LLC and .LLP gTLDs conformed to the principles and methodology set forth in Module 4 of ICANN’s *gTLD Applicant Guidebook* (the “AGB”),<sup>6</sup> and

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<sup>1</sup> Application 1-880-35979 (the “.INC Application”), attached as Exhibit 4.

<sup>2</sup> Application 1-880-17627 (the “.LLC Application”), attached as Exhibit 5.

<sup>3</sup> Application 1-880-35597 (the “.LLP Application”), attached as Exhibit 6.

<sup>4</sup> These EIU CPE Reports will be referred to, and attached as, respectively, the “.INC Report” (Exhibit 7), the “.LLC Report” (Exhibit 8) and the “.LLP Report” (Exhibit 9).

<sup>5</sup> ICDR Case No. 01-14-0001-5004.

<sup>6</sup> Version 2012-06-04, dated 4 June 2012 (attached as Exhibit 1).

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- b. Whether those determinations are consistent with the EIU's CPE determinations in connection with the .RADIO,<sup>7</sup> .HOTEL,<sup>8</sup> .OSAKA<sup>9</sup> and .ECO<sup>10</sup> community applications.
3. I am aware of the identity of the parties to this ICDR proceeding, their legal counsel and the members of the ICDR Panel. I consider myself to be independent from them, and I do not have a conflict of interest in acting as an expert in this proceeding.
4. I understand that I have an overriding duty to assist the ICDR Panel and to provide independent expert evidence. I also understand that my expert report is to be objective and impartial and that it is to include everything I consider relevant to the opinions I express.
5. A complete list of the documents and related materials I have reviewed in connection with this assignment may be found at **Attachment A**.
6. I have reached the conclusions set forth in this report following my review of the case-related materials that have been provided to me, and other research I have performed, through June 24, 2015. If additional information relevant to my assignment and opinions in this matter becomes available, and if asked to do so by counsel for Dot Registry or the ICDR Panel, I may supplement this report.

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<sup>7</sup> EIU CPE Report on Application 1-1083-39123 dated 11 September 2014 (the ".RADIO Report") and attached as Exhibit 10.

<sup>8</sup> EIU CPE Report on Application 1-1032-95136 dated 11 June 2014 (the ".HOTEL Report") and attached as Exhibit 11.

<sup>9</sup> EIU CPE Report on Application 1-901-9391 dated 29 July 2014 (the ".OSAKA Report") and attached as Exhibit 12.

<sup>10</sup> EIU CPE Report on Application 1-912-59314 dated 6 October 2014 (the ".ECO Report") and attached as Exhibit 13.

## B. Qualifications and Experience

7. I am a Director with Navigant's Oakland, California office. I have been both a testifying and consulting expert economist for over twenty-five years, specializing in antitrust, economic damages, intellectual property, class actions and other complex business litigation and consulting engagements. My *curriculum vitae* may be found at **Attachment B**.
8. Navigant is compensated on an hourly basis at a rate of \$590 per hour for my time spent on this engagement.
9. I have had earlier experience in connection with ICANN's current gTLD expansion program. In 2011, while serving as a consultant to the Association of National Advertisers, I co-authored a letter to Congress recommending that ICANN be required to fulfill its undertakings under its *Affirmation of Commitments*<sup>11</sup> with the U.S. Department of Commerce before embarking on its current gTLD expansion program. Following that, from 2012 through mid-2014, I was an independent, unaffiliated member of the ICANN community, during which time I briefly served as a community volunteer in connection with ICANN's effort to demonstrate, on an *ex post* basis, that its gTLD expansion then currently under way did in fact achieve the stated objectives of increased competition, consumer choice and consumer trust in the Domain Name System (DNS). I discontinued my involvement as a volunteer in 2014 following the U.S. government's announcement of its intention to transfer oversight of ICANN's Domain Name Functions to an appropriate successor.<sup>12</sup>

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<sup>11</sup> <https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en>

<sup>12</sup> "NTIA Announces Intent to Transition Key Internet Domain Name Functions", press release dated March 14, 2014 (<http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions>).

### C. Summary of Conclusions

10. Upon careful study, I conclude that each of Dot Registry's three community applications—for .INC, .LLC and .LLP—should have prevailed in their respective 2014 CPEs and have been awarded community priority status.
11. In particular, I conclude that Dot Registry's community applications for the .INC and .LLP strings should each have received scores of **15 points** (out of the maximum possible score of 16 points), one more than the 14 points each needed to be granted community priority status. Dot Registry's application for the .LLC string should have received the maximum possible score of **16 points**. These three correct scores are in sharp contrast to the identical scores of just 5 points each that the EIU actually awarded to the .INC, .LLC and .LLP applications.
12. The 5-point scores actually received by Dot Registry's .INC, .LLC and .LLP community applications were the result of what I consider to be the EIU failures to adhere to the AGB. These include:
  - a. Making unauthorized modifications to, or applying incorrect interpretations of, the criteria for CPEs set forth in the AGB before then "finding" that the Dot Registry applications failed to satisfy the EIU versions of the AGB criteria.
  - b. The EIU denial of Dot Registry's .INC, .LLC and .LLP community applications turned on its interpretations of just a handful of the AGB criteria:
    - i. Under Criterion #1: What is meant by—and needed to satisfy—the AGB requirement for "awareness and recognition of a community among [a community's] members", especially in view of the fact that this term is not defined by the AGB?
    - ii. Also under Criterion #1: Does the "Organized" criterion require that there be "at least one" entity mainly dedicated to the community, or "only one"? Also, does the "Organized" criterion's "mainly dedicated" term require that this entity have no other responsibilities besides those related to the community at issue?
    - iii. Under Criterion #2: What does it mean for a string to "over-reach *substantially* beyond the community [emphasis added]"? (The AGB does not include a definition or metric for this term.)

- iv. Under Criterion #3: What is the meaning of—or limitation posed by—the AGB requirement for “*appropriate* appeal mechanisms”, especially since the AGB states that with respect to “Enforcement”, “scoring of applications against [this criterion] will be done from a *holistic perspective with due regard for the particularities of the community explicitly addressed* [emphasis added]”?
13. The EIU applied markedly different—and less demanding—interpretations of these criteria in connection with its approval of the .RADIO, .HOTEL, .OSAKA and .ECO community applications. Had the EIU applied the same interpretations to Dot Registry’s applications for .INC, .LLC and .LLP, these applications would have prevailed, in my assessment.

#### D. Overview of ICANN’s Community Priority Evaluation (CPE) Process

14. **Community Priority Evaluation (CPE)** is one of the two methods<sup>13</sup> established by ICANN to resolve “string contention” –the situation in which two or more applicants have applied for the same gTLD—arising under ICANN’s current program to further expand the number of gTLDs.<sup>14</sup> The important point is that ICANN’s rules give priority to “community applications” over other applications for the same string. If there are multiple applicants for a given gTLD string, ICANN’s rules give first “priority” to any “community applicant” for that string. If a community application for a particular string prevails (i.e., achieves the necessary 14 the points) in its CPE, the applicant must be awarded the string over the other non-community applicants vying for the same string. Otherwise, the string contention would be resolved at auction, with the right to contract for the gTLD awarded to the highest winning bidder.
  
15. **Community Applications must prevail in their “Community Priority Evaluation” (CPE).** The CPE is to be conducted in accordance with ICANN’s AGB.<sup>15</sup> ICANN contracted with the EIU to conduct the CPEs of community applications. The EIU has published two documents in connection with its selection by ICANN to perform CPEs:
  - a. **Community Priority Evaluation (CPE) Guidelines Prepared by The Economist Intelligence Unit.**<sup>16</sup> This document explains how the EIU will interpret and implement the AGB’s *Community Priority Evaluation Criteria*. There is a clear statement in its first section titled **Interconnection between Community Priority Evaluation (CPE) Guidelines and the Applicant Guidebook (AGB)** that:

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<sup>13</sup> The other is an auction among the contending applicants.

<sup>14</sup> Prior to the current expansion, there were twenty gTLDs: the first seven (.COM, .NET and .ORG , .EDU, .GOV, .INT, .MIL) were created in the 1980s. Anyone could register a second-level domain name under the first three, but special restrictions limited who could register second-level domains under the last four. Since 2000—but prior to the expansion currently under way—thirteen more gTLDs were added: .BIZ, .INFO, .NAME and .PRO (the “unsponsored” gTLDs) plus.AERO, .COOP, .MUSEUM, .ASIA, .CAT, .JOBS, .MOBI, .TEL and .TRAVEL (the “sponsored” TLDs that imposed restrictions on who could register a second-level domain under each).

<sup>15</sup> Specifically, CPE’s are governed by 4.2.3 *Community Priority Evaluation Criteria* in Module 4 of ICANN’s gTLD APPLICANT GUIDEBOOK, version of 2012-06-04 (the “AGB”) pages 4-9 to 4-19 (Exhibit 1).

<sup>16</sup> Version 2.0 dated September 27, 2013 (the “EIU Guidelines”) is attached as Exhibit 2.



The CPE Guidelines are an accompanying document to the AGB, and are meant to provide additional clarity around the process and scoring principles outlined in the AGB. *This document does not modify the AGB framework, nor does it change the intent or standards laid out in the AGB. The Economist Intelligence Unit (EIU) is committed to evaluating each applicant under the criteria outlined in the AGB.* The CPE Guidelines are intended to increase transparency, fairness and predictability around the assessment process [emphasis added].<sup>17</sup>

Notwithstanding the foregoing, the EIU made material modifications to the AGB framework when applying it to Dot Registry's .INC, .LLC and .LLP applications.<sup>18</sup>

- b. **Community Priority Evaluation Panel and its Processes.**<sup>19</sup> Regarding the CPE evaluations undertaken by the EIU pursuant to the EIU's selection by ICANN, this document reiterates on its first page that:

The evaluation process respects the principles of fairness, transparency, avoidance of potential conflicts of interest, and non-discrimination. *Consistency of approach in scoring applications is of particular importance* [emphasis added].

In my opinion, the EIU did not adhere to this commitment.

16. **The Community Priority Evaluation Criteria** are set forth in Module 4 of the AGB.<sup>20</sup> There are four principal criteria, each worth a possible maximum of 4 points. As mentioned, an application must receive a total score of at least 14 points in order to prevail.
17. **Criterion #1: Community Establishment** (4 points possible) is comprised of two main sub criteria: **1-A Delineation** (2 points) and **1-B Extension** (2 points).

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<sup>17</sup> EIU Guidelines, (Exhibit 2), p. 2.

<sup>18</sup> The resulting modified criteria were not applied during the EIU's review of the .RADIO, .HOTEL, .OSAKA and .ECO community applications. Instead, as I discuss below, these latter applications were effectively given a "pass" regarding these criteria.

<sup>19</sup> This document, attached as Exhibit 3, is dated 7 August 2014, by which point the EIU had already completed 10 of the total of 17 CPEs it has accomplished to date.

<sup>20</sup> Section 4.2.3, pp. 4-9 to 4-19 (attached at Exhibit 1).

- a. Under the **1-A Delineation** prong of **Criterion #1: Community Establishment**, the Community's membership definition is evaluated to determine whether the Community is "clearly delineated, organized, and pre-existing." There are three determinants of the application's score under **1-A Delineation**:
- i. Delineation<sup>21</sup> which in turn requires:
    - 1. A clear and straightforward membership definition, *and*
    - 2. Awareness and recognition of a community (as defined by the applicant) among its members.<sup>22</sup>
  - ii. Organization<sup>23</sup> which in turn requires:
    - 1. Documented evidence of community activities, *and*
    - 2. At least one entity mainly dedicated to the community.
  - iii. Pre-existence<sup>24</sup> which requires that the community must have been active prior to September 2007.
- b. Under the **1-B Extension** prong of **Criterion #1**, the question to be answered is whether the Community is of "considerable size and longevity." There are two components:

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<sup>21</sup> "Delineation' relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low." (AGB, 4-11)

<sup>22</sup> Despite the critical role played by this requirement in the EIU's review of the .INC, .LLC and .LLP applications, the AGB does not provide any definition or explanation for it. In addition, the EIU effectively waived this requirement for the .RADIO, .HOTEL, .OSAKA and .ECO community applications by "finding" the requisite "awareness and recognition of a community" in their respective community definitions themselves. See Exhibits 10 through 13.

<sup>23</sup> "Organized' implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities." (Ibid.)

<sup>24</sup> "Pre-existing' means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007." (Ibid.)

- i. Size<sup>25</sup> which requires that:
  1. The community is of considerable size, *and*
  2. There is awareness and recognition of a community among its members.
- ii. Longevity<sup>26</sup> which requires that:
  1. The community was in existence prior to September 2007, *and*
  2. There is awareness and recognition of a community among its members.

18. **Criterion #2: Nexus between Proposed String and Community** (4 points possible) also imposes two principal sub criteria: **2-A Nexus** (3 points possible) and **2-B Uniqueness** (1 point).

- a. Under the **2-A Nexus** prong<sup>27</sup> of **Criterion #2**, the essential question is whether the string
  - i. *Matches* the name of the community or is a well-known short-form or abbreviation of the community (3 points), *or*
  - ii. *Identifies* the community without matching the name of the community or “over-reaching substantially beyond the community” (2 points), *or*

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<sup>25</sup> “‘Size’ relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers.” (Ibid.)

<sup>26</sup> “‘Longevity’ means that the pursuits of a community are of a lasting, non-transient nature.” (Ibid., 4-12)

<sup>27</sup> “With respect to ‘Nexus’, for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification/name of the community...for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.” (Ibid., 4-13) The AGB does not define or explain the term “over-reaching substantially”.

- iii. Neither matches nor identifies the community (0 points).
  - b. Under the **2-B Uniqueness** prong of **Criterion #2**, the question is whether the string has any other significant meaning beyond identifying the community. Under the AGB, this question is reached only if the application first achieves a score of 3 or 2 on the **2-A Nexus** prong of **Criterion #2**.<sup>28</sup>
19. **Criterion #3: Registration Policies** (4 points possible) tests the community application along four separate dimensions related to the registration policies that will be applied by registrars to applicants for second-level domain names.<sup>29</sup> There is 1 point possible for each these four elements: **3-A Eligibility**, **3-B Name selection**, **3-C Content and Use** and **3-D Enforcement**.
- a. Because all the three Dot Registry applications met and received 1 point each for each of the first three elements, only the fourth, **3-D Enforcement** is at issue in, and therefore relevant to, this proceeding. The first three are not discussed further in this report.
  - b. Under **3-D Enforcement**, the registration policies (set forth in the community application) that will be applied to prospective registrants of second-level domain names are evaluated to determine whether or not those

Policies include specific enforcement measures (e.g., investigation practices, penalties, take down procedures) constituting a coherent set with *appropriate* appeal mechanisms [emphasis added].<sup>30</sup>

where

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<sup>28</sup> According to the AGB, “uniqueness implies a requirement that the string does identify the community, i.e. scores 2 or 3 for ‘Nexus,’ in order to be eligible for a score of 1 for ‘Uniqueness’.” (Ibid., 4-14)

<sup>29</sup> If its community applications for .INC, .LLC and .LLP succeed, Dot Registry would eventually enter into agreements with *registrars* who would be the ones to actually register eligible second-level domains under .INC, .LLC or .LLP. The focus of the **3-D Enforcement** sub criterion is the set of rules that Dot Registry’s agreements would impose on these registrars to govern their dealings with would-be registrants of second-level domains under .INC, .LLC or .LLP.

<sup>30</sup> Ibid., 4-15. I regard the adjective “appropriate” to be significant, as I explain below.

“Enforcement” means the tools and provisions set out by the registry to prevent and remedy any breaches of the [registration] conditions by registrants [of second-level domains].<sup>31</sup>

20. **Criterion #4: Community Endorsement** (4 points possible) has two components (each worth a maximum of 2 points): **4-A Support** and **4-B Opposition**:

a. Under **4-A Support** (2 points possible), it is determined whether

- i. “Applicant is, or has documented support from, the recognized community institution(s)/member organization(s) or has otherwise documented authority to represent the community (2 points),”<sup>32</sup> *or*
- ii. The Applicant has “documented support from at least one group with relevance, but insufficient support for a score of 2 (1 point),”<sup>33</sup> *where*
- iii. “‘Recognized’ means the institution(s) [or] organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community.”<sup>34</sup>

b. Under **4-B Opposition** (2 points possible), the question is whether

- i. There is no opposition of relevance to the application (2 points), *or*

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<sup>31</sup> Ibid., 4-16. A community application was supposed to set out the applicant’s enforcement and appeals mechanisms in the application section titled: **20(e). Provide a description of the applicant’s intended registration policies in support of the community-based purpose of the applied-for gTLD.**

<sup>32</sup> Ibid., 4-17. The AGB adds that “the plurals...for a score of 2 relate to case of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.” Ibid., 4-18.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid., 4-17 and 4-18.

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- ii. The application has relevant opposition from one group of non-negligible size (1 point),<sup>35</sup> *or*
- iii. The application has relevant opposition from two or more groups of non-negligible size (0 points).

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<sup>35</sup> As explained below, there was initial opposition from the European Commission (“EC”) to Dot Registry’s application for the .LLP string on the ground that the “LLP” abbreviation is used in the United Kingdom. However, the EIU erroneously attributed that opposition to all three of Dot Registry’s strings (.INC, .LLC and .LLP) rather than just .LLP. The EIU compounded its error by failing to notice that the EC “opposition” to the .LLP string was withdrawn almost immediately after its initial submission (and long before the EIU consideration of the .INC, .LLC and .LLP applications). See Exhibit 21.

**E. Examination of the EIU’s Review of Dot Registry’s Community Application for the .INC TLD**

21. As set forth in Exhibit 7, the EIU awarded these scores to the Dot Registry community application for the .INC string on the four principal criteria set forth in the AGB:

Criterion #1: Community Establishment	0 points (out of 4)
Criterion #2: Nexus between Proposed String and Community	0 points (out of 4)
Criterion #3: Registration Policies	3 points (out of 4)
<u>Criterion #4: Community Endorsement</u>	<u>2 points (out of 4)</u>
Total	5 points (out of 16)

22. Having awarded it just 5 out of the minimum necessary score of 14 points, the EIU declared that the Dot Registry application for .INC did not prevail:

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.<sup>36</sup>

23. As I explain in greater detail below, had the EIU correctly adhered to the AGB, it instead would have awarded the following scores:

Criterion #1: Community Establishment	4 points (out of 4)
Criterion #2: Nexus between Proposed String and Community	3 points (out of 4)
Criterion #3: Registration Policies	4 points (out of 4)
<u>Criterion #4: Community Endorsement</u>	<u>4 points (out of 4)</u>
Total	15 points (out of 16)

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<sup>36</sup> .INC Report (Exhibit 7), p. 1.

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24. Thus, as I explain below, it is my conclusion that the Dot Registry community application for the .INC TLD would have prevailed if the EIU had evaluated it correctly according to the AGB.



### E.1. .INC Criterion #1: Community Establishment

25. The *community* that is the subject of the Dot Registry application for the .INC string is the **Community of Registered U.S. Corporations**.<sup>37</sup> The AGB specifically provides for such communities under *Criterion 1 Guidelines*:

With respect to “Delineation” and “Extension,” it should be noted that *a community can consist of legal entities* [emphasis added, examples omitted]. All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members.<sup>38</sup>

26. Importantly, there is nothing in the AGB specifying how a community must “act” (as a community or anything else) nor does the AGB say anything about how community members must “associate themselves”.<sup>39</sup>
27. This community is clearly delineated. The Community of U.S. Corporations is clearly delineated because membership in it requires the objectively-verifiable satisfaction of explicit, overt requirements. This is because membership requires the successful, active completion of the requirements to register as a corporation with the Secretary State or equivalent authority in one of the U.S. states, territories or the District of Columbia,<sup>40</sup> coupled with the continued maintenance of such registrations in conformity with the applicable laws and regulations. Thus, the .INC community (alternatively, the

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<sup>37</sup> New gTLD Application Submitted to ICANN by Dot Registry LLC for the String INC, posted 13 June 2013, Application ID: 1-880-35979 (“.INC application”) (Exhibit 4), p. 2.

<sup>38</sup> AGB, (Exhibit 1), p. 4-12.

<sup>39</sup> Nevertheless, the EIU specifically faulted the .INC, .LLC and .LLP applications on this very point.

<sup>40</sup> This is the Secretary of State in 37 of the 50 U.S. states and Puerto Rico. The exceptions are: Alaska (Commissioner of the Department of Commerce, Community and Economic Development); Arizona (Arizona Corporation Commission); District of Columbia (Superintendent of Corporations); Hawaii (Director, Department of Commerce and Consumer Affairs); Maryland (Director, Department of Assessments and Taxation); Massachusetts (Secretary of the Commonwealth); Michigan (Director, Department of Licensing and Regulatory Affairs); New Jersey (State Treasurer); New Mexico (Public Regulation Commission); Pennsylvania (Secretary of the Commonwealth); Utah (Director, Division of Corporations and Commercial Code); Virginia (State Corporation Commission); Wisconsin (Secretary, Department of Financial Institutions); Guam (Director, Department of Revenue and Taxation); Northern Marianas Islands (Registrar of Corporations); and U.S. Virgin Islands (Commissioner, Department of Licensing and Consumer Affairs). For ease of exposition, “Secretary of State” will be used to refer to all of these authorities.

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Community of Limited Liability Companies or the Community of Limited Liability Partnerships) has “a clear and straight-forward membership definition” that should have been given a perfect score for Delineation under both the AGB and the EIU Guidelines.

28. There is at least one entity mainly dedicated to the Community of U.S. Corporations. The offices of the Secretaries of State were established by law in each state or territory to administer such registrations, which are the *sine qua non* of membership in the .INC, LLC and LLP communities. It is apparent that even the *EIU Guidelines* permit the several Secretary of State offices to have additional functions and responsibilities (such as, for example, administering elections). According to the *EIU Guidelines*,

“Organized” implies that there is *at least one entity* mainly dedicated to the community, with documented evidence of community activities [emphasis added].<sup>41</sup>

The *EIU Guidelines* immediately add the following:

“Mainly” could imply that *the entity administering the community may have additional roles/functions beyond administering the community*, but one of the key or primary purposes/functions of the entity is to administer a community or a community organization [emphasis added].<sup>42</sup>

29. Nonetheless, the EIU expressed the following view:

In addition, the offices of the Secretaries of State of US states are not mainly dedicated to the community *as they have other roles/functions* beyond processing *corporate* registrations [emphasis added].<sup>43</sup>

Interestingly, the EIU used precisely the same wording to dispose of Dot Registry’s .LLC and .LLP community applications, even though the records that LLCs and LLPs file with their respective Secretaries of State obviously are not “corporate” records. This suggests that the Dot Registry community applications for .LLC and .LLP may not have been

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<sup>41</sup> Exhibit 2, p. 4.

<sup>42</sup> Ibid.

<sup>43</sup> .INC Report (Exhibit 7), p, 2,

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evaluated as independent applications, as was required, but rather were evaluated as a group with the .INC application.

30. There is documented evidence of community activities. The publicly accessible records of corporate registrations maintained by the Secretaries of State constitute documented evidence of the activities of the Community of U.S. Corporations. Owing to the fact that these entities are the repositories of the documents needed to accomplish the initial registrations of community members as U.S. corporations and thereafter to maintain these registrations, there is considerable documentary evidence of these defining community activities.
31. The Community of U.S. Corporations has been in active existence since long before September 2007. Corporations have been formed in the U.S. since the early 1800s; thus the Community of U.S. Corporations easily satisfies this criterion.
32. The EIU Guidelines specifically provide that a community consisting of legal entities is permitted by the Applicant Guidebook. The EIU Guidelines specifically say that a community comprised of legal entities is a viable community under the AGB, “provided the requisite awareness and recognition of the community is at hand among the members.”<sup>44</sup> As I explain next, the members of the Community of U.S. Corporations possess that awareness and recognition.
33. The individual members of the .INC community have the requisite awareness and recognition of that community.<sup>45</sup> This is because its members are required to actively complete a number of conscious, overt and externally observable steps to register as corporations in the first place. Thereafter, they must regularly and consciously take additional overt and externally observable actions over time to maintain their memberships (i.e., their corporate registrations) in good standing. Thus, membership in the .INC community must be consciously sought and actively achieved; such membership is neither passive nor inadvertent.
34. Indeed, it is by that decision itself to become a corporation—and to satisfy the many legal steps required to register as a corporation and to maintain that registration—that

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<sup>44</sup> Exhibit 2, p. 6.

<sup>45</sup> The AGB does not provide any further definition or explanation for “awareness and recognition of a community among its members”.

applicants demonstrate (1) their awareness and recognition of the community of corporations and (2) their intention to formally become members of it.

35. So the EIU got it right when it said that the only requirement for membership in the community of corporations “is formal registration as a corporation with the relevant US state.”<sup>46</sup> In other words, it is by their individual decisions to register as corporations and their completion of the steps necessary to do so that the members of the community of corporations evidence their awareness and recognition of that community and their intention to become members of that community. This by itself should have been sufficient to award the application the full 4 points.
36. According to the *gTLD Applicant Guidebook*, there are two criteria that must be achieved in order for Dot Registry’s community application for the .INC TLD to prevail on **Criterion #1: Community Establishment**. The EIU was supposed to determine whether or not the Dot Registry application for the .INC string evidenced the requisite **Delineation** (sub criterion **1-A**) and **Extension (1-B)**. In its CPE Report, the EIU concluded that the Dot Registry application failed both of these prongs of **Criterion #1: Community Establishment**. However, for the reasons explained below, I conclude otherwise.

- **.INC 1-A Delineation**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

37. Dot Registry’s score under sub criterion **1-A Delineation** was supposed to have been determined by whether or not the .INC community demonstrated the necessary Delineation,<sup>47</sup> Organization and Preexistence. According to the EIU’s interpretation of the *Applicant Guidebook*, the Delineation sub criterion in turn required, among other things, an “awareness and recognition of a community (as defined by the applicant) among its

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<sup>46</sup> .INC Report (Exhibit 7), p. 2.

<sup>47</sup> The AGB unhelpfully uses “Delineation” at two different levels of the analytical framework for a community application: First, “1-A Delineation” is the name given to one of the two principal sub criteria under **Criterion #1: Community Establishment** (the other is “1-B Extension”). Then “Delineation” is used a second time to refer to one of the three “sub sub criteria” *under* “1-A Delineation” (the other two are “Organization” and “Pre-existence”). In this report—in an attempt to minimize the obvious potential for confusion—these different-level usages are distinguished as **1-A Delineation** and Delineation, respectively.

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members” as a necessary condition. If the EIU failed the application on this “awareness and recognition of a community among its members” requirement, it did not matter whether the other requirements for Delineation or the requirements for Organization and Preexistence were satisfied. The application would still lose both of the 2 points available under **1-A Delineation**.

Delineation

38. The EIU agreed that the .INC community shows a clear and straightforward membership, thus satisfying the first prong of the Delineation sub criterion:

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

39. In my opinion, Dot Registry’s .INC community is in fact *better* defined than are the communities at issue in the .HOTEL, .RADIO, .ECO and .OSAKA applications that prevailed before the EIU. Neither the *Applicant Guidebook* nor the *EIU Guidelines* provide a concrete meaning for “define” and “definition”. If these are taken to mean or include—as I would regard as reasonable—a rule or standard that would enable an external observer to confidently say whether or not a particular entity was a community member, it is my opinion that each of the three Dot Registry communities (.INC, .LLC and .LLP) are *better* defined than the communities in the community applications (.HOTEL, .RADIO, .ECO and .OSAKA) that *did* prevail in EIU CPE Evaluations. For example:
40. The application for .HOTEL clearly stated that “only entities which fulfil [the ISO definition of “Hotel”] are members of the Hotel Community and eligible to register a domain name under .hotel.” Next, it quoted that definition (“A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available”) before declaring

*“Therefore only entities which fulfill this definition are members of the Hotel Community and eligible to register a domain name under .hotel [emphasis added].”<sup>48</sup>*

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<sup>48</sup> .HOTEL Report (Exhibit 11), p. 2.

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41. But when the applicant then added “hotel marketing organizations”, “associations representing hotels and hotel associations” and “other organizations representing hotels, hotel owners and other solely hotel related organizations” – entities that clearly are *not* hotels under the definition provided by the applicant—the EIU concluded nevertheless that:

This community definition shows a clear and straightforward membership. The community is clearly defined because membership requires entities/associations to fulfill the ISO criterion for what constitutes a hotel [“a hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available.”].<sup>49</sup>

The EIU’s conclusion in respect of .HOTEL makes no sense at all. The applicant’s community definition clearly included entities (such as marketing organizations, associations and organizations representing hotels, etc.) that do *not* satisfy the ISO criterion for what constitutes a hotel.

42. The EIU’s logic in scoring the .RADIO community application for Delineation is even more bewildering. First, the EIU approvingly quoted the applicant for the following:

The Radio industry is composed of a huge number of *very diverse* [emphasis added] radio broadcasters: public and private; international and local; commercial or community-oriented; general purpose, or sector-specific; talk or music; big and small. All licensed radio broadcasters are part of the .radio community, and so are the associations, federations and unions they have created... Also included are the radio professionals, those making radio the fundamental communications tool that it is.

However, the Radio industry keeps evolving and today, many stations are not only broadcasting in the traditional sense, but also webcasting and streaming their audio content via the Internet. *Some are not broadcasters in the traditional sense* [emphasis added]: Internet radios are also part of the Radio community, and as such will be acknowledged by the .radio TLD, as will podcasters. In all cases certain minimum standards on streaming or updating schedules will apply.

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<sup>49</sup> Ibid.

The .radio community also comprises the often overlooked amateur radio, which uses radio frequencies for communications to small circles of the public. Licensed radio amateurs and their clubs will also be part of the .radio community.

Finally, the community includes a variety of companies providing specified services or products to the Radio industry.<sup>50</sup>

43. Surprisingly, the EIU nonetheless concluded:

*This community definition shows a clear and straightforward membership and is therefore well defined* [emphasis added]. Association with, and membership in, the radio community can be verified through licenses held by professional and amateur radio broadcasters; membership and radio -related associations, clubs and unions; internet radios that meet certain minimum standards; radio-related service providers that can be identified through trademarks; and radio industry partners and providers.<sup>51</sup>

44. Even more surprising is what the EIU concluded next:

*[T]he community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities and individuals that are in the radio industry* [footnote omitted], *and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community* [emphasis added].<sup>52</sup>

45. One is left wondering whether the EIU's "standards" have any constancy at all if the EIU is able to conclude that the .RADIO community is "clearly defined" and that, *solely on the basis of their participation in this "clearly defined industry"*, they have "an awareness and recognition of their inclusion in the industry community."

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<sup>50</sup> .RADIO Report (Exhibit 10), pp. 1-2.

<sup>51</sup> Ibid. p. 2.

<sup>52</sup> Ibid.

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46. Applying the EIU's logic to the .INC community (a community that the EIU also found to be "clearly defined"), it necessarily follows that members of the .INC community similarly have "an awareness and recognition of their inclusion" in the .INC community.
47. In any event, I conclude that the .INC community does meet the AGB requirement for Delineation because there is ample evidence that:
- a. membership in the .INC community is both clear and straightforward,
  - b. members of the .INC community possess the requisite awareness and recognition of that community, and that
  - c. INCs from different sectors and regions *do* associate themselves with being part of the broader Community of U.S. Corporations.

Organization

48. According to the EIU, "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 *EIU Guidelines* add that:
- "Mainly" could imply that the entity administering the community may have additional roles/functions beyond administering the community, but one of the key or primary purposes/functions of the entity is to administer [the community].<sup>53</sup>
49. This requirement is satisfied by the individual Secretaries of State of the U.S. states, territories and the District of Columbia. These entities were constitutionally and/or legislatively established to administer the community of corporations within their respective jurisdictions. Moreover, these constitutional and/or legislative provisions clearly identify the community of corporations authorized to conduct business within their jurisdictions.
50. Inexplicably, the EIU decided otherwise. But it did so after first re-writing the requirements in the AGB and ignoring its own *EIU Guidelines*:

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<sup>53</sup> Exhibit 2, p. 4.



The [.INC] community as defined in the application does not have at least one entity mainly dedicated to the community. Although responsibility for corporate registrations and the regulations pertaining to corporate formation are vested in each individual US state, these government agencies are *fulfilling a function*, rather than *representing* the community. In addition, the offices of the Secretaries of State of US states are not *mainly* dedicated to the community as they have other roles/functions beyond processing corporate registrations [emphases added].<sup>54</sup>

51. According to the *Applicant Guidebook* and the *EIU Guidelines*, the relevant question is whether or not the several Secretaries of State are *dedicated* to the community of corporations, not whether they are merely “fulfilling a function” relevant to the community or whether they only “represent” it. It appears that the EIU first rewrote the requirement for Organization and then found that the .INC community failed to satisfy the EIU’s rewritten version.
52. Moreover, the EIU ignored its own *Guidelines*, which clearly provide that “the entity administering the community may have additional roles/functions beyond administering the community.”<sup>55</sup> All that is required is that “*one* of the key or primary purposes/functions of the entity is to administer” [emphasis added] the community.<sup>56</sup>
53. Finally, the EIU decided that the .INC community “does not have documented evidence of community activities” for the reason that “there is no entity mainly dedicated to the community as defined in the .INC application.”<sup>57</sup> This was because, said the EIU, the several Secretaries of State were not *mainly* dedicated to the community of corporations. As discussed above, the EIU ignored its own *EIU Guidelines*, which explicitly allow for the possibility that “the entity administering the community may have additional roles/functions beyond administering the community.”<sup>58</sup>
54. In view of the foregoing, I conclude that there is considerable evidence of community activities. It consists of the overt steps taken, and records created, in connection with the

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<sup>54</sup> .INC Report (Exhibit 7), p. 2.

<sup>55</sup> Exhibit 2, p. 4.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

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individual decisions made on behalf of would be corporations to register as such under the applicable laws, and thereafter to maintain these registrations.

55. Also in view of the foregoing, I conclude that Dot Registry community application for the .INC string does fulfill both requirements for Organization.

Pre-existence

56. The only requirement for Pre-existence is that the .INC community must have been active prior to September 2007. The EIU concluded that this putative community could not possibly have been active prior to that date because it deemed the .INC community to be an invention of the Dot Registry applicant in order “to obtain a sought-after-after corporate identifier as a gTLD string.”<sup>59</sup> The EIU “justified” this conclusion on the ground that “corporations would typically not associate themselves with being part of the [.INC] community as defined by the applicant.”<sup>60</sup> The EIU did not offer any research or other evidence to support this assertion.
57. In my opinion, the EIU is clearly in error. First, it is implicitly imposing a requirement of its own invention—rather than one set forth in the AGB—regarding how putative community members must “associate themselves.” Second, there is ample evidence showing that corporations *do* associate themselves with being part of the community of U.S. corporations writ large. Such evidence is outlined below.
58. In view of the foregoing, it is my opinion that Dot Registry’s .INC application actually satisfies all three of the requirements—Delineation, Organization and Pre-existence—for **1-A Delineation**. The EIU should have awarded it the maximum possible 2 points.

- **.INC 1-B Extension**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

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<sup>59</sup> .INC Report (Exhibit 7), p. 3.

<sup>60</sup> Ibid.

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59. Next, according to the AGB, Dot Registry’s score under sub criterion **1-B Extension** was supposed to be determined by whether or not the .INC community demonstrated the necessary Size and Longevity. But the EIU held that each of these two sub criteria also required the necessary “awareness and recognition of a community (as defined by the applicant) among its members.”<sup>61</sup> Supposedly unable to detect the requisite “awareness and recognition of a community,” the EIU was unpersuaded by the fact that the .INC community met the other requirements for Size and Longevity. *Essentially, the EIU failed Dot Registry’s applications for .INC, .LLC and .LLP solely because the EIU did not find an “awareness and recognition” of a community among the respective members. To the EIU, this justified its decision to award 0 points under both 1-A Delineation and 1-B Extension in spite of the fact that these applications met all of the other AGB requirements. The loss of all 4 points under Criterion #1: Community Establishment effectively guaranteed that Dot Registry’s applications for .INC, .LLC and .LLP would not prevail.*

Size

60. The EIU conceded that the .INC community is of considerable size because it “is large in terms of [its] number of members [citing figures from the Dot Registry application on the number of new U.S. corporations registered in a single year and the total number currently registered].”<sup>62</sup>
61. But the EIU discounted this showing on the ground that the .INC community did not have the requisite “awareness and recognition of a community among its members.”

This is because corporations operate in vastly different sectors, which sometimes have little or no association with one another. *Research showed* that firms are typically organized around specific industries, locales, and other criteria not related to the entities [sic] structure as an INC. *Based on the Panel’s research*, there is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. These incorporated firms would therefore not typically associate themselves with being part of the community as defined by the applicant [emphases added].<sup>63</sup>

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<sup>61</sup> Ibid.

<sup>62</sup> Ibid. p. 3.

<sup>63</sup> .INC Report (Exhibit 7), p. 3 2. It would be very useful—and likely illuminating—to be able to review the EIU’s “research”. See Section J below.

62. I have already addressed this particular misapprehension on the part of the EIU. To repeat, I find nothing in the AGB regarding how community members are supposed to “associate themselves”. And the EIU’s misapprehension is amply refuted by the examples below, which show that corporations do associate among themselves as corporations in general, without necessarily limiting themselves to particular industries, locales or sectors. There is no indication as to what research the EIU conducted.
63. In my opinion, the EIU should have concluded that Dot Registry’s .INC application satisfied both requirements for Size.

#### Longevity

64. The AGB requires that two conditions be fulfilled in order for Dot Registry’s .INC application to meet the Longevity sub criterion: the .INC community must demonstrate longevity and it must display an awareness and recognition of a community among its members. The EIU decided that the .INC application did neither, based on its previous misapprehensions that (a) the .INC community was “construed” because “corporations would typically not associate themselves with being part of the [.INC] community”, and (b) the putative .INC community “does not have awareness and recognition of a community among its members.”<sup>64</sup>
65. Both of these judgments by the Panel are in error, as has already been explained above. Accordingly, I conclude that Dot Registry’s .INC application satisfied the Longevity requirement under **1-B Extension**.
66. Because the .INC application had also met the conditions for Size, the Panel should have awarded it the maximum possible 2 points for **1-B Extension**.
67. Next, I address the EIU CPE Panel’s general conclusions that Dot Registry’s .INC community failed to fulfill either of the two AGB requirements for Organization under **1-A Delineation**, namely that there must be at least one entity mainly dedicated to the community and there must be documented evidence of community activities.

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<sup>64</sup> .INC Report (Exhibit 7), p. 4.

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68. There are several entities dedicated to the Community of U.S. Corporations. Chief among them is the **National Association of Secretaries of State (NASS)**<sup>65</sup> that was cited in Dot Registry's application for .INC.

69. According to the NASS website

Founded in 1904, the **National Association of Secretaries of State (NASS)** is the nation's oldest, nonpartisan professional organization for public officials. Members include the 50 states, the District of Columbia, Puerto Rico and American Samoa. NASS serves as a medium for the exchange of information between states and fosters cooperation in the development of public policy. The association has key initiatives in the areas of elections and voting and state business services, as well as issues-oriented Task Forces. NASS Committees cover a range of topics related to the Office of the Secretary of State/Lieutenant Governor...NASS is a 501(c)(3) non-profit that utilizes its support from *corporate affiliates* to help further the association's stated mission by funding daily operations, supporting high-caliber programming at NASS conferences, underwriting NASS research, surveys and other educational materials [emphasis added].<sup>66</sup>

70. The membership of the **NASS** itself is limited to public officials such as Secretaries of State and Lieutenant Governors. According to the NASS website

Most NASS member offices handle the registration of domestic and/or foreign corporations (profit and non-profit). Transactions include filings of incorporation, partnerships (including limited partnerships), articles of merger/consolidation, and articles of dissolution.<sup>67</sup>

71. On the NASS home page, the first two Featured Links are titled "Prevent Business ID Theft" and "Find Business Services". After these, the link to "Get Help with Voting" is listed third. This appears to undermine the EIU CPE Panel's dismissal of Secretaries of State on the ground that

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<sup>65</sup> Website: <http://www.nass.org>

<sup>66</sup> "About NASS," accessed June 2015, <http://www.nass.org/about-nass/about/>

<sup>67</sup> <http://www.nass.org/state-business-services/corporate-registration/>

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[T]he offices of the Secretaries of State of US states are not mainly dedicated to the [community of corporations] as they have other roles/functions beyond processing corporate registrations.<sup>68</sup>

72. Importantly, NASS prominently features the “NASS Corporate Affiliate Program”<sup>69</sup> as “an excellent way to share ideas and build relationships with key state decision makers while supporting the civic mission of [NASS].” These Corporate Affiliates include applicant Dot Registry LLC<sup>70</sup> and are listed individually at the NASS website.<sup>71</sup> NASS also publishes “Surveys and Reports”<sup>72</sup> that are primarily for the benefit of corporations and other businesses. These include:

- *Report: State Strategies to Subvert Fraudulent Uniform Commercial Code Filings* (Released 2012; updated April 2014)
- *NASS Summary of Business Entity Information Collected by States* (March 2014)
- *NASS Survey on Administrative Dissolution of Business Entities* (March 2014)
- *White Paper Streamlining for Success: Enhancing Business Transactions with Secretary Of State Offices* (February 2014)
- *Updated NASS Company Formation Task Force Report and Recommendations* (September 2012)
- *NASS White Paper - Developing State Solutions to Business Identity Theft: Assistance, Prevention, and Detection* (January 2012)

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<sup>68</sup> .INC Report (Exhibit 7), p. 2.

<sup>69</sup> <http://www.nass.org/corppaffiliates/about-corp-affiliate-program/>

<sup>70</sup> Posted on the NASS website is a white paper authored by Dot Registry LLC titled “ICANN New gTLD Process” (**white-paper-dot-registry-winter 15.pdf**) that was distributed at the NASS Winter 2015 meetings.

<sup>71</sup> <http://www.nass.org/contact/corp-affiliates/>

<sup>72</sup> These are listed at <http://www.nass.org/reports/surveys-a-reports/>

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- *NASS Business Identity Theft Toolkit & NASS Business Identity Theft Fact Sheet* (July 2011)
- *Updated Report: State Business Entity Laws* (May 2009)

73. Perhaps the EIU CPE Panel's certainty that

[T]here is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. There is no evidence that these incorporated firms would associate themselves with being part of the community [of U.S. corporations] as defined by the applicant.<sup>73</sup>

can partially be explained by the fact that corporations are legal, not human, persons. They can and do act only through their officers and their boards of directors. It is through such actions on the part of their officers and their boards, including their interactions with their regulators, that corporations also demonstrate their awareness and recognition of a community.

74. Despite the EIU CPE Panel's apparent certainty that they do not exist, there are many societies, associations and other organizations whose membership and activities coincide with the Community of U.S. Corporations. Importantly, none of these are limited to particular industries or regions of the U.S. They include:

75. **The Business Roundtable.**<sup>74</sup> According to its website:

Business Roundtable members are the chief executive officers of leading U.S. companies. Collectively, *they represent every sector of the economy* [emphasis added] and bring a unique and important perspective to bear on policy issues that imp act the economy. Roundtable members are thought leaders, advocating for policy solutions that foster U.S. economic growth and competitiveness.

...

*Business Roundtable was established in 1972* through the merger of three existing organizations.... These groups founded Business Roundtable on the belief that in a

<sup>73</sup> .INC Report (Exhibit 7), p. 2.

<sup>74</sup> Website: <http://businessroundtable.org/>

pluralistic society, the business sector should play an active and effective role in the formation of public policy.

76. **The National Association of Corporate Directors (NACD).**<sup>75</sup> According to its website

The National Association of Corporate Directors is the recognized authority focused on advancing exemplary board leadership and establishing leading boardroom practices. Informed by more than 35 years of experience, NACD delivers insights and resources that more than 15,000 corporate director members rely upon to make sound strategic decisions and confidently confront complex business challenges. NACD provides world-class director education programs, national peer exchange forums, and proprietary research to promote director professionalism, ultimately enhancing the economic sustainability of the enterprise and bolstering stakeholder confidence. Fostering collaboration among directors, investors, and governance stakeholders, NACD is shaping the future of board leadership.

77. **The Society of Corporate Secretaries & Governance Professionals.**<sup>76</sup> According to its website:

Founded in 1946, the Society of Corporate Secretaries and Governance Professionals, Inc. (the "Society") is a non-profit organization (Section 501(c)(6)) comprised principally of corporate secretaries and business executives in governance, ethics and compliance functions at public, private and not-for-profit organizations. Members are responsible for supporting their board of directors and executive management in matters such as board practices, compliance, regulation and legal matters, shareholder relations and subsidiary management.

The Society seeks to be a positive force for responsible corporate governance, providing news, research and "best practice" advice and providing professional development and education through seminars and conferences. The Society is administered by a national staff located in New York City, by members who

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<sup>75</sup> Website: <https://www.nacdonline.org/>

<sup>76</sup> Website: <http://www.governanceprofessionals.org>



serve on board and standing committees and through the member activities of 21 local chapters.

78. **The Society of Corporate Compliance and Ethics (SCCE).**<sup>77</sup> According to its website

The Society of Corporate Compliance and Ethics (SCCE) is a 501(c)6 member-based association for regulatory compliance professionals. SCCE was established in 2004 and is headquartered in Minneapolis, MN. We provide training, certification, networking, and other resources to nearly 5,000 members. Our members include compliance officers and staff from a wide range of industries. The need for guidance in meeting regulatory requirements extends to a wide range of sectors, including academics, aerospace, banking, construction, entertainment, government, financial services, food and manufacturing, insurance, and oil, gas and chemicals. SCCE assists compliance managers and corporate boards in all. Our [events](#), [products](#), and [resources](#) aim to educate and update our members with the latest news and resources available. We offer training, certification, and publications committed to improving the quality and acknowledgment of the compliance industry. SCCE helps members protect their companies and advance their careers through services including education, updates on regulatory requirements and enforcement, and access to a rich professional network. SCCE currently has more almost 5,000 members. Plus over 2,500 compliance professionals hold the Corporate Compliance & Ethics Professional (CCEP) certification and over 500 hold the Corporate Compliance & Ethics Professional-International (CCEP-I).

79. In view of the NASS and the other organizations discussed above, it is my opinion that the EIU erred when it concluded that

[T]his application [for .INC by Dot Registry] refers to a “community” construed to obtain a sought-after corporate identifier as a gTLD string, *as these corporations would typically not associate themselves with being part of the community as defined by the applicant* [emphasis added].<sup>78</sup>

80. In particular, the EIU erred in concluding that

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<sup>77</sup> Website: <http://www.corporatecompliance.org>

<sup>78</sup> .INC Report (Exhibit 7), p. 4.

[C]orporations operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC. Based on the Panel’s research, *there is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook. There is no evidence that these incorporated firms would associate themselves with being part of the community as defined by the applicant* [emphases added].<sup>79</sup>

Again, the AGB requires only that the constituents of a community be *members* of that community. There is no requirement that members of a community “*act*” as a community (whatever that might mean). Moreover, as I have shown above, there is ample evidence of INCs from different regions and economic sectors acting as members of—and associating themselves with—being part of the Community of U.S. Corporations that Dot Registry has defined. Again, it is not clear to me what research was undertaken by the EIU.

## E.2. .INC Criterion #2: Nexus between Proposed String and Community

81. In applying this criterion, the EIU CPE Panel was supposed to determine whether or not Dot Registry’s .INC string is commonly known by others as the identification/name of the community of registered U.S. corporations (for a score of 3 points) or whether that .INC string closely describes that community without “over-reaching substantially beyond” the community of registered U.S. corporations.”<sup>80</sup>
82. In its community application, Dot Registry itself disclosed that the .INC string is used outside of the U.S.:

Our research indicates that Inc. as [a] corporate identifier is used in three other jurisdictions (Canada, Australia, and the Philippines) though their formation regulations are different from the United States in their entity designations would not fall within the boundaries of our community definition.<sup>81</sup>

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<sup>79</sup> .Ibid., p. 2.

<sup>80</sup> AGB, p. 4-13 (Exhibit 1)

<sup>81</sup> .INC Application (Exhibit 4), p. 6.

- **.INC 2-A Nexus**

<b>Maximum score</b>	<b>3 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

83. To receive the maximum, score of 3 points for **2-A Nexus**, Dot Registry’s .INC string must match the community of registered US corporations or be a well-known short-form or abbreviation of the community name. To receive a partial score of 2 points for Nexus, the [.INC] string must identify the community where “identify” means that the applied-for [.INC] string should closely describe the community [of registered U.S. corporations] or community members, without over-reaching *substantially* beyond that community.<sup>82</sup>
84. The EIU CPE Panel faulted the Dot Registry application on the supposed ground that
- The applied-for string (.INC) over-reaches *substantially*, as the string indicates a wider or related community of which the applicant is a part that is not specific to the applicant’s community...While the string identifies the name of the community, it captures a wider geographical remit than the [.INC] community has, as the corporate identifier is used in Canada, Australia and the Philippines. *Therefore, there is a substantial over-reach* between the proposed [.INC] string and [the community of registered U.S. corporations] as defined by the applicant [emphases added].<sup>83</sup>
85. It is unclear how—and according to what standard or metric—the Panel determined that the usage of “Inc.” in Australia, Canada and the Philippines caused the Dot Registry application (targeting the community of U.S. corporations) amounts to *substantial* overreach.
86. Based on the dictionary meaning of “substantial”,<sup>84</sup> the use of “Inc.” in Australia, Canada and the Philippines would have to be so “considerable” or “great” in comparison to its use in the U.S. that such usage would “largely” but not “wholly” equal to its usage in the U.S.

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<sup>82</sup> AGB, p. 4-13.

<sup>83</sup> .INC Report (Exhibit 7), pp. 4-5.

<sup>84</sup> According to the *Merriam Webster’s Collegiate Dictionary* (10<sup>th</sup> ed.), “substantial” is defined as “considerable in quantity: significantly great” (Definition 3 b) or “being largely but not wholly that which is specified” (Definition 5).

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itself. In my opinion, this would require that the economic magnitude/significance of the usage of “Inc.” in these three countries amounts to, at a minimum, significantly more than half of the appropriately-measured economic magnitude of its usage in the U.S. itself.

87. But on closer examination, it is clear that the EIU did not regard it as necessary to provide any quantification of the supposed “over-reach” in order to determine whether or not it was “substantial”. Instead, the EIU decided for itself that *any* over-reach was *ipso facto* “substantial,” without there being any need to measure it.<sup>85</sup>
88. According to the AGB, only if a string “over-reach[es] *substantially* [emphasis added] beyond the community” would a community application be denied any points whatsoever under **2-A Nexus**. Importantly, the AGB does not provide any metric for determining whether any “over-reach” —even assuming it exists at all—is “substantial”. Presumably, if an applied-for string “over-reaches” only slightly, this should result in a score of 2 points. It would not be grounds for giving a community application 0 points under the **2-A Nexus** criterion, sufficient to ensure that the application could not prevail.
89. It appears that the EIU took it upon itself to first re-write the AGB criteria. Where the AGB is concerned only with *substantial* over-reach (something it neither defines nor quantifies), the EIU effectively dropped the *substantial* condition and decided that *any* “over-reach” —no matter how small or even trivial—is *ipso facto substantial*. Here is the criterion as restated by the EIU:
- “Over-reaching substantially” means that the string indicates a wider geographical or thematic remit than the community has.<sup>86</sup>
90. In short, *any* “geographical or thematic remit” that is “wider” than the community—no matter by how little or how much, quantitatively speaking—is deemed to be a “substantial over-reach” by the EIU that justifies awarding the community application at issue 0 points under **2-A Nexus**.
91. It is my considered view that Dot Registry’s .INC string qualifies for at least a score of 2 points under **2-A Nexus** because it is commonly known as the identifying abbreviation for U.S. corporations. To the extent that “Inc.” is also used in Canada, Australia and the Philippines, such usage is not *substantial*, as I demonstrate next.

<sup>85</sup> EIU Guidelines (Exhibit 2), p. 7.

<sup>86</sup> EIU Guidelines (Exhibit 2), p. 6.

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92. To test whether or not Dot Registry's .INC TLD string *substantially* overreaches, the EIU first should have assembled and analyzed data showing the incidence of the corporate delimiters "Inc." and "Corp." (in comparison to other possible business entity abbreviations such as "Ltd.", "GmbH", AB, SARL, and the like) in countries other than the U.S. Next, it should have determined the economic significance of such usage (for example, by determining the relative number and size of the business entities in Canada, Australia and the Philippines that use "Inc." or "Corp." and then compared that economic significance to the economic significance of U.S. companies that use "Inc." or "Corp.")
93. What the EIU should have done was to identify and analyze representative data on the actual usage of "Inc." in each of Australia and Canada and the Philippines in comparison to its usage in the U.S. But again, it does not appear that the EIU made any effort even to investigate, much less to quantify, the economic significance of the non-U.S. usage.<sup>87</sup>
94. Upon investigation, it does appear that "Inc." is used in Australia, but not to designate corporations. Instead, its use there appears to be restricted to nonprofit associations. In Canada, "Inc." is used along with "Ltd.", "Limited", "Corporation" and "Incorporated". "Inc." also is used in the Philippines along with the abbreviations "Corp." and "Co." (although it also appears that the use of "Co." is reserved for partnerships in the Philippines.) I was unable to find any use of "Inc." (or "Incorporated") in any other country.
95. Next I turned to the actual incidence and economic significance of the usage of "Inc." in each of the three countries that Dot Registry identified. In order to do this, it first was necessary to identify and analyze a large, representative, publicly-available data set showing the distribution and economic significance of all corporate identifiers in each of Australia, Canada, the Philippines and the U.S.
96. I elected to use the *Forbes Global 2000* data set published by Forbes on May 7, 2014.<sup>88</sup> This data set identified the largest 2,000 of the world's public companies, based on a composite ranking using four metrics measured as of April 1, 2014: sales, profits, assets and market

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<sup>87</sup> As noted above, the EIU appears to have looked no further than the information volunteered by Dot Registry itself.

<sup>88</sup> <http://www.forbes.com/sites/forbespr/2014/05/07/forbes-11th-annual-global-2000-the-worlds-biggest-public-companies/>. See Exhibit 14.

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value.<sup>89</sup> I chose to use the fourth metric—market value (alternatively, market capitalization or “market cap”)—as the measure of each company’s relative economic significance.

97. A total of 560 U.S. corporations were included in the *Forbes Global 2000*. These 560 corporations had an aggregate market capitalization of \$18,188.1 trillion dollars.<sup>90</sup> I adopted this figure as an appropriate proxy for the usage of “Inc.” or “Corp.” in the U.S. Then the relevant question I sought to answer was: What was the corresponding market capitalizations of the *Forbes Global 2000* companies in Australia, Canada and the Philippines that use the identifiers “Inc.” or “Corp.”?
98. It is my opinion that a comparison of these equivalent market capitalization figures for Australia, Canada and the Philippines to the \$18,188.1 trillion market cap of the 560 U.S. corporations in the *Forbes Global 2000* would provide a reasonable basis for determining the extent to which the use of “Inc.” or “Corp.” in these three countries was economically significant. This in turn would be an appropriate basis for determining whether or not Dot Registry’s .INC string *substantially* “over-reaches” the community of U.S. corporations. Here is what I found:
99. A total of 36 Australian business entities were included in the 2014 edition of the *Forbes Global 2000* data set. As I have tabulated in Exhibit 14, these 36 firms had an aggregate market capitalization of \$1,008.7 billion, or 5.5% percent of the aggregate market cap of the U.S. corporations in the same data set. Next, using information available in the *Forbes* data set, I was able to readily determine the identifier used by 29 of these 36 Australian entities: just one used “Inc.”; all of the remaining 28 were officially designated as “Ltd.” or “Limited”.
100. From this, I estimated that 1/29—or just 3.4%—of the Australian aggregate market cap of \$1,008.7 trillion (or \$34.8 billion) should be attributed to Australian entities using “Inc.” or “Corp.” This \$34.8 billion amounted to only 0.2% of the aggregate market capitalization of the 560 U.S. Corporations in the *Forbes Global 2000*. (Exhibit 14)
101. Similarly, a total of 57 Canadian businesses were listed in the 2014 *Forbes Global 2000* data set with an aggregate market capitalization of \$1,210.0 billion, or 6.7 percent of the

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<sup>89</sup> Measured in U.S. dollars as of April 1, 2014, after conversion from the local currencies by Forbes.

<sup>90</sup> All four metrics reported in the *Forbes Global 2000* are measured in U.S. dollars, which greatly facilitated my calculations.

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aggregate market cap of the 560 U.S. corporations in the data set. Again, using other information available in the *Forbes* data, I estimated that 75.5% (i.e., 37/49) of these Canadian corporations were identified by “Inc.” or “Corp.” (The rest used “Ltd.” or “Limited”.)

102. From this, I estimated that 75.5% of the Canadian aggregate market cap of \$1,210.0 billion in the *Forbes* data set, or \$913.7 billion, could be attributed to Canadian entities using “Inc.” or “Corp.”
103. A total of 10 Filipino business entities were included in the 2014 edition of the *Forbes Global 2000* data set. As summarized in Exhibit 14, these 10 firms had an aggregate market capitalization of \$72.2 billion, or 0.4% percent of the aggregate market cap of the 560 U.S. corporations in the *Forbes* data. Then, using other information contained in the *Forbes* data set, I determined that 6 out of 9 or 66.7% used the identifiers “Inc.” or “Corp.”<sup>91</sup>
104. This enabled me to estimate that 66.7% of the aggregate \$72.2 billion in market capitalization—or \$48.1 billion—should be attributed to Filipino entities that used the “Inc.” or “Corp.” identifiers.
105. This finally allowed me to answer the question: In comparison to their usage in the U.S., can the usage of “Inc.” or “Corp.” in Australia, Canada and the Philippines *combined* be considered *substantial*? Put differently, is the non-U.S. usage of the .INC string so great that it “over-reaches substantially” beyond the U.S.?
106. As a result of the foregoing analysis (summarized in Exhibit 14), I have concluded that the Dot Registry’s restriction of the .INC string to the U.S. does *not* amount to *substantial* “over-reach”. This is because the best estimate of the aggregate market capitalization of the companies in Australia, Canada and the Philippines using the “Inc.” or “Corp.” identifier in the *Forbes Global 2000* is \$34.8 billion + \$913.7 billion + \$48.1 billion, or a total \$996.6 billion. This is just 5.5%—not a *substantial* fraction<sup>92</sup>—of the total market capitalization of \$18,188.1 billion of the 560 U.S. corporations in the *Forbes* data.
107. But the data I analyzed do show that there is some—albeit small—usage of “Inc.” outside the U.S. While such usage is not “substantial”, it still means that the .INC string does not

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<sup>91</sup> The others used “Co.”, which I understand identifies a general partnership in the Philippines.

<sup>92</sup> Specifically, it does not even begin to approach—much less exceed—half of the total market capitalization of the U.S. corporations in the *Forbes* data.

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identify *only* U.S. corporations. While Dot Registry’s definition of the .INC community cannot be characterized as *excessively* broad, it does result in some “over-reach.” I conclude that this limits it to a score of 2 points on the **2-B Nexus** criterion.

- **.INC 2-B Uniqueness**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>1 point</b>

108. According to the EIU

To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application *and must also have a score of 2 or 3 on Nexus*.

109. As has already been shown above, the Dot Registry application for the .INC string should have been given a score of 2 on the **2-A Nexus** criterion. Consequently, the only remaining question is whether or not the .INC string has any other significant meaning. The EIU did not address this question on the ground that it had determined (erroneously, in my opinion) that the Dot Registry application for the .INC string should be awarded 0 points for **2-A Nexus**.

110. While I understand that some in the ICANN community have suggested that the .INC string also signifies “Incomplete” or “Incoming”, it also is my understanding that these suggestions appear to have originated with rival, non-community applicants for the .INC string. In any event, it is difficult to imagine that the EIU would have taken these suggestions seriously if it had actually evaluated the Dot Registry application under **2-B Uniqueness** on the merits.

**E.3. .INC Criterion #3: Registration Policies**

111. In the EIU’s original evaluation, the Dot Registry application for the .INC string was awarded the maximum of 1 point for each of the first three sub criteria (**3-A Eligibility**, **3-B Name Selection** and **3-C Content and Use**) but 0 points for the **3-D Enforcement**, the fourth sub criterion.

112. I concur with the EIU’s analysis and scoring of the Dot Registry application on the **3-A Eligibility**, **3-B Name Selection** and **3-C Content and Use** sub criteria.



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- **.INC 3-A Eligibility**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>1 point</b>

- **.INC 3-B Name Selection**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>1 point</b>

- **.INC 3-C Content and Use**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>1 point</b>

113. However, I understand that the EIU faulted the Dot Registry application for the .INC string under the **3-D Enforcement** criterion on the ground that, while it did articulate specific enforcement measures, it did not outline an “appropriate” appeals mechanism. I disagree.

- **.INC 3-D Enforcement**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>0 point</b>
<b>Correct score</b>	<b>1 point</b>

114. The EIU found that Dot Registry’s application for the .INC string did not meet the criterion for **3-D Enforcement**, on the ground that—while it did include the requisite enforcement measures—it did not satisfy the AGB requirement for an appeals process:

The [Dot Registry] applicant outlined policies that include specific enforcement measures constituting a coherent set. For example, if a registrant wrongfully applied for and was awarded a second level domain name, the right to hold this domain name will be immediately forfeited. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline *an appeals process* [emphasis added]. The

Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.<sup>93</sup>

115. But in so ruling, the EIU misstated the requirement that the Dot Registry supposedly failed to meet. The AGB requires only “*appropriate* appeals mechanisms”, and states further that:

“Enforcement” means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

...

With respect to...“Enforcement,” scoring of applications against [this sub criterion] will be done from a *holistic perspective, with due regard for the particularities of the community explicitly addressed*. [Example omitted] More restrictions do not automatically result in a higher score. *The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD* and demonstrate continuing accountability to the community named in the application [emphases added].<sup>94</sup>

116. The community-based purpose of Dot Registry’s .INC TLD is

To build confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Corporations. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Registered Community of Corporations. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant’s right to conduct business in the United States.

...

*The “.INC” gTLD will be exclusively available to members of the Community of Registered Corporations, as verified through the records of each registrant’s Secretary of State’s office (or other state official where applicable)* [emphasis added].<sup>95</sup>

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<sup>93</sup> .INC Report (Exhibit 7), p. 6.

<sup>94</sup> AGB (Exhibit 1), p. 4-16.

<sup>95</sup> .INC Application (Exhibit 4), p. 7.

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117. It is important not to overlook the fact that the fundamental requirement for membership in the .INC community—and the right to register a second-level domain under the .INC TLD—is the possession and maintenance of a valid corporate registration with office of the appropriate Secretary of State. In this regard, the records of the relevant Secretary of State’s office are dispositive: Either the would-be registrant of a second-level .INC domain is validly registered with that Secretary of State, or it is not.
118. The essential point is that in order to register a second level domain under .INC, an applicant must be a duly, currently registered Corporation as determined by the relevant Secretary of State. That determination would *not* be Dot Registry’s or its registrars’ to make; their role would be limited to verifying that the applicant has secured the necessary registration from the relevant Secretary of State or equivalent authority and that that registration is current.
119. Dot Registry will verify that the registrant of a second-level domain is a registered U.S. corporation at the time of its registration.<sup>96</sup> Thereafter a registrant’s “active” status would be verified on an annual basis with the relevant Secretary of State, as detailed in the Dot Registry application for .INC:
- Dot Registry or its designated agent will annually verify each registrant’s community status. Verification will occur in a process similar to the original registration process for each registrant, in which the registrars will verify each registrant’s “Active” status with the applicable state authority. Each registrar will evaluate whether its registrants can still be considered “Active” members of the Community of Registered Corporations...<sup>97</sup>
120. But because only duly registered corporations would be allowed to register second level domains under .INC, and because the several Secretaries of State are the ultimate arbiters of whether or not a putative corporation is indeed duly registered, it would not be within the authority of Dot Registry to provide a mechanism by which a would-be applicant could “appeal” a determination by a Secretary of State to Dot Registry or its registrars. The latter must respect the Secretary of State’s determination.

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<sup>96</sup> .INC Application (Exhibit 4) at p. 7.

<sup>97</sup> Ibid.

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121. I also note that the Dot Registry application for the .INC string does provide opportunities for redress on issues that would not raise the possibility that Dot Registry or its registrars were arrogating the authority of the relevant Secretary of State. For example, Dot Registry's application did provide for a "quasi appeals process" in the event it was unable to verify an applicant's eligibility for the .INC string with the relevant Secretary of State. This is because the application made explicit allowance for a 30 day probationary period to allow registrants to directly address the relevant Secretary of State.

Any registrant found to be "Inactive," or [ceases to be registered with the State, is dissolved and/or forfeits the domain for any reason, or is administratively dissolved by the State] will be issued a probationary warning by their registrar, allowing for the registrant to restore its active status or resolve its dissolution with the applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined 30 day probationary period, their previously assigned ".INC" will be forfeited....

[A]ny entity acquiring a ".INC" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a 30 day grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain.<sup>98</sup>

122. Dot Registry has also committed to implementation of the full panoply of ICANN's registrant rights protection mechanisms, including but not limited to:

Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; [and] stringent takedown policies in order to properly operate the registry.<sup>99</sup>

Dot Registry will provide all ICANN required rights mechanisms, including Trademark Claims Service, Trademark Post-Delegation Dispute Resolution

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<sup>98</sup> Ibid., pp. 17-18.

<sup>99</sup> Ibid., p. 18.

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Procedure (PDDRP), Registration Restriction Dispute Resolute Procedure (RRDRP), UDRP, URS and Sunrise service.<sup>100</sup>

123. If the EIU had actually taken the “holistic perspective” called for by the AGB, it would have given “due regard for the particularities” of the .INC community discussed above, and awarded Dot Registry’s .INC application the maximum possible 1 point available under **3-D Enforcement**.

124. At the same time, it should be noticed how vague, unformed or merely aspirational were the provisions for an “appropriate appeals mechanism” for certain community applications (.RADIO, .HOTEL, .ECO, .GAY and .ART submitted by Dadotart) that nonetheless were awarded the maximum possible score for **3-D Enforcement** by the EIU.<sup>101</sup>

125. The .RADIO application provided only that

An appeals process is available for all administrative measures taken in the framework of the enforcement program. The first instance of the appeals process is managed by the .radio Registry, while appeals are heard by an independent alternative dispute resolution provider.<sup>102</sup>

This is the *entirety* of the provision for an appropriate appeals process in the .RADIO community application.

126. The EIU concluded that the .ART (Dadotart) community application satisfied the requirement for an appeals mechanism on the basis of this provision (again, quoted in its entirety):

An appeals process will be available for all administrative measures taken in the framework of the enforcement program. The first instance of the appeals process will be managed by the registry service provider. The PAB [“Policy Advisory Board”] set up by Dadotart provides the second and last instance of an appeals process by itself or entrusted to an alternative

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<sup>100</sup> .INC Application (Exhibit 4) at p. 23.

<sup>101</sup> .RADIO application (Exhibit 16), .HOTEL application (Exhibit 17), .ECO application (Exhibit 19), .GAY application (Exhibit 20), .ART application (Exhibit 18).

<sup>102</sup> .RADIO application (Exhibit 16), p. 24.

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dispute resolution provider the charter of the appeals process will be promulgated by the PAB.<sup>103</sup>

127. And interestingly, the words “appeal” or “appeals” do not appear *at all* in the .HOTEL and .ECO community applications. Yet the EIU awarded each the maximum possible 1 point score for **3-D Enforcement**, saying

There is also an appeals mechanism, whereby a registrant has the right to request a review of a decision to revoke its right to hold a domain name.<sup>104</sup>

and

There is also an appeals mechanism, whereby a registrant has the right to seek the opinion of an independent arbiter approved by the registry.<sup>105</sup>

**E.4. .INC Criterion #4: Community Endorsement**

128. This section of my report relates to the .INC community as identified and defined in the Dot Registry application.

- **.INC 4-A Support**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>2 points</b>

129. According to its CPE Report, the EIU determined that the Dot Registry application only “partially” met the criterion for **4-A Support**, in that it had documented support from at least one group with relevance to the .INC community. But the EIU did not award the maximum possible score of 2 points because the Dot Registry application did not have “documented support” from the “recognized” community institution(s), where

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<sup>103</sup> .ART (Dadotart) application (Exhibit 18).

<sup>104</sup> .HOTEL report (Exhibit 11), p. 5.

<sup>105</sup> .ECO report (Exhibit 13), p. 8.

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“recognized” means the institution(s) that are clearly recognized by the community members as representative of the community.

130. I am baffled by the EIU’s “determination”. First of all, there can be no question that the Secretaries of State for the several U.S. states and the National Association of Secretaries of State (NASS) *are* recognized by U.S. corporations as representing the community of corporations. Nevertheless, the EIU once again invoked the notion that there is a meaningful distinction between government entities (in particular, the respective Secretaries of State of U.S. states) “fulfilling a function” as opposed to “representing the community” and, specifically, that the Secretaries of State of U.S. states

are not the recognized community institutions...as these government agencies are fulfilling a function, rather than representing the community.<sup>106</sup>

One cannot help but notice that, in the context of the .OSAKA community application,<sup>107</sup> the EIU apparently was not troubled by the fact that the Osaka Prefectural government (the “entity mainly dedicated to the community”) was merely fulfilling its function. The EIU’s unwillingness to afford the same deference to US Secretaries of State or to their National Association is strikingly inconsistent.

131. It also is important to underscore the fact that the several Secretaries of State are either elected or appointed governmental officers. As such, they lack the freedom available to a non-governmental body or private organization to simply favor or even endorse one applicant for a particular string over rival applicants. But it must not be forgotten that:
- a. Several state-level Secretaries of State as well as NASS clearly expressed the position that the .INC TLD should be awarded *only* to a community applicant,
  - b. These same Secretaries of State and NASS were aware of the Dot Registry community application for the .INC string,
  - c. The Dot Registry application was the *only* community application for that string, and

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<sup>106</sup> .INC Report (Exhibit 7), p. 2.

<sup>107</sup> See the .OSAKA Report (Exhibit 12).

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- d. These Secretaries of State and NASS communicated with ICANN at the request of Dot Registry. This constellation of facts strongly suggests that the several Secretaries of State and NASS—while not permitted to officially endorse it—nevertheless are in support of the Dot Registry application for the .INC string.<sup>108</sup>

132. Next I address the several complaints referenced in the EIU’s CPE report, namely that “[T]he viewpoints expressed in these letters were not consistent across states” and that

- a. Dot Registry “was not the recognized [.INC] community institution.”
- b. Nor did Dot Registry “have documented authority to represent the [.INC] community.”
- c. Nor did Dot Registry have “documented support from a majority of the recognized community institutions.”

133. The EIU has acknowledged that it did receive letters of support from “a number” of Secretaries of State:

The application included letters from a number of Secretaries of State of US states, which were considered to constitute support from groups with relevance, as each Secretary of State has responsibility for corporate registrations and the regulations pertaining to corporate formation in its jurisdiction.<sup>109</sup>

But the EIU summarily dismissed these letters on the ground that

These entities are not the recognized community institution(s)/member organization(s), *as these government agencies are fulfilling a function, rather than representing the community* [emphasis added].<sup>110</sup>

The viewpoints expressed in these letters were not consistent across states. While several US states expressed clear support for the applicant during the

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<sup>108</sup> I understand that NASS was a joint requestor on Dot Registry’s Reconsideration Requests.

<sup>109</sup> .INC Report (Exhibit 7), p. 7.

<sup>110</sup> Again, this is an irrelevant, meaningless distinction that is nowhere to be found in the AGB that I have already addressed above.



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Letters of Support verification process, others either provided qualified support, refrained from endorsing one particular applicant over another, or did not respond to the verification request.<sup>111</sup>

But I am not aware of any evidence that the EIU reached out to *every* explicit or implicit member of the .RADIO, .HOTEL, .OSAKA and .ECO communities or that it received an expression of “clear support” from *each* such member. Therefore, this appears to be another example of the EIU’s uneven treatment of the Dot Registry community applications, compared to the treatment the EIU accorded to the .RADIO, .HOTEL, .OSAKA and .ECO community applications.

134. In arguing that the EIU should have awarded the maximum possible 2 points to the .INC application for sub criterion **4-A: Support**, I both rely on and distinguish this passage from the AGB’s Criterion 4 Guidelines:

With respect to ‘Support,’ it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations... Also with respect to ‘Support,’ the plurals and brackets for a score of 2 relate to cases of multiple institutions/organizations. In such cases there must be documented support from institution/organizations representing a majority of the overall community addressed in order to score 2.<sup>112</sup>

135. I would argue first that the National Association of Secretaries of State is “the only national Association relevant to” the .INC community and that the .INC application has documented support from NASS. Second, in view of the fact that measured by the value of the registered corporations, the Delaware Secretary of State arguably represents the majority of U.S. corporations. His support for the Dot Registry .INC application can therefore be seen as evidence of majority support. This conclusion is further supported by the several additional letters of support offered by other Secretaries of State for the Dot Registry .INC application.

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<sup>111</sup> .INC Report (Exhibit 7), p. 7.

<sup>112</sup> AGB (Exhibit 1), p. 4-18.

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136. Since the Dot Registry application for the .INC TLD has the support of both NASS and the Delaware Secretary of State, the EIU should have awarded it the maximum 2 points for **4-A: Support**.

- **.INC 4-B Opposition**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>2 points</b>

137. According to its CPE Report, the EIU determined that the Dot Registry application only “partially” met the criterion for Opposition “as the application received relevant opposition from one group of non-negligible size:”

The [.INC] application received several letters of opposition, *one of which was determined to be relevant opposition* from an organization of non-negligible size. This opposition was from a community that was not identified in the application *but which has an association to the applied-for string*. Opposition was on the grounds that limiting registration to US registered *corporations* only would unfairly exclude non-US businesses [emphases added].<sup>113</sup>

138. I have recently been able to review email correspondence<sup>114</sup> between ICANN and the EIU regarding this particular “finding”. That correspondence confirms that the European Commission (“EC”) was the source of the supposedly “relevant opposition” that was submitted as an “Application Comment”<sup>115</sup> on behalf of the EC on 4 March 2014. However, the only specific concern raised in that EC comment was in respect of Dot Registry’s separate community application for the .LLP string, not the .INC application. *There never was any relevant “opposition” to Dot Registry’s .INC application.*

139. In any event, just three weeks later, the EC submitted a follow-up “Application Comment”<sup>116</sup> dated 25 March 2014 stating that its concern regarding Dot Registry’s .LLP application had been resolved and that the EC was withdrawing its previous “Comment”.

<sup>113</sup> .INC Report (Exhibit 7), p. 7.

<sup>114</sup> ICANN\_DR-00215-217 and attached as Exhibit 21.

<sup>115</sup> Ibid., Comment ID: tjwufnw.

<sup>116</sup> Ibid., Comment ID: 7s164151.

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Notably, in this follow-up “Application Comment”, the EC specifically asked “that ICANN forward a copy of this communication to the Economist Intelligence Unit.”

140. Based on the email correspondence I reviewed, the EIU dismissed its lapse on the ground that it cost Dot Registry’s .INC application only 1 point at most and “this would have had no material impact on the final outcome of the [.INC] evaluation.”<sup>117</sup>
141. But in light of this recently produced email correspondence between ICANN and the EIU, it is clear that *there actually never was any relevant opposition at all* to Dot Registry’s .INC community application. The EIU should have awarded it the maximum score of 2 points that were possible under the **4-B Opposition** criterion.<sup>118</sup>

#### E.5. .INC Conclusion

142. It is my conclusion that, had the EIU CPE Panel correctly followed the AGB, and if it had accorded Dot Registry’s .INC application the same the same degree of deference it appears to have employed in connection with the .HOTEL, .RADIO and .OSAKA TLD applications, it would have awarded Dot Registry’s community application for the .INC string 15 points, one more than the 14 point minimum it needed to prevail.

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<sup>117</sup> ICANN\_DR-00215-217 and attached as Exhibit 21.

<sup>118</sup> While the EIU appears to have tried to minimize its error as “not material”, it actually should be seen as troubling: First, the EC opposition was *never* about Dot Registry’s .INC application. That should immediately have been apparent to both the EIU Panel and ICANN. Therefore, it is immaterial whether or not both the original EU “opposition” (to the .LLP application) and the EC’s subsequent withdrawal of that “opposition” were communicated to ICANN during the 14-day window that began on 19 February 2014. The more troubling fact is that ICANN and the EIU either never noticed—or did not care—that (1) the supposed EU “opposition” was to an entirely different string (.LLP), and (2) that opposition was withdrawn within three weeks of the date it was communicated to ICANN and nearly 80 days before the date of the EIU CPE Report on the .INC string.

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**F. Summary of the EIU’s Review of Dot Registry’s Community Applications for the .LLC and .LLP TLDs**

143. In its *Community Priority Evaluation Reports* (“EIU CPE Reports”) dated 11 June 2014 for applicant Dot Registry’s .LLC<sup>119</sup> and .LLP<sup>120</sup> strings, the EIU CPE Panel awarded scores that were identical to those given Dot Registry’s .INC application:

Criterion #1: Community Establishment	0 points (out of 4)
Criterion #2: Nexus between Proposed String and Community	0 points (out of 4)
Criterion #3: Registration Policies	3 points (out of 4)
<u>Criterion #4: Community Endorsement</u>	<u>2 points (out of 4)</u>
Total	5 points (out of 16)

144. Having awarded each of the .LLC and .LLP applications just 5 out of the minimum necessary score of 14 points, the Panel declared that the Dot Registry applications for .LLC and .LLP did not prevail.

145. For the same reasons set forth above in connection with Dot Registry’s application for the .INC TLD, had the Panel correctly adhered to ICANN’s AGB and its own *EIU Guidelines*, and had the Panel accorded the .LLC and .LLP applications the same degree of deference it gave to the .HOTEL, .RADIO, .ECO and .OSAKA TLD applications, it would have awarded both the .LLC and the .LLP application more than the 14 points needed to prevail.

**F.1. .LLC and .LLP: Criterion #1: Community Establishment**

146. The *community* that is the subject of the Dot Registry application for the .LLC string is defined as businesses registered as Limited Liability Companies within the United States or its territories.<sup>121</sup> The *community* that is the subject of the Dot Registry application for the .LLP string is defined as businesses registered as Limited Liability Partnerships within the United States or its territories.<sup>122</sup>

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<sup>119</sup> Dated 11 June 2014 for Application ID 1-880-17627 (Exhibit 8).

<sup>120</sup> Dated 11 June 2014 for Application ID 1-880-35508 (Exhibit 9).

<sup>121</sup> .LLC Application (Exhibit 5), p. 12.

<sup>122</sup> .LLP Application (Exhibit 6), p. 12.

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147. As noted above with respect to the .INC application, the AGB specifically provides for such communities under Criterion 1 Guidelines:

With respect to “Delineation” and “Extension,” it should be noted that *a community can consist of legal entities* [emphasis added, examples omitted]. All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members.<sup>123</sup>

148. These communities are clearly delineated. The Community of U.S. Limited Liability Corporations and the Community of U.S. Limited Liability Partnerships are both clearly delineated because membership in each requires the objectively-verifiable satisfaction of explicit, overt requirements. This is because membership requires successful, active completion of the requirements to register as an LLC or LLP with the Secretary State or equivalent authority in one of the U.S. states, territories or the District of Columbia,<sup>124</sup> coupled with the continued maintenance of such registrations in conformity with applicable laws and regulations. I conclude that the .LLC and .LLP communities have “a clear and straight-forward membership definition” that should have been scored high for Delineation under both the AGB and the EIU Guidelines.
149. There is at least one entity mainly dedicated to the LLC and LLP communities. The offices of the Secretaries of State were established by law in each state or territory to administer the LLC and LLP business registrations, which are the *sine qua non* of membership in these communities. To respond to the EIU’s apparent misunderstanding, the *EIU Guidelines* do permit the offices of the Secretaries of State offices to have additional functions and responsibilities, such as, for example, administering elections. It cannot be disputed that administering their respective jurisdictions’ LLC and LLP communities is a key purpose and function of these offices.
150. There is documented evidence of community activities. The publicly accessible records of LLC and LLP registrations maintained by the Secretaries of State constitute documented evidence of the activities of the LLC and LLP communities. Owing to the fact that these entities are the repositories of the documents needed to accomplish the initial registrations of community members as U.S. LLCs or LLPs and thereafter to

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<sup>123</sup> AGB (Exhibit 1), p. 4-12.

<sup>124</sup> See footnote 40 above.

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maintain these registrations, there is considerable documentary evidence of these defining community activities.

151. Both the .LLC community and the .LLP community have been in active existence since before September 2007. I understand that the first U.S. LLC was formed under Wyoming law in the late 1970s. In 1980, the U.S. Internal Revenue Service issued a letter ruling accepting LLCs, and by 1996, nearly every U.S. state had an LLC statute. LLPs have been common in the U.S. since the 1990s, and by 1996, over 40 U.S. states had adopted LLP statutes. In light of the foregoing, I conclude that both the .LLC community and the .LLP community were in existence before 2007.
152. The EIU Guidelines provide that a community consisting of legal entities is permitted by the AGB. The *EIU Guidelines* specifically say that a community comprised of legal entities is a viable community under the AGB, “provided the requisite awareness and recognition of the community is at hand among the members.” For the reasons given in the next paragraph, I conclude that the members, respectively, of the LLC Community and of the LLP Community have the requisite awareness and recognition.
153. The individual members of both the .LLC community and the .LLP community have the requisite awareness and recognition of their communities.<sup>125</sup> This is because their respective members must consciously make a choice as to which community they want to be a member of and then actively complete a number of overt and externally observable and verifiable steps in order to register themselves as either limited liability companies or limited liability partnerships in the first place. Thereafter, they must regularly and consciously take additional overt and externally observable actions to maintain their memberships in either the .LLC community or the .LLP community in good standing. Thus, membership in either the .LLC community or the .LLP community must be consciously sought and actively achieved; such membership is neither passive nor inadvertent and membership in the community is readily verifiable.<sup>126</sup>

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<sup>125</sup> Again, the AGB does not provide any definition or explanation for “awareness and recognition of a community among its members”.

<sup>126</sup> The EIU agreed that both the .LLC community and the LLP community show a clear and straightforward membership. By the standard implicit in the EIU’s approval of the .RADIO, .HOTEL and .OSAKA community applications, that fact—combined with the fact that active, legal steps were needed in order to become members of both these communities—should have been sufficient to demonstrate that the members of the .LLC and .LLP communities have the requisite awareness and recognition of a community among their respective members.

154. The Dot Registry applications for the .LLC and .LLP TLDs satisfy the requirements under **Criterion #1: Community Establishment** because they evidence the requisite **Delineation** (sub criterion 1-A) and **Extension (1-B)**. Although the EIU concluded that each of the .LLC and the .LLP applications failed both of these prongs of **Criterion #1: Community Establishment**, I conclude otherwise, for the reasons explained below.

- **.LLC and .LLP: 1-A Delineation**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

Delineation

155. The Panel agreed that both the .LLC and the .LLP communities show a clear and straightforward membership. Thus each application satisfies the first prong of the Delineation sub criterion. The EIU agrees.

While broad, the [.LLC] community is clearly defined, as membership requires formal registration as a limited liability company with the relevant US state. In addition, limited liability companies must comply with US state law and show proof of best practice[s] in commercial dealings to the relevant state authorities.<sup>127</sup>

Also, according to the EIU:

While broad, the [.LLP] community is clearly defined, as membership requires formal registration as a limited liability partnership with the relevant US state (LLPs operate in about 40 US states). In addition, limited liability partnerships must comply with US state law and show proof of best practice[s] in commercial dealings to the relevant state authorities.<sup>128</sup>

156. In my opinion, the Panel was in error when it concluded that LLCs and LLPs

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<sup>127</sup> .LLC Report (Exhibit 8), p. 2.

<sup>128</sup> .LLP Report (Exhibit 9), p. 2.

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operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an [LLC or LLP]. Based on the Panel’s research, *there is no evidence of LLCs [or LLPs] from different sectors acting as a community as defined by the Applicant Guidebook. There is no evidence that these limited liability companies [or limited liability partnerships] would associate themselves with being part of the community as defined by the applicant* [emphases added].<sup>129</sup>

157. It is by the actions they take *to become and remain* LLCs and LLPs that these entities associate themselves with being part of these communities as defined by Dot Registry. Again, the *Applicant Guidebook* requires only that the constituents of a community be *members* of that community. There is no requirement that members of a community must “*act*” as a community, whatever that might mean. Businesses make conscious decisions—legally, commercially and in respect of their tax liabilities—as to why they choose to organize as an LLC, LLP or INC. Through this choice of legal organization they make certain representations to the public-at-large and to other businesses regarding their business, tax status and regulatory obligations. Largely, the drivers that lead a business in any one industry sector to choose a particular legal form will be the same as those for a business in another business sector. In my opinion, there is, therefore, no doubt that there are distinct, identifiable and relevant communities associated with the LLC, LLP and INC corporate identifiers.
158. As I discussed above in connection with Dot Registry’s .INC community, both the .LLC and the .LLP communities actually are *better* defined than were the communities at issue in the .HOTEL, .RADIO, .ECO and .OSAKA applications that prevailed before the EIU. As I noted earlier, the AGB and the *EIU Guidelines* do not provide a concrete meaning for “define” and “definition”. If these are taken to mean or include a rule or standard that would enable an external observer to confidently say whether or not a particular entity was a community member, it is my opinion that the .LLC and .LLP communities are *better* defined than the communities in the community applications (.HOTEL, .RADIO, .ECO and .OSAKA) that prevailed in the EIU’s evaluations.
159. Because the evidence shows that

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<sup>129</sup> .LLC Report (Exhibit 8) and .LLP Report (Exhibit 9), respectively, p. 2.



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- membership in the .LLC and .LLP communities is both clear and straightforward,
- members of the .LLC and .LLP communities possess the requisite awareness and recognition of their respective communities, and even that
- both LLCs and LLPs from different sectors and regions of the U.S. *do* associate themselves with being part of, respectively, the broader community of U.S. limited liability companies or the broader community of U.S. limited liability partnerships,

I conclude that the both the .LLC community and the .LLP community meet the AGB requirement for Delineation.

Organization

160. For the same reasons given above at paragraphs 48 through 55 regarding the EIU's scoring of Dot Registry's .INC community application, I conclude that Dot Registry's .LLC and .LLP community applications also fully meet the AGB requirements for Organization.
161. As is the case with the .INC community, this requirement is satisfied by the individual Secretaries of State of the U.S. states, territories and the District of Columbia. These entities were constitutionally and/or legislatively established to administer the LLC and LLP communities within their respective jurisdictions. Moreover, the records of the Secretaries of State of the U.S. states, territories and the District of Columbia clearly identify the community of LLCs and the community of LLPs authorized to conduct business within their respective jurisdictions.
162. As it did in respect of the .INC community application, the EIU decided that neither the .LLC nor the .LLP applications met the AGB requirements for Organization. But to get to this conclusion, the Panel first needed to rewrite the relevant AGB requirements:

The [.LLC or .LLP] community as defined in the application does not have at least one entity mainly dedicated to the community. Although responsibility for *corporate* [sic] registrations and the regulations pertaining to [sic] *corporate* formation are vested in each individual US state, these government agencies are *fulfilling a function*, rather than *representing* the community. In addition, the

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offices of the secretaries of State of US states are not *mainly* dedicated to the community as they have other roles/functions beyond processing corporate registrations [emphases added].<sup>130</sup>

163. As a preliminary matter, LLCs and LLPs are not corporations, and the appearance in the quotation above of the “corporate” adjective strongly suggests that the Panel merely cut and pasted the conclusion quoted above from its .INC CPE Report. In other words, it does not appear that the Panel actually carried out any specific research relevant to the .LLC or .LLP communities to reach this conclusion.
164. But as I have noted above in connection with Dot Registry’s .INC application, the proper question under the AGB is whether or not the several Secretaries of State are dedicated to the .LLC and .LLP communities, not whether they are merely “fulfilling a function” relevant to these communities or whether they merely “represent” them. I conclude that the Panel was able to “find” that the .LLC and .LLP community applications failed to satisfy the AGB requirement for Organization only after effectively rewriting that requirement.
165. I am equally perplexed by the Panel’s supposed “finding” in respect of both the .LLC and .LLP applications that the Secretaries of State “are not *mainly* dedicated to the [.LLC and .LLP communities] as they have other roles/functions [emphasis added].” As I have pointed out earlier, the Panel ignored what the AGB and its own *Guidelines* have to say regarding Organization. The AGB explains that:

“Organized” implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.<sup>131</sup>

The EIU’s own *Guidelines* add this further explanation:

*“Mainly” could imply that the entity administering the community may have additional roles/functions beyond administering the community, but one of the key or primary purposes/functions of the entity is to administer a community or a community organization [emphasis added].*<sup>132</sup>

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<sup>130</sup> Ibid.

<sup>131</sup> AGB (Exhibit 1), p. 4-11.

<sup>132</sup> EIU Guidelines (Exhibit 2), p. 4.

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166. There is sufficient documented evidence of .LLC and .LLP community activities. It consists of the overt steps taken and records created in connection with the individual decisions made on behalf of would be LLCs and LLPs to register as such under the applicable laws, and thereafter to maintain these registrations in good standing.
167. Yet the Panel’s sole justification for its identical findings that the .LLC and .LLP communities “[do] not have documented evidence of community activities” was that “there is no entity *mainly* dedicated to the community” in the .LLC and .LLP applications.<sup>133</sup> Because there is no such requirement in either the AGB or the *EIU Guidelines*, I conclude that the EIU had no basis for concluding that those applications did not fulfill the AGB conditions for Organization.
168. The previously discussed **National Association of Secretaries of State (NASS)**<sup>134</sup> also constitutes an entity mainly dedicated to the .LLC and .LLP communities. According to the NASS website
- Most NASS member offices handle the registration of domestic and/or foreign corporations (profit and non-profit). Transactions include filings of incorporation, *partnerships (including limited partnerships)*, articles of merger/consolidation, and articles of dissolution [emphasis added].<sup>135</sup>
169. There are at least three LLCs listed among the NASS Corporate Affiliates.<sup>136</sup> The first two Featured Links listed on the NASS home page (“Prevent Business ID Theft” and “Find Business Services”) and NASS “Surveys and Reports”<sup>137</sup> are relevant to LLCs and LLPs. As previously noted, these include:

*Report: State Strategies to Subvert Fraudulent Uniform Commercial Code Filings*  
(Released 2012; updated April 2014)

*NASS Summary of Business Entity Information Collected by States* (March 2014)

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<sup>133</sup> .LLC Report (Exhibit 8), p. 3 and .LLP Report (Exhibit 9), p. 2

<sup>134</sup> Website: <http://www.nass.org>.

<sup>135</sup> <http://www.nass.org/state-business-services/corporate-registration/>.

<sup>136</sup> <http://www.nass.org/contact/corp-affiliates/>.

<sup>137</sup> These are listed at <http://www.nass.org/reports/surveys-a-reports/>.

*NASS Survey on Administrative Dissolution of Business Entities* (March 2014)

*White Paper Streamlining for Success: Enhancing Business Transactions with Secretary Of State Offices* (February 2014)

*Updated NASS Company Formation Task Force Report and Recommendations* (September 2012)

*NASS White Paper - Developing State Solutions to Business Identity Theft: Assistance, Prevention, and Detection* (January 2012)

*NASS Business Identity Theft Toolkit & NASS Business Identity Theft Fact Sheet* (July 2011)

*Updated Report: State Business Entity Laws* (May 2009)

170. In view of the foregoing, I conclude that Dot Registry community applications for the .LLC and .LLP strings fulfill both requirements for Organization.

Pre-existence

171. The only requirement for Pre-existence is that the .LLC and .LLP communities must have been active prior to September 2007. However, the EIU decided that these communities could not possibly have been active prior to that date because it deemed them to be Dot Registry's inventions in order "to obtain a sought-after-after *corporate*<sup>138</sup> identifier as a gTLD string [emphasis added]."<sup>139</sup> As was the case with Dot Registry's .INC application, the EIU sought to justify this conclusion on the ground that limited liability companies and limited liability partnerships "would typically not associate themselves with being

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<sup>138</sup> As I have noted, the EIU did not appear to notice or care that neither LLCs nor LLPs are *corporations*, meaning that the EIU's use of the adjective "corporate" was clearly inappropriate. This supports the inference that the EIU did not independently evaluate each of the .INC, .LLC and .LLP applications. Rather, it appears likely that the Panel simply "cut and pasted" the text of its findings in connection with the .INC application into its CPE Reports for .LLC and .LLP. Note that all three CPE Reports bear the same 11 June 2014 date.

<sup>139</sup> .LLC and .LLP Reports (Exhibits 8 and 9), respectively, p. 3.

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part of the community as defined by the applicant.”<sup>140</sup> (The Panel did not offer any research or other evidence to support this statement.)

172. This last conclusion by the EIU CPE Panel appears to be clearly erroneous. As previously discussed, it is predicated on a requirement of the EIU’s own invention—one not found in the AGB—regarding how supposed community members must “associate themselves.”
173. In summary, it is my conclusion that Dot Registry’s .LLC and .LLP community applications do satisfy all three of the requirements— Delineation, Organization and Pre-existence – for **1-A Delineation**. The EIU CPE Panel should have awarded each of these applications the maximum possible 2 points.

- **.LLC and .LLP: 1-B Extension**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

174. According to the AGB, Dot Registry’s scores under sub criterion **1-B Extension** were supposed to be determined by whether or not the .LLC and .LLP communities demonstrated the necessary Size and Longevity. But as it did in connection with the Delineation sub criterion, the EIU CPE Panel held that each of these two sub criteria first required “awareness and recognition of a community (as defined by the applicant) among its members.” After declaring this “awareness and recognition” to be nonexistent, the Panel simply discounted the evidence showing that the .LLC and .LLP applications met the other requirements for Size and Longevity.

Size

175. The Panel concurred that both the .LLC and .LLP communities are of considerable size.
176. But the Panel discounted this showing on the ground that the .LLC and .LLP communities did not have the requisite “awareness and recognition of a community among [their] members”. Using the same language (complete with typo) it offered in connection with its rejection of the .INC application, the EIU offered this explanation:

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<sup>140</sup> Ibid.

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This is because [alternatively, limited liability companies and limited liability partnerships] operate in vastly different sectors, which sometimes have little or no association with one another. Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities [sic] structure as an [LLC or LLP]. Based on the Panel's research, there is no evidence of [LLCs or LLPs] from different sectors acting as a community as defined by the Applicant Guidebook. These [limited liability companies or limited liability partnerships] would therefore not typically associate themselves with being part of the community as defined by the applicant.<sup>141</sup>

177. I have already addressed this misapprehension on the part of the Panel. But to repeat, I can find nothing in the AGB regarding how community members are supposed to “act” or “associate themselves”.
178. Since the EIU agreed that the communities in the .LLC and .LLP applications were both of considerable size, and since the overt actions taken by members to join the .LLC and .LLP communities evidence their “awareness and recognition” of these communities, the EIU should have concluded that Dot Registry's .LLC and .LLP applications satisfied both of the AGB requirements for Size.

Longevity

179. The AGB required that two conditions be fulfilled in order for Dot Registry's .LLC and .LLP applications to meet the Longevity sub criterion: each of these two communities must demonstrate longevity and each must display an awareness and recognition of a community among its members. However, the Panel decided that the .LLC and .LLP applications did neither, based on its previous misapprehensions that (a) the .LLC and .LLP communities were “construed” because LLCs and LLPs would typically not associate themselves with being part of the communities defined by Dot Registry, and (b) these putative communities do “not have awareness and recognition of a community among its members.”

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<sup>141</sup> Ibid.

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180. As I have explained above, it is my opinion that both of these judgments by the Panel are erroneous. I conclude that Dot Registry’s .LLC and .LLP applications satisfied the Longevity requirement under **1-B Extension**.

181. Because both the .LLC and .LLP applications also met the conditions for Size, the Panel should have awarded them the maximum possible 2 points for **1-B Extension**.

**F.2. .LLC and .LLP: Criterion #2: Nexus between Proposed String and Community**

182. In applying this criterion, the EIU CPE Panel was supposed to determine whether or not the .LLC and .LLP strings applied for by Dot Registry (a) match the names of, respectively, the community of limited liability companies and the community of limited liability partnerships or are well-known short-forms or abbreviations for those communities, and (b), have no other significant meanings beyond identifying these two communities.

- **.LLC: 2-A Nexus**

<b>Maximum score</b>	<b>3 points</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>2 points</b>

183. To receive the maximum score for **2-A Nexus**, the .LLC and .LLP strings must *match* the communities of U.S. limited liability companies and U.S. limited liability partnerships, respectively, or be well-known short-forms or abbreviations of these community names.<sup>142</sup> In either case, the .LLC and .LLP strings must not “over-reach *substantially* [emphasis added]” beyond their respective communities.<sup>143</sup>

184. According to the AGB, for an applied-for string to receive a score of 3 for **2-A Nexus**, it should be the case that the string is “*commonly* known by others as the identification/name of the community [emphasis added].” To qualify for a score of 2, “the applied-for string should closely describe the community or the community members, without over-reaching *substantially* beyond the community [emphasis added].”

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<sup>142</sup> AGB (Exhibit 1), pp. 4-12 to 4-14.

<sup>143</sup> Ibid.

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185. So the correct scores for the .LLC and .LLP strings under **2-A Nexus** should have been determined by whether or not these strings are *commonly* known by others to refer to **U.S.** limited liability companies and **U.S.** limited liability partnerships (for a score of 3 points) or, at a minimum, by whether any over-reach by the “LLC” and “LLP” strings beyond these U.S. communities is “substantial”. In the latter case, a score of 2 points would be indicated if such “over-reach” exists but is not substantial.
186. Using identically the same language that it employed in connection with the .INC application (including its reference to a “corporate identifier”), the EIU CPE Panel faulted the Dot Registry application for the .LLC string under **2-A Nexus** on the ground that

The applied-for string (.LLC) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community... While the string identifies the name of the community, it captures a wider geographical remit than the [.LLC] community has, as the *corporate* [sic] identifier is used in other jurisdictions (outside the US). Therefore, there is a *substantial* over-reach [emphasis added] between the proposed [.LLC] string and [the community of registered U.S. limited liability companies] as defined by the applicant [emphases added].<sup>144</sup>

187. The Panel rendered identically the same judgment (and with the same misplaced reference to a “corporate identifier”) regarding Dot Registry’s application for the .LLP string under the **2-A Nexus** sub criterion:

The applied-for string (.LLP) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community... While the string identifies the name of the community, it captures a wider geographical remit than the [.LLP] community has, as the *corporate* [sic] identifier is used in Poland, the UK, Canada and Japan, amongst others. Therefore, there is a *substantial* over-reach [emphasis added] between the proposed [.LLP] string and [the community of registered U.S. limited liability partnerships] as defined by the applicant [emphases added].<sup>145</sup>

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<sup>144</sup> .LLC Report (Exhibit 8), pp. 4-5.

<sup>145</sup> .LLP Report (Exhibit 9), pp. 4-5.



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188. I do not understand how the EIU decided that the .LLC string “over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community.”<sup>146</sup> In particular, the EIU does not appear to have conducted any independent research or fact-finding before rendering this judgment. Dot Registry’s .LLC application does not name any other countries that supposedly use the “LLC” string, saying only:

LLC is a recognized abbreviation in all 50 states and US territories denoting the registration type of a business entity. Our research indicates that while other jurisdictions use LLC as a corporate identifier, their definitions are quite different and there are no other known associations or definitions of LLC in the English language.<sup>147</sup>

Even if some non-U.S. jurisdictions have established business forms that, closely or distantly, are functional approximations of U.S. LLCs, *none* of these are called LLCs or are referred to by the English term “limited liability company”.

189. I am equally perplexed by the EIU’s finding that “The applied-for string (.LLP) over-reaches *substantially* [emphasis added], as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community.”<sup>148</sup> Again, the EIU does not appear to have conducted any independent research or fact-finding before arriving at this judgment. I note that Dot Registry’s .LLP application did volunteer that

Our research indicates that LLP as a corporate identifier is used in eleven other jurisdictions (Canada, China, Germany, Greece, India, Japan, Kazakhstan, Poland, Romania, Singapore, and the United Kingdom) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our [.LLP] community definition.<sup>149</sup>

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<sup>146</sup> .LLC Report (Exhibit 8), p. 4.

<sup>147</sup> .LLC Application (Exhibit 5), p. 17.

<sup>148</sup> .LLP Report (Exhibit 9), p. 4.

<sup>149</sup> .LLP Application (Exhibit 6), p. 17.

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But seizing on the information volunteered by Dot Registry itself, the EIU concluded immediately that:

While the [.LLP] string identifies the name of the community, it captures a wider geographical remit than the community has, as the *corporate* [sic] identifier is used in Poland, the UK, Canada and Japan, amongst others. Therefore, there is *substantial over-reach* between the proposed string and the community as defined by the applicant [emphases added].<sup>150</sup>

190. The EIU’s conclusions that both the .LLC and .LLP strings “over-reach substantially” is particularly troubling. According to the AGB, a string must “over-reach *substantially* beyond the community” before the EIU would be allowed to deny any points under **2-A Nexus**. As I have already pointed out, the AGB does not provide a metric for determining whether any “over-reach” – even assuming it exists at all – is “substantial”. If an applied-for string “over-reaches” only somewhat rather than “substantially”, a community application should still be awarded 2 points under **2-A Nexus**.
191. But the EIU first effectively re-wrote the AGB criteria. Where the AGB is concerned only with “*substantial* over-reach” (something it neither defines nor measures), the EIU deems *any* over-reach – no matter how little – to be “*substantial*”:
- “Over-reaching substantially” means that the string indicates a wider geographical or thematic remit than the community has.<sup>151</sup>
192. In other words, *any* “geographical or thematic remit” that is “wider” than the community – no matter how small or even *de minimis* the supposed “over-reach” – is deemed to be *substantial over-reach* by the EIU and justifies awarding the community application at issue 0 points under **2-A Nexus**. In my view this is incorrect.
193. Insofar as the EIU’s treatment of Dot Registry’s community applications for .LLC and .LLP are concerned, there are two related questions:
- a. Are the strings “LLC” or “LLP”, or the English language business legal forms “limited liability company” or “limited liability partnership” used at all outside of the U.S.?

<sup>150</sup> .LLP Report (Exhibit 9), p. 4.

<sup>151</sup> EIU Guidelines (Exhibit 2), p. 7.

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b. Where the answer is “yes”, is that use *substantial* in comparison to the corresponding use in the U.S.?

194. It does not appear that any non-U.S. country authorizes the formation of limited liability companies. For this reason, no non-U.S. country uses the abbreviation “LLC” to designate a domestic limited liability company. I therefore conclude that Dot Registry’s application for the .LLC string does not “over-reach” at all.
195. With the exception India, Singapore and the United Kingdom, it does not appear that any other English-speaking, non-U.S. country uses the abbreviation “LLP” or the English legal designation “limited liability partnership”. The occurrence of LLPs in the United Kingdom can be distinguished because it is my understanding that UK LLPs actually are more nearly equivalent to U.S. LLCs. Moreover, because the EU has withdrawn the concern it initially expressed regarding Dot Registry’s .LLP application, I conclude that only the use of “LLP” in Singapore and India could even potentially amount to “substantial over-reach”.
196. To support its judgment that “there is a substantial over-reach between the proposed string and the community as defined by the applicant,” the EIU quoted this passage from the Dot Registry community application for the .LLP string:

Our research indicates that LLP as corporate identifier [sic] is used in eleven other jurisdictions (Canada, China, Germany, Greece, India, Japan, Kazakhstan, Poland, Romania, Singapore, and the United Kingdom) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our [LLP] community definition.<sup>152</sup>

197. Apparently relying on that Dot Registry statement, the EIU then concluded:

While the [LLP] string identifies the name of the community, it captures a wider geographical remit than the community has, as the corporate identifier is used in Poland, the UK, Canada and Japan, amongst others. Therefore, there is

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<sup>152</sup> .LLP Application (Exhibit 6), p. 17. I understand that the different legal form “limited partnership” or “L.P.” is used in Canada, rather than “limited liability partnership” or “LLP”.

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a substantial over-reach between the proposed string and [the] community as defined by the applicant.<sup>153</sup>

198. Seven of these countries—China, Germany, Greece, Japan, Kazakhstan, Poland and Romania—that supposedly use “LLP” can be discounted immediately because none uses the *English* term “limited liability partnership” or the abbreviation “LLP” to refer to their possibly-equivalent domestic entities. That leaves only Canada, India, Singapore and the United Kingdom as potential sources of any “over-reach”. However, I understand that Canada uses only the different “limited partnership” or “LP” designation, not “LLP”. The U.K. does authorize the use of “LLP”, but I understand that in the U.K. this form actually is equivalent to the U.S. “LLC”, not the U.S. “LLP”. In any event, the European Union (of which the UK is a member), acting through the European Commission, affirmatively notified ICANN that the EC’s earlier opposition to Dot Registry’s .LLP community application “in the particular case of .llp (used in the UK)” was the result of “inaccurate research information” provided by unspecified “other interested parties.”<sup>154</sup>
199. I conclude, therefore, that any “over-reach” by Dot Registry’s “LLP” string would be the result of its use in India and Singapore. Compared to the U.S., where the first LLPs were legally authorized in 1992, LLPs in India and Singapore are more recent phenomena; these were first introduced in Singapore in 2005 and in India around 2009.
200. It is my understanding that the “limited liability partnership” or “LLP” business form is adopted primarily by licensed professionals such as attorneys, accountants and architects who gain the economic efficiencies that can be achieved by combining their individual practices without at the same time incurring liability for their partners’ actions. Therefore, any “over-reach” due to the usage of “LLP” in India or Singapore in comparison to the U.S. should be proportional to the total number of attorneys, accountants and architects in India and Singapore in comparison to the U.S. totals.
201. A reasonable first approximation is that the number of firms comprised of attorneys, accountants and architects in India and Singapore compared to the U.S. should be roughly proportional to the economies of India and Singapore (measured by their respective GDPs) in comparison to the U.S. economy (measured by its GDP).

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<sup>153</sup> .LLP Report (Exhibit 9), p. 4.

<sup>154</sup> Comment submitted to ICANN by Camino Manjon, GAC member, European Commission on 25 March 2014 (Exhibit 21) (<https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12413>)

202. According to World Bank data, in 2013 the U.S. GDP stood at \$16,768 billion (measured in U.S. dollars). Using the same data source, the GDPs of India and Singapore were \$6,776 billion and \$425 billion, respectively. By this measure, the size of the India and Singapore economies were 40.41% and 2.53%, respectively, of the U.S. economy, or 42.94% combined (i.e., slightly less than 43%).<sup>155</sup>
203. Measured in this way, Dot Registry’s definition of the .LLP community does “over-reach”. However, because I estimate that the usage of “LLP” in India and Singapore combined is only about 43% of its usage in the U.S., I conclude that this “over-reach” is not “substantial”.<sup>156</sup>
204. Again, this is based on the dictionary definition of “substantial”. Under that definition, the usage of “LLP” in India and Singapore would have to be so “considerable” or “great” in comparison to its use in the U.S. that such usage would be “largely” but not “wholly” equal to its usage in the U.S. itself. Because the usage of “LLP” in India and Singapore (in comparison to its usage in the U.S.) would be proportional to the size of these two economies (again, in comparison to the U.S.), “substantial over-reach” would require that the combined size of these two economies would have to be significantly greater than half the size of the U.S. economy.
205. But because there is some “over-reach” implicit in Dot Registry’s application for the .LLP string (even though it is not “substantial”), the AGB specifies that the .LLP application should have received 2 points, rather than the maximum possible 3 points.

- **.LLC and .LLP: 2-B Uniqueness**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>0 points</b>
<b>Correct score</b>	<b>1 point</b>

206. According to the EIU

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<sup>155</sup> See Exhibit 15.

<sup>156</sup> Again, I rely on the *Merriam Webster’s Collegiate Dictionary* (10<sup>th</sup> ed.), in which “substantial” is defined as “considerable in quantity: significantly great” (Definition 3 b) or “being largely but not wholly that which is specified” (Definition 5).

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 3 on Nexus* [emphasis added].<sup>157</sup>

207. As I have already been shown above, the Dot Registry applications for the .LLC and .LLP strings should have been given scores of 3 and 2 points, respectively, on the **2-A Nexus** criterion. Consequently, Dot Registry’s scores on the **2-B Uniqueness** criterion depends only on whether the .LLC and .LLP strings have any other significant meaning beyond “Limited Liability Company” and “Limited Liability Partnership”. The EIU did not address this question because it had already decided (wrongly, in my opinion) that Dot Registry’s applications for these two strings amounted to “substantial over-reach”.
208. I have been unable to find any claim that the strings “LLC” and “LLP” have meanings other than “Limited Liability Company” and “Limited Liability Partnership”, respectively. Therefore, I conclude that Dot Registry’s community applications for .LLC and .LLP should have been awarded the maximum possible score of 1 point each for **2-B Uniqueness**,

**F.3. .LLC and .LLP: Criterion #3: Registration Policies**

209. In the EIU’s original evaluations, the Dot Registry applications for the .LLC and .LLP strings were awarded the maximum of 1 point for each of the first three sub criteria (**3-A Eligibility, 3-B Name Selection and 3-C Content and Use**) but 0 points for the fourth sub criterion (**3-D Enforcement**).
210. I concur with the EIU’s analysis and scoring of the Dot Registry application on the **3-A Eligibility, 3-B Name Selection and 3-C Content and Use** sub criteria.

- **.LLC and .LLP: 3-A Eligibility**

<b>Maximum score</b>	<b>1 point</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>1 point</b>

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<sup>157</sup> .LLC and .LLP Reports (Exhibits 8 and 9), respectively, p. 5.

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- **.LLC and .LLP: 3-B Name Selection**

Maximum score	1 point
EIU score	1 point
Correct score	1 point

- **.LLC and .LLP: 3-C Content and Use**

Maximum score	1 point
EIU score	1 point
Correct score	1 point

211. However, I understand that the EIU faulted the Dot Registry applications for the .LLC and .LLP strings under the **3-D Enforcement** criterion on the ground that, while they did articulate specific enforcement measures, these applications did not outline an appeals process.

- **.INC 3-D Enforcement**

Maximum score	1 point
EIU score	0 point
Correct score	1 point

212. The EIU found that Dot Registry’s applications for the .LLC and .LLP strings did not meet the criterion for **3-D Enforcement**, because while they did include the requisite enforcement measures, these two applications did not satisfy the AGB requirement for an appeals process.

213. But here again, the Panel misstated the requirement that the Dot Registry supposedly failed to meet. The AGB requires only “*appropriate* appeals mechanisms”, and states further that:

“Enforcement” means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

...

With respect to...“Enforcement,” scoring of applications against [this sub criterion] will be done from a *holistic perspective, with due regard for the particularities of the community explicitly addressed*. [Example omitted] More restrictions do not automatically result in a higher score. *The restrictions and corresponding enforcement mechanisms proposed by the applicant should show*

*an alignment with the community-based purpose of the TLD* and demonstrate continuing accountability to the community named in the application.<sup>158</sup>

214. The community-based purpose of Dot Registry's .LLC string is

To build confidence, trust, reliance and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Companies. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Companies. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States.

...

*The ".LLC" gTLD will be exclusively available to members of the Community of Registered Limited Liability Companies, as verified through each applicant's Secretary of States office" (or other state official where applicable) [emphasis added].*<sup>159</sup>

215. Similarly, the community-based purpose of Dot Registry's .LLP string is

To build confidence, trust, reliance and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Partnerships. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Partnerships. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States.

...

*The ".LLP" gTLD will be exclusively available to members of the Community of Registered Limited Liability Partnerships, as verified through each*

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<sup>158</sup> AGB (Exhibit 1), p. 4-16 [emphases added].

<sup>159</sup> .LLC Application (Exhibit 5), p. 7.



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*applicants's Secretary of States office" (or other state official where applicable)*  
[emphasis added].<sup>160</sup>

216. It is important not to overlook the fact that the fundamental requirement for membership in the .LLC and .LLP communities—and the right to register a second-level domain under these TLDs—is the possession and maintenance of a valid registration as either a limited liability company or a limited liability partnership with the office of the appropriate Secretary of State. In this regard, the records of the relevant Secretary of State's office are dispositive: Either the would-be registrant of a second-level .LLC or .LLP domain is validly registered with that Secretary of State, or it is not.
217. The essential point is that in order to register a second level domain under .LLC or .LLP, an applicant must be a duly, currently registered LLC or LLP as determined by the relevant Secretary of State. That determination would *not* be Dot Registry's to make; its role would be limited to verifying that the applicant has secured the necessary registration from the relevant Secretary of State or equivalent authority and that that registration is current.
218. Dot Registry will verify that the registrant of a second-level domain is a registered U.S. corporation at the time of its registration.<sup>161</sup> Thereafter a registrant's "active" status would be verified on an annual basis with the relevant Secretary of State, as detailed in the Dot Registry applications for the .LLC and .LLP strings.
219. But because only duly registered LLCs and LLPs would be permitted to register second level domains under .LLC or .LLP, and because the several Secretaries of State are the ultimate arbiters of whether or not an applicant is indeed duly registered, it would not be within the authority of Dot Registry to provide a mechanism by which a would-be applicant could "appeal" a determination by a Secretary of State to Dot Registry or its registrars. The latter must respect the Secretary of State's determination.
220. I also note that the Dot Registry applications for the .LLC and .LLP strings do provide opportunities for redress on issues that would not raise the possibility that Dot Registry or its registrars were arrogating the authority of the relevant Secretary of State. For example, Dot Registry's applications do provide for a "quasi appeals process" in the event it was unable to verify an applicant's eligibility for the .LLC or .LLP string with the

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<sup>160</sup> .LLP Application (Exhibit 6), p. 7.

<sup>161</sup> .LLC and .LLP Applications (Exhibits 5 and 6), respectively, p. 7.

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relevant Secretary of State. This is because the application made explicit allowance for a 30 day probationary period to allow registrants to directly address the relevant Secretary of State.

221. Dot Registry has also committed to implementation of the full panoply of ICANN's registrant rights protection mechanisms, including but not limited to:

Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; [and] stringent takedown policies in order to properly operate the registry.<sup>162</sup>

Dot Registry will provide all ICANN required rights mechanisms, including Trademark Claims Service, Trademark Post-Delegation Dispute Resolution Procedure (PDDRP), Registration Restriction Dispute Resolute Procedure (RRDRP), UDRP, URS [and] Sunrise service.<sup>163</sup>

222. If the EIU had actually taken the "holistic perspective" called for by the AGB, it would have given "due regard for the particularities" of the .LLC and .LLP communities discussed above, and awarded both Dot Registry applications the maximum possible 1 point available for **3-D Enforcement**.
223. I also refer to and incorporate here my remarks at paragraphs 124 to 127 above regarding the EIU's determinations in respect of **3-D Enforcement** in connection with certain other community applications.

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<sup>162</sup> .LLC and .LLP Applications (Exhibits 5 and 6), respectively, pp.18-19.

<sup>163</sup> Ibid., p. 24.

**F.4. .LLC and .LLP: Criterion #4: Community Endorsement**

- **.LLC and .LLP: 4-A Support**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>2 points</b>

224. The EIU determined that the Dot Registry applications for .LLC and .LLP only “partially” met the criterion for **4-A Support**.<sup>164</sup> While the Panel acknowledged that these applications had documented support from at least one group with relevance to the .LLC and .LLP communities, it did not award the maximum possible score of 2 points because the Dot Registry applications did not have documented support from the “recognized” community institution(s), where “recognized” means the institution(s) that are clearly recognized by the community members as representative of the community.

225. Again, I cannot understand these “determinations”. First of all, there can be no question that the Secretaries of State for the several U.S. states and the National Association of Secretaries of State (NASS) *are* recognized by U.S. LLCs and LLPs as representing these two communities. Instead, the Panel once again invoked its unsupported position that there is a dispositive difference between a government entity’s “fulfilling a function” vs. “representing the community” and specifically that the Secretaries of State of US states

are not the recognized community institutions...as these government agencies are fulfilling a function, rather than representing the community.<sup>165</sup>

As noted earlier, the EIU did not insist that the Osaka Prefectural government (the “entity mainly dedicated to the community”) was merely fulfilling its function. The Panel’s unwillingness to afford the same deference to US Secretaries of State or to their National Association appears to be strikingly inconsistent.

226. Also, as noted earlier, it is important to underscore the fact that the several Secretaries of State are either elected or appointed governmental officers. As such, they lack the freedom available to a non-governmental body or private organization to simply endorse one applicant for a string over competitors. But it must not be forgotten (a) that several

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<sup>164</sup> .LLC and .LLP Reports (Exhibits 8 and 9), respectively, p. 6.

<sup>165</sup> Ibid.

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state-level Secretaries of State as well as NASS clearly expressed the position that the .LLC and .LLP TLDs should be awarded only to a community applicant, (b) that these same Secretaries of State and NASS were aware of the Dot Registry community application for the .LLC and .LLP strings, (c) that the Dot Registry application was the *only* community application for these strings, and (d) that these Secretaries of State and NASS communicated with ICANN at the request of Dot Registry. This sequence of facts argues strongly that the several Secretaries of State and NASS—while not permitted to officially endorse them—do support these two Dot Registry applications.

227. It is also necessary to address the Panel’s complaint that “[T]he viewpoints expressed in these letters [it received from several Secretaries of State] were not consistent across states” and that

While several US states expressed clear support for the applicant during the Letters of Support verification process, others either provided qualified support, refrained from endorsing one particular applicant over another, or did not respond to the verification request.<sup>166</sup>

I can find no evidence in the record that the EIU reached out to *every* environmental organization in the world and insisted on getting positive expressions of “clear support” from each before approving the .ECO community application. Nor did the Panel require such unanimity from every organization relevant to the .RADIO, .HOTEL and .OSAKA applications. I regard this as another example of the Panel’s uneven treatment of these four community applications that it approved, compared to its treatment of the .INC, .LLC, and LLP applications.

228. In arguing that the EIU should have awarded the maximum possible 2 points to the .LLC and .LLP applications for sub criterion **4-A: Support**, I both rely on and distinguish this passage from the AGB’s Criterion 4 Guidelines:

With respect to ‘Support,’ it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations... Also with respect to ‘Support,’ the plurals and brackets for a score of

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<sup>166</sup> .LLC Report (Exhibit 8), p. 7; .LLP Report (Exhibit 9), pp. 6-7.

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2 relate to cases of multiple institutions/organizations. In such cases there must be documented support from institution/organizations representing a majority of the overall community addressed in order to score 2.<sup>167</sup>

229. In this context, I would argue first that the NASS is “the only national Association relevant to” the .LLC and .LLP communities and that these two applications have documented support from NASS.

230. In summary, since the Dot Registry applications for the .LLC and .LLP TLDs do have the support of NASS, the EIU should have awarded each application the maximum 2 points for **4-A: Support**.

- **.LLC and .LLPC 4-B Opposition**

<b>Maximum score</b>	<b>2 points</b>
<b>EIU score</b>	<b>1 point</b>
<b>Correct score</b>	<b>2 points</b>

231. According to its CPE Report, the EIU determined that the Dot Registry community applications for the .LLC and .LLP TLDs only “partially” met the criterion for Opposition “as the[se] application[s] received relevant opposition from one group of non-negligible size:”

The [alternatively, .LLC and .LLP] application received several letters of opposition, *one of which was determined to be relevant opposition* from an organization of non-negligible size. This opposition was from a community that was not identified in the application *but which has an association to the applied-for string*. Opposition was on the grounds that limiting registration to US registered *corporations* only would unfairly exclude non-US businesses [emphases added].<sup>168</sup>

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<sup>167</sup> AGB (Exhibit 1), p. 4-18.

<sup>168</sup> .LLC and .LLP Reports (Exhibits 8 and 9), p. 7.

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232. Again, I have recently been able to review email correspondence<sup>169</sup> between ICANN and the EIU regarding this particular “finding”. That correspondence confirms that the European Commission (“EC”) was the source of the supposedly “relevant opposition” that was submitted as an “Application Comment”<sup>170</sup> on behalf of the European Commission on 4 March 2014. However, the only specific concern raised in that EC comment was in respect of Dot Registry’s separate community application for the .LLP string, not the .LLC or .INC applications.
233. In any event, just three weeks later, the EC submitted a follow-up “Application Comment”<sup>171</sup> dated 25 March 2014 stating that its concern regarding Dot Registry’s .LLP application had been resolved and that the EC was withdrawing its previous “Comment”. Notably, in this follow-up “Application Comment”, the EC specifically asked “that ICANN forward a copy of this communication to the Economist Intelligence Unit.”
234. It appears that the EIU tried to minimize its lapse on the ground that it only cost each of Dot Registry’s applications 1 point and “this would have had no material impact on the final outcome of the evaluation.”<sup>172</sup>
235. But in light of this recently produced email correspondence between ICANN and the EIU, it is clear that *there actually never was any relevant opposition at all* to Dot Registry’s .LLC community application and that the supposed opposition to its .LLP application had been withdrawn. The EIU should have awarded the .LLC and .LLP applications the maximum score of 2 points that were possible under the **4-B Opposition** criterion.

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<sup>169</sup> ICANN\_DR-00215-217 (Exhibit 21).

<sup>170</sup> Exhibit 21, Comment ID: tjwufnw.

<sup>171</sup> Exhibit 21, Comment ID: 7s164l51.

<sup>172</sup> While the EIU attempted to minimize its error by characterizing it as “not material”, it actually should be seen as troubling: First, the EU opposition was *never* about Dot Registry’s .LLC application. That should immediately have been apparent to both the EIU and ICANN. Therefore, it is immaterial to Dot Registry’s .LLC application whether or not both the original EU “opposition” (to the .LLP application) and the EU’s subsequent withdrawal of that “opposition” were communicated to ICANN during the 14-day window that began on 19 February 2014. The more troubling fact is that ICANN and the EIU either never noticed—or did not care—that (1) the supposed EU “opposition” was to a different string (.LLP) altogether, and (2) that opposition was withdrawn within three weeks of the date it was communicated.

**F.5. .LLC and .LLP Conclusion**

236. It is my conclusion that, had the EIU correctly followed the AGB and its own *EIU Guidelines*, and if it had applied the same standards it employed in connection with the .HOTEL, .RADIO, and .OSAKA TLD applications, it would have awarded Dot Registry's community application for the .LLC string the maximum possible 16 points, two more than it needed to prevail.
237. Similarly, it is my conclusion that, had the EIU correctly followed the AGB and its own *EIU Guidelines*, and if it had applied the same standards it employed in connection with the .HOTEL, .RADIO, and .OSAKA TLD applications, it would have awarded Dot Registry's community application for the .LLP string a total of 15 points, one more than it needed to prevail.

**G. The clear and manifest differences in the EIU’s treatment of the .RADIO, .HOTEL and .OSAKA community applications compared to .INC, .LLC and .LLP**

238. In this report, I rely on two fundamental assumptions:
- a. The EIU was required to apply the criteria for community applications as written in the AGB, and
  - b. The EIU was required to apply these criteria consistently across different community applications.
239. As supported by the discussion below, I find that the EIU did not apply the criteria for community applications as set forth in the AGB, and it did not apply the criteria consistently across different community applications. It is my opinion that the EIU treated the .INC, .LLC and .LLP applications differently both in terms of the criteria used to judge these applications as well as the standard of scrutiny applied. The EIU was not fair, balanced and consistent in its treatment of the .INC, .LLC and .LLP applications, and it is not possible to conclude that the EIU acted reasonably in exercising whatever discretion it may have been granted under the AGB criteria. Rather, the EIU’s failure to apply the AGB criteria, and its disparate treatment of the .INC, .LLC and .LLP applications with reference to other community priority applications is, in my view, manifest and evident.
240. When reviewing the EIU’s determinations regarding Dot Registry’s applications for the .INC, .LLC and .LLP strings, it is not possible to overlook the instances in which the EIU effectively rewrote the AGB criteria, rather than applying those criteria as written to these three community applications. In comparison to the uncritical, even highly deferential treatment it afforded to the .RADIO, .HOTEL and .OSAKA community applications, the EIU, in denying the applications for the .INC, .LLC and .LLP strings, applied requirements and distinctions that it simply invented out of whole cloth. Then, after finding that the .INC, .LLC and .LLP applications failed to satisfy its rewritten criteria, the EIU announced that these Dot Registry applications “did not prevail.”
241. Another unavoidable feature of the EIU’s determinations is its seeming animus toward the community applications for the .INC, .LLC, and .LLP strings. The EIU appears to have treated these applications with a level of unjustified skepticism—seemingly bordering on hostility—as it effectively condemned them as “construed” communities



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designed “to obtain a sought-after corporate identifier as a gTLD string.” This is evident in the determination that the EIU included conspicuously in its CPE Reports for each of the .INC, .LLC, and .LLP strings:

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 get a sought-after and after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). *The Community Priority Evaluation panel determined that this application refers to a “community” construed to obtain a sought-after corporate identifier as a gTLD string*, as [variously, these corporations, these limited liability companies, these limited liability partnerships, and the regulatory authorities and associations] would typically not associate themselves with being part of the community as defined by the applicant. *The community therefore could not have been active prior to the above date* [emphases added].<sup>173</sup>

242. The EIU proceeded to award each these three applications 0 points under **Criteria #1: Community Establishment**, which was sufficient to insure that they would not prevail. At the same time, it accepted uncritically the more poorly delineated and more heterogeneous “communities” proposed in connection with the .RADIO, .HOTEL, and .OSAKA community applications.
243. In its CPE Report on .RADIO (Exhibit 10), the EIU offered this quotation from the European Broadcasting Union application in support of its finding that the .RADIO community “shows a clear and straightforward membership and is therefore well defined”:

The Radio industry is comprised of a huge number of very diverse radio broadcasters: public and private; international and local; commercial or community-oriented; general purpose for sector-specific; talk or music; big and small. All licensed radio broadcasters are part of the .radio community,

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<sup>173</sup> .INC Report (Exhibit 7), p. 3; .LLC Report (Exhibit 8), p. 3; .LLP Report (Exhibit 9), p. 3.

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and so are the associations, federations and unions they have created ... Also included are the radio professionals, those making radio the fundamental communications tool that it is.

However, the Radio industry keeps evolving and today, many stations are not only broadcasting in the traditional sense, but also webcasting and streaming their radio content via the Internet. Some are not broadcasters in the traditional sense: Internet radios are also part of the Radio community, and as such will be acknowledged by the .radio TLD, as will podcasters. In all cases certain minimum standards on streaming or updating schedules will apply.

The .radio community also comprises the often overlooked amateur radio, which uses radio frequencies for communications to small circles of the public. Licensed radio amateurs and their clubs will also be part of the .radio community.

Finally, the community includes a variety of companies providing specific services or products to the Radio industry.<sup>174</sup>

244. In my opinion, this “definition” is more ambiguous and less well delineated than those offered by Dot Registry in its applications for the .INC, .LLC and .LLP strings. Nevertheless, the EIU judged the .RADIO “community” to be well-defined:

*This [.RADIO] community definition shows a clear and straightforward membership and is therefore well-defined* [emphasis added]. Association with, and membership in, the radio community can be verified through licenses held by professional and amateur radio broadcasters; membership in radio -related associations, clubs and unions; Internet radios that meet certain minimum standards; radio-related service providers that can be identified through trademarks; and radio partners and providers.<sup>175</sup>

245. One is left to wonder just what—both in general and specifically—are “radio-related associations, clubs and unions”? How would membership in any of these be verified? What are the “certain minimum standards” that define “Internet radios” and how would

<sup>174</sup> .RADIO Report (Exhibit 10), pp. 1-2.

<sup>175</sup> .RADIO Report (Exhibit 10), p. 2.

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these be verified? How do “trademarks” unambiguously identify “radio-related services providers”, and what are these “trademarks”? What is a radio “partner”? What businesses, associations and individuals are “radio partners” or “providers”, and what businesses, associations and individuals would not be so regarded?

246. In its CPE Report on .HOTEL (Exhibit 11), the EIU offered this quotation from the HOTEL Top-Level Domain s.a.r.l application in support of its finding that the .HOTEL community “shows a clear and straightforward membership” and is “clearly defined”:

The .hotel namespace will exclusively serve the global Hotel Community. The string “Hotel” is an internationally agreed word that has a clear definition of its meaning: according to DIN EN ISO 18513:2003, “A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available,” *Therefore only entities which fulfill this definition are members of the Hotel Community and eligible to register a domain name under .hotel* [emphasis added] .hotel domains will be available for registration to all companies which are which are member [sic] of the Hotel Community on a local, national and international level. The registration of .hotel domain names shall be dedicated to all entities and organizations representing such entities which fulfill the ISO definition quoted above:

1. Individual Hotels
2. Hotel Chains
3. Hotel Marketing organizations representing members from 1. and/or 2.
4. International, national and local Associations representing Hotels and Hotel Associations representing members from 1. and/or 2.
5. Other organizations representing Hotels, Hotel Owners and other solely Hotel related organizations representing on [sic] members from 1. and/or 2.

These categories are a logical alliance of members, with the associations and the marketing organizations maintaining membership lists, directories and registers that can be used, among other public lists, directories and registers, to verify eligibility against the .hotel Eligibility [sic] requirements.<sup>176</sup>

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<sup>176</sup> .HOTEL Report (Exhibit 11), p. 2

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247. In my opinion, this “definition” also is more ambiguous and less well delineated than those offered by Dot Registry in its applications for the .INC, .LLC and .LLP strings. Nevertheless, the EIU judged the .HOTEL “community” to be “clearly defined”:

This community definition shows a clear and straightforward membership. The community is clearly defined because membership requires entities/associations to fulfill the ISO criterion for what constitutes a hotel. Furthermore, association with the hotel sector can be verified through membership lists, directories and registers.<sup>177</sup>

248. But if—as the applicant HOTEL Top-Level-Domain s.a.r.l stated—only entities which fulfill the DIN EN ISO 18513:2003 definition (that “A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available”) are members of the Hotel Community and eligible to register a domain name under .hotel, how could the EIU say the .HOTEL community “was clearly defined”? In the “definition” approvingly quoted by the EIU, the .HOTEL community also includes Hotel Marketing organizations representing individual hotels and hotel chains; international, national and local associations representing Hotels, and Hotel Associations representing individual hotels and hotel chains; and other organizations representing Hotels, Hotel Owners and other solely Hotel related organizations, individual hotels and hotel chains which *are not* included within the DIN EN ISO 18513:2003 definition.

249. In its CPE Report on .OSAKA (Exhibit 12), the EIU offered this quotation from the Interlink Co., Ltd. application in support of its finding that the .OSAKA community “shows a clear and straightforward membership” and is “clearly defined”:

Members of the community are defined as those who are within the Osaka geographical area as well as those who self identify as having a tie to Osaka, or the culture of Osaka. Major participants of the community include, but are not limited to the following:

- a. Legal entities
- b. Citizens
- c. Governments and public sectors
- d. Entities, including natural persons who have a legitimate purpose in addressing community.<sup>178</sup>

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<sup>177</sup> Ibid.

<sup>178</sup> .OSAKA Report (Exhibit 12), p. 2.

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250. It also is my opinion that this “definition” of the .OSAKA community is more ambiguous and less well delineated than those offered by Dot Registry in its applications for the .INC, .LLC and .LLP strings. Nevertheless, the EIU judged the .OSAKA “community” to be “clearly defined”:

This community definition shows a clear and straightforward membership. The community is clearly defined because membership is dependent on having a clear connection to a defined geographic area.<sup>179</sup>

251. But if “members of the [Osaka] community are defined as those who are within the Osaka geographical area *as well as those who self-identify as having a tie to Osaka, or the culture of Osaka,*” who precisely are the “legal entities”, the “citizens”, and the “governments and public sectors” subsumed by this definition? Indeed, how would an outside observer verify such “self-identification”? Geographically, which of these lie outside of Osaka, or even outside of Japan? Where might one find a listing or specific delineation of the “entities, including natural *persons who have a legitimate purpose in addressing the [.OSAKA] community* [emphases added]. Also, what constitutes a “legitimate purpose”? Who are the entities and persons who would not be deemed to have such a “legitimate purpose”?
252. I conclude that none of the “communities” proposed in connection with the .RADIO, .HOTEL and .OSAKA applications actually is “well defined” at all—not even in principle and certainly not in comparison to the communities associated with the .INC, .LLC and .LLP strings. In my opinion, the “definitions” for the .RADIO, .HOTEL and .OSAKA “communities” fail to delineate clear boundaries around their claimed “memberships”. Although the EIU concluded that membership in each could be “verified”, the practical challenges to doing so would be enormous, indeed, impracticable.
253. Where the EIU’s “research” into the operations and organization of the members of the .INC, .LLC and .LLP communities allowed it to conclude that these communities “do not have awareness and recognition of a community among [their] members”<sup>180</sup> and was

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<sup>179</sup> Ibid.

<sup>180</sup> Again, here is the complete statement of the EIU’s finding:

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sufficient to insure that these Dot Registry applications did not prevail, the EIU appears to have found it unnecessary to conduct similar “research” into the operations and organization of the .RADIO, .HOTEL and .OSAKA communities. Instead, the EIU appears to have found the necessary “awareness and recognition of a community among [their] members” *in the community definitions themselves*. For example:

254. The EIU found that the .RADIO community had the requisite “awareness and recognition of a community among its members” simply by virtue of the fact that it was defined to consist of entities and individuals in the radio industry:

[T]he community as defined in the application has awareness and recognition among its members. *This is because the community as defined consists of entities and individuals that are in the radio industry* [footnote omitted], and *as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community* [emphases added].<sup>181</sup>

As I have observed above, the “definition” offered for the .RADIO community reads more like an ad hoc laundry list.

255. The EIU appears to have had an even easier time discerning in “awareness and recognition of a community among its members” in the case of the .HOTEL community. All that it needed to do was to look at the definition proffered for that community:

[T]he community as defined in the application has awareness and recognition among its members. *This is because the community is defined in terms of its*

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

<sup>181</sup> .RADIO Report (Exhibit 10), p. 2.

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*association with the hotel industry and the provision of specific hotel services*  
[emphasis added].<sup>182</sup>

It is not clear to me how the mere satisfaction of DIN EN ISO 18513:2003 (“A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available.”) causes the resulting “community” to have the requisite awareness and recognition among its members.

256. The EIU appears to have had a still easier time discerning the requisite “awareness and recognition of a community” on the part of the members of the .OSAKA community. All it needed was this non sequitur:

[T]he community as defined in the application has awareness and recognition among its members. *This is because of the clear association with the Osaka geographical area, as according to the applicant, “the Osaka Community is largely defined by its prefectural borders* [emphasis added].”<sup>183</sup>

Again, it is anything but clear to me why the fact that “the Osaka Community is largely defined by its prefectural borders” — a questionable assertion at best when that community was vaguely defined to include “those who self identify as having a tie to Osaka, or the culture of Osaka” and “entities, including natural persons who have a legitimate purpose in addressing the [Osaka] community” — was sufficient to insure that the putative Osaka “community” possessed the necessary awareness and recognition among its members.

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<sup>182</sup> .HOTEL Report (Exhibit 11), p. 2.

<sup>183</sup> .OSAKA Report (Exhibit 12), p. 2.

**H. The EIU’s imposition of invented requirements— not present in the AGB— on the .INC, .LLC, strings**

257. All community applicants had to rely on— and adhere to— the same requirements set forth in the final June 2012 version of the AGB. But in comparison to the EIU’s seemingly uncritical treatment of the .RADIO, .HOTEL and .OSAKA applications under the AGB, and in spite of its clear commitment that the *EIU Guidelines* do “not modify the AGB framework, nor does it change the intent or standards laid out in the AGB,” the EIU appears— without input from or disclosure to the applicants— to have first made material modifications to the AGB criteria before applying them *only to* the .INC, .LLC, and .LLP strings.
258. For example, the EIU offered this “explanation” for its decision to award no points to these three applications in connection with the **1-A Delineation** sub criterion under **Criterion #1: Community Establishment**
- Based on the Panel’s research, there is no evidence of INCs [alternatively, LLCs, and LLPs] from different sectors *acting as a community* as defined by the Applicant Guidebook. There is no evidence that these incorporated firms *would associate themselves* with being part of the community as defined by the applicant [emphases added].<sup>184</sup>
259. But in the context of community-based applications, the AGB requires only that the community (and its members) *be* a community. I find nothing in the AGB requiring community members to “*act* as a community”. Nor does the AGB include any requirement regarding whether— or how— community members “would *associate themselves*” with “being part of a community” or anything else. The EIU appears to have made these criteria up on its own. In fact, in my view, businesses do make a conscious and considered decision regarding the form of the business organization they adopt because of what the chosen form of business organization represents by way of rights and regulatory obligations.
260. In connection with the **1-A Delineation** sub criterion under **Criterion #1: Community Establishment**, the EIU also offered this “explanation” to justify its decision to award no points to Dot Registry’s .INC, .LLC and .LLP applications:

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<sup>184</sup> .INC Report (Exhibit 7),, p. 2.



The community as defined in the application does not have at least one entity mainly dedicated to the community. Although responsibility for corporate registrations and the regulations pertaining to corporate formation are vested in each individual US state, *these government agencies are fulfilling a function, rather than representing the community*. In addition, the offices of the Secretaries of State of US states are not mainly dedicated to the community *as they have other roles/functions beyond processing corporate registrations* [emphases added].<sup>185</sup>

261. The AGB does not even contain the terms “fulfilling a function” and “representing the community”, much less does it state that there is a critical, dispositive distinction between them. In fact, the AGB actually requires only that a community be “organized”, meaning “that there is at least one entity mainly *dedicated* [emphasis added] to the community, with documented evidence of community activities.”<sup>186</sup> Importantly, I can find nothing in the AGB prohibiting this “dedicated entity” from having additional responsibilities.
262. By the EIU’s logic, the Osaka Prefecture (that the EIU deemed to be the entity mainly dedicated to the .OSAKA community) also is merely “fulfilling a function” rather than “representing” the community. Notably, the EIU found documented evidence of community activities for the .OSAKA community by accessing the website of the Osaka Prefectural government.<sup>187</sup> As I explain above, if the EIU had looked at the website of the NASS, it would have found similar evidence of the community activities of the .INC, .LLC and .LLP communities.
263. The EIU often imposed a hierarchical or prerequisite relationship among what actually are separate and mutually independent AGB requirements. At other times, the EIU used “therefore” to link conclusions to premises that actually have no necessary connection at all. These practices on the part of the EIU often resulted in obvious non sequiturs.
264. For example, in its evaluation of the .INC application for Organization (required under **1-A Delineation**), the EIU stated – correctly – that:

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<sup>185</sup> Ibid.

<sup>186</sup> AGB (Exhibit 1), page 4-11.

<sup>187</sup> .OSAKA Report (Exhibit 12), p. 2.

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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.<sup>188</sup>

As stated, these are logically independent criteria, each capable of being satisfied and verified separately. But the EIU’s “logic” conflates them with its assertion that an applicant’s failure to satisfy one prong *necessarily* requires the conclusion—with no need to conduct any further investigation—that the applicant has also failed the second, independent prong:

As there is no entity that is mainly dedicated to the community as defined in the .INC application, [it follows that] *there is no documented evidence of community activities* [emphasis added].<sup>189</sup>

In other words, by assuming the premise that “there is no entity that is mainly dedicated to the community,” the Panel was able to dismiss even the logical possibility that documented community activities could exist.

265. The EIU used similar “reasoning” in deciding that the .INC community “was not active prior to September 2007”:

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 get a sought-after generic word as a gTLD string) and “false negatives” (not awarding priority to a qualified community application). The Community Priority Evaluation panel determined that this application refers to a “community” construed to obtain a sought-after corporate identifier

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<sup>188</sup> .INC Report (Exhibit 7), p. 2.

<sup>189</sup> Ibid. In fact, there actually is considerable evidence. In addition to the voluminous documentary record created when community members actively seek to join the .INC community and thereafter to maintain their registrations that are maintained by the Secretaries of State, there also is the activity of associations of corporations *qua* corporations, as I have shown above. Similar documentary records combined with the activities of the associations that include LLCs and LLPs that are discussed above constitute similar evidence for the .LLC and .LLP communities.

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as a gTLD string, as these corporations would typically not associate themselves with being part of the community has defined by the applicant. *The community therefore could not have been active prior to the above date* (although its constituent parts were active) [emphasis added].<sup>190</sup>

266. In its evaluation of the .INC application under **1-A Delineation** for Delineation and under **1-B Extension** for both Size and Longevity, the Panel “reasoned” as follows:
- a. Because corporations operate in vastly different sectors, which sometimes have little or no association with one another, and because the Panel’s research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC,<sup>191</sup> it follows that there is no evidence of INCs from different sectors acting as a community as defined by the AGB.
  - b. Therefore, these incorporated firms would not *typically* associate themselves with being members of [the community of corporations].
  - c. Therefore, the community as defined in the .INC application does not have awareness and recognition of a community among its members.
  - d. Therefore, the Dot Registry applications for .INC, .LLC and .LLP did not satisfy the requirements under **1-A Delineation** for Delineation and under **1-B Extension** for both Size and Longevity.
267. In my opinion, the preceding is fraught with errors:
- a. First, is nothing in the AGB requiring communities to “act as a community” or even explaining what that might mean. Again, all the AGB requires is that the putative community *be* a community.
  - b. Even if it were true that “firms are typically organized around specific industries, locales, and other criteria” unrelated to whether or not they are

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<sup>190</sup> .INC Report (Exhibit 7), p. 3.

<sup>191</sup> As explained in the preceding footnote, the EIU’s “research” can be charitably described as, at best, incomplete.

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corporations (and the EIU has not offered evidence to support this assertion), it does *not* “follow” that they cannot *be* a community.”<sup>192</sup>

- c. Whether or not incorporated firms would “*typically* associate themselves with being members” of the community of corporations is irrelevant. I am unable to find a “typicality” test or criterion in the AGB.
- d. “Awareness and recognition of a community” is not defined or explained at all by the AGB. Nor does the AGB make any attempt to explain why such “awareness and recognition of a community” can exist only if community members “act as a community” or “associate themselves with being members”.

268. Despite this, the EIU’s reliance on the above “logic” insured that the Dot Registry community applications for .INC, .LLC and .LLP would receive 0 points under **Criterion #1: Community Establishment**, which in turn assured that these applications would not prevail.

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<sup>192</sup> The communities at issue in the .RADIO, .HOTEL and .OSAKA applications include members whose organizing principles are, at best, only partially or tangentially related to their ostensible communities. These include, for example, the “variety of companies providing specific products or services to the Radio industry” (.RADIO Report, Exhibit 10) It appears that these “products or services” could include anything and their provision to hotels need not be a significant portion of the respective companies’ sales. Where the .HOTEL community was defined to include unspecified “Other organizations representing Hotels, Hotels Owners and other solely Hotel related organizations” (.HOTEL Report, Exhibit 11), that logically could also include chambers of commerce, visitor bureaus, travel organizations and publishers of business directories, to name but a few. Also, “those who self-identify as having a tie to Osaka or the culture of Osaka” (.OSAKA Report, Exhibit 12) could be located anywhere in the world and whose “tie” to Osaka might be secondary at best, or even inconsequential.

**I. The EIU's inconsistent treatment of different community applications.**

269. In my opinion, it is important to understand the instances in which the EIU CPE Panel treated individual community applications differently.
270. Where the .INC community application was faulted by the Panel because it did not have awareness and recognition of a community among its members (owing to the “fact” that corporations “operate in vastly different sectors”), the Panel found that the .RADIO community possessed the requisite awareness and recognition among its members on the basis of little more than this circular, tautological argument:
- [T]he [.RADIO] community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities and individuals that are in the radio industry [footnote omitted], and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community.<sup>193</sup>
271. In .HOTEL, the Panel accepted “detailed information” on the website of the International Hotel *and Restaurant* Association (“IH&RA”, described by the applicant as “the only global business organization representing the hotel industry worldwide”<sup>194</sup>) as sufficient to satisfy the requirement for documented evidence of .HOTEL community activities. The Panel appears not to have been troubled by the fact that the IH&RA also appears to be significantly devoted to the *restaurant* industry, which is *not* part of the .HOTEL community as defined by the applicant. Yet the Panel faulted Dot Registry’s .INC application’s citation to the offices of U.S. Secretaries of State for documented evidence of .INC community activities on the ground that “the offices of the Secretaries of States of US states are not mainly dedicated to the [.INC] community *as they have other roles/functions beyond processing corporate registrations* [emphasis added].” The EIU did not seem troubled by this inconsistency.
272. Nonetheless, the EIU found that the definition *alone* of the .HOTEL community was sufficient to demonstrate awareness and recognition of a community among its members “because the [.HOTEL] community is defined in terms of its association with the hotel industry and the provision of specific hotel services.”<sup>195</sup>

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<sup>193</sup> .RADIO Report (Exhibit 10), p. 2.

<sup>194</sup> .HOTEL Report (Exhibit 11), p. 2.

<sup>195</sup> Ibid.

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273. The .INC community was not so fortunate. The Panel judged it to be “a ‘community’ construed to obtain a sought-after corporate identifier as a gTLD string, as these corporations would typically not associate themselves with being part of the community as defined by the applicant.”<sup>196</sup>

274. The EIU reported—on the basis of no apparent research or data—that

[T]he .HOTEL string nexus closely describes the [HOTEL] community, without overreaching substantially beyond the community. The string identifies the name of the core community members (i.e. hotels and associations representing hotels).<sup>197</sup> However, the community also includes some entities that are related to hotels, such as hotel marketing associations that represent hotels and hotel chains and which may not be automatically associated with the gTLD.

*However, these entities are considered to comprise only a small part of the community.* Therefore the string identifies the community, but does not overreach substantially beyond the community, as the general public will generally associate the string with the community as defined by the applicant [emphasis added].<sup>198</sup>

275. The EIU did not disclose the data or methodology that allowed it to “consider” the “entities that are related to hotels, such as hotel marketing associations, that represent hotels and hotel chains” to “comprise only a small part of” the .HOTEL community. If the EIU had been consistent, it would have concluded that, even though “these entities are considered to comprise only a small part of the community,” their inclusion would still amount to “over-reach”. And if the EIU viewed such “over-reach” in the same manner it employed in connection with the .INC, .LLC and .LLP community applications, it would have concluded that *any* such over-reach was *ipso facto*

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<sup>196</sup> .INC Report (Exhibit 7), p. 3. Again, see above for evidence to the contrary.

<sup>197</sup> This actually is incorrect. The .HOTEL application clearly stated that only entities satisfying the relevant ISO definition—“A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available.” (Exhibit 17, p. 2)—are members of the HOTEL community. Thus, hotel marketing organizations; international, national and local associations representing hotels and hotel associations; and other organizations representing hotels, hotel owners and other solely hotel related organizations are not included in the ISO definition and, therefore, not included in the .HOTEL community.

<sup>198</sup> .HOTEL Report (Exhibit 11), p. 4.

*“substantial”* and would have given the .HOTEL application 0 points under **Criterion #2: Nexus between Proposed String and Community**.

276. This is because the .INC community application was not treated so generously in this respect by the EIU, which concluded (again, without any apparent research or data) that:

The applied-for string (.INC) over-reaches *substantially*, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community... While the string identifies the name of the community, it captures a wider geographical remit than the community has, as the corporate identifier is used in Canada, Australia and the Philippines. Therefore, there is a *substantial* over-reach between the proposed string and the community as defined by the applicant [emphases added].<sup>199</sup>

277. As discussed above, there is a major problem with this judgment by the EIU: the AGB does not specify any metric or ranges of permissible and impermissible values, or, most importantly, a “critical value” beyond which any “over-reach” is deemed “substantial.” Moreover, a close reading of the *EIU Guidelines*—which are intended to clarify, not replace the scoring criteria in the AGB—supports the conclusion that, to the EIU, *any* “over-reach”—no matter how small—would *ipso facto* be “substantial”.<sup>200</sup>

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<sup>199</sup> .INC Report (Exhibit 7), pp. 4-5.

<sup>200</sup> The *EIU Guidelines* (Exhibit 2) state (at p. 7) that ““Over-reaching substantially” (which is sufficient to cost a community application all 4 points available under **Criterion #2: Nexus between Proposed String and Community**) “means that the string indicates a wider geographical or thematic remit than the community has.” Elsewhere in this report, I take and explain the position that any geographic “over-reach” must, at a minimum, significantly exceed 50 percent before it can be regarded as “substantial”.

**J. The EIU’s Unsupported, Undocumented and Unverifiable Assertions Regarding its “Research” and “Evidence”**

278. At a number of points in the CPE Reports for the .INC, .LLC, and .LLP community applications, the EIU alluded to its unspecified and undocumented “research” to support broad generalizations that it then used to justify awarding no points whatsoever to the Dot Registry applicant at important steps in CPE process. The following passage is typical:

*Research* showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC [alternatively, LLC and LLP]. Based on *the Panel’s research, there is no evidence* of INCs [alternatively, LLCs and LLPs] from different sectors acting as a community as defined by the Applicant Guidebook. . . . *There is no evidence* that these incorporated firms would associate themselves with being part of the community as defined by the applicant [emphases added].<sup>201</sup>

279. In my view, the EIU should be required to disclose the specific “research” it supposedly conducted in conjunction with its consideration of the .INC, .LLC and .LLP applications and to explain how that specific “research” supports each of its following conclusions:

- a. Firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an INC.<sup>202</sup>
- b. Firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an LLC.<sup>203</sup>
- c. Firms are typically organized around specific industries, locales, and other criteria not related to the entities structure as an LLP.<sup>204</sup>
- d. There is no evidence of INCs from different sectors acting as a community as defined by the Applicant Guidebook.<sup>205</sup>

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<sup>201</sup> .INC, .LLC and .LLP Reports (Exhibits 7, 8 and 9, respectively), p. 2.

<sup>202</sup> .INC Report (Exhibit 7), p. 2.

<sup>203</sup> .LLC Report (Exhibit 8), p. 2.

<sup>204</sup> .LLP Report (Exhibit 9), p. 2.

<sup>205</sup> .INC Report (Exhibit 7), p. 2.



EXPERT REPORT

- e. There is no evidence of LLCs from different sectors acting as a community as defined by the Applicant Guidebook.<sup>206</sup>
  - f. There is no evidence of LLPs from different sectors acting as a community as defined by the Applicant Guidebook.<sup>207</sup>
  - g. There is no evidence that these incorporated firms would associate themselves with being part of the [INC] community as defined by the applicant.<sup>208</sup>
  - h. There is no evidence that these limited liability companies would associate themselves with being part of the [LLC] community as defined by the applicant.<sup>209</sup>
  - i. There is no evidence that these limited liability partnerships would associate themselves with being part of the [LLP] community as defined by the applicant.<sup>210</sup>
280. At the same time, the EIU should be asked to explain why it apparently did not find it necessary to look for similar evidence in connection with its evaluations of the .RADIO, .HOTEL and .OSAKA community applications.
281. In any event, I conclude that the EIU's supposed "research" cost each of Dot Registry's applications (for .INC, .LLC and .LLP) all 4 possible points under **Criterion #1: Community Establishment** (i.e., the 2 points that were possible for **1-A Delineation** as well as the 2 points available under **1-B Extension**). Put plainly, the EIU's supposed "research" was sufficient to insure that these three Dot Registry applications could not prevail.

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<sup>206</sup> .LLC Report (Exhibit 8), p. 2.

<sup>207</sup> .LLP Report (Exhibit 9), p. 2.

<sup>208</sup> .INC Report (Exhibit 7), p. 2.

<sup>209</sup> .LLC Report (Exhibit 8), p. 2.

<sup>210</sup> .LLP Report (Exhibit 9), p. 2.

Respectfully submitted

July 13, 2015

A handwritten signature in blue ink that reads "Michael A. Flynn". The signature is written in a cursive style and is positioned above a horizontal line.

Michael A. Flynn  
Director  
Navigant Economics

**Michael A. Flynn**  
**Director**

**BIOGRAPHY**

Mr. Flynn has been both a testifying and consulting expert economist for nearly twenty-five years, specializing in antitrust, economic damages, intellectual property, class actions and other complex business litigation and consulting engagements. In addition to assuming overall responsibility for the preparation of expert submissions, including designing and directing the supporting analyses and drafting the reports themselves, Mr. Flynn also serves as an expert economic consultant to counsel, assisting in preliminary case analysis, discovery strategy, expert discovery and dispositive motions and trial. He has case experience in a broad range of industries, markets and products, including, among others:

- **Insurance** (including business interruption, workers compensation, auto, life, and property and casualty).
- **Healthcare** (including hospital and physician services, brand name prescription drugs and other pharmaceuticals, and medical instruments and hospital products).
- **Energy** (including petroleum, natural gas and gasoline, with specific case experience in production, pipelines, royalties, refining, distribution, and marketing).
- **Professional sports** (including professional sports leagues, teams, stadiums and franchise relocations).
- **Computer and electronics hardware and software** (including network operating systems, digital media software and video game consoles and software).
- **Transportation** (including passenger airlines and waterborne freight).
- **Other consumer and producer goods** (including infant formula, high-pressure laminates, carbon dioxide and consumer credit reports).

Mr. Flynn was enrolled as a National Science Foundation Fellow in the PhD Program in Economics of the Massachusetts Institute of Technology, Cambridge, Massachusetts, from 1971 to 1974, where he completed all general and field qualifying examinations for the PhD degree. Mr. Flynn received his AB degree from the University of California, Berkeley, where he was the recipient of the Department of Economics Citation as the Outstanding Graduating Senior.

## **PROFESSIONAL EXPERIENCE**

- 2012 – Present**    **Navigant Economics, Oakland, California**  
*Director*
- 2011 – 2012**    **AFE Consulting, Oakland, California**  
*Director*
- 1989 – 2011**    **LECG LLC (formerly The Law & Economics Consulting Group), Emeryville, California**  
*Principal (1999-2011)*  
*Senior Managing Economist (1996-1999)*  
*Managing Economist (1996)*  
*Senior Economist (1989-1995)*
- 1983 – 1988**    **American President Lines, Ltd. (Now APL, Part of NOL Group), Oakland, California**  
*Director of Economics, Corporate Planning Department*
- 1976 – 1982**    **Data Resources, Inc. (now Global Insight, Inc.), Lexington, Massachusetts, and San Francisco, California**  
*Senior Economist and Managing Consultant*

## **TEACHING EXPERIENCE**

**Instructor in Economics at Wellesley College (1974-1976), University of Massachusetts (1974-1975) and Boston University (1978).**

Taught undergraduate and graduate courses, including *Introduction to Microeconomics*, *Introduction to Macroeconomics*, *Intermediate Economic Theory*, *Statistics and Econometrics*, *Mathematical Economics*, *Money and Banking*, and *Managerial Economics*.

## **ARTICLES/PUBLICATIONS/PRESENTATIONS**

***An Economic Analysis of the California Energy Commission’s Fuel Delivery Temperature Study and the “Hot Fuel” Allegations* (White Paper presented to the California Energy Commission, January 2009, and published by the National Institute of Standards and Technology/National Conference on Weights and Measures, *Report of the 94<sup>th</sup> National Conference on Weights and Measures*, NIST Special Publication 1099, November 2009).**

***The Analysis of Professional Sports Leagues as Joint Ventures* (with Richard J. Gilbert), *The Economic Journal*, 111 (February 2001), pp. F233-F252.**

***An Economic Perspective on State Oil v. Khan* (presentation to the Antitrust Section of the Dallas Bar Association, Dallas, Texas, September 1998).**

### **ARTICLES/PUBLICATIONS/PRESENTATIONS (cont.)**

***The Economic Analysis of Intellectual Property Damages: Lessons from Recent Cases*** (before the LECG Intellectual Property Conference, San Francisco, California, October 1998.)

***Using Economists to Overcome the Hart-Scott-Rodino Hurdle***, March 1998, San Francisco, California. (Presentation to the *Continuing Legal Education Conference on Mergers, Acquisitions & Joint Ventures* sponsored by Corporate Counsel Institutes and Business Development Associates.)

***Economics*** (with Leonard Waverman and Melvyn Fuss) Chapter 8 in *THE LITIGATOR'S GUIDE TO EXPERT WITNESSES*, Mark J. Freiman and Mark L. Berenblut, eds., 1997.

### **RETENTIONS AS TESTIFYING EXPERT**

***John Mosley, Individually, and Clinton Body Shop, Inc.; Daniel Mosley, Individually, and Clinton Body Shop of Richland Inc. v. GEICO Insurance Company; Progressive Insurance Company; Direct General Insurance Company***, U.S. District Court, Southern District of Mississippi, Jackson Division (Case No. 3:13-cv-00161 LG-JMR).

Expert Report on behalf of GEICO Insurance Company, May 2014.

***Fullerton Medical Group v. Sideman & Bancroft LLP, et al.*** (Civil Case No. 428693) and related case ***Fullerton Medical Group v. Brown & Toland Medical Group, California Pacific Medical Center and Sutter Health System, et al.*** (Civil Case No. 319610), Superior Court of the State of California, County of San Francisco.

Retained on behalf of Defendants, 2007-2008 and 2012-2013.

Deposition Testimony on behalf of Defendants, August 2013.

Trial Testimony on behalf of Defendants, August 2013.

***CenterPoint Energy Services, Inc. v. Air Products, LLC and The Premcor Refining Group, Inc.***, District Court of Harris County, Texas (295<sup>th</sup> Judicial District Cause No. 2007-70853).

Expert Report on behalf of Defendants, June 2009

Rebuttal Expert Report on behalf of Defendants, April 2010

Supplemental Expert Report on behalf of Defendants, April 2010

Deposition Testimony on behalf of Defendants, April 2010.

***Fuel Delivery Temperature Study (pursuant to California AB 868)***

Presentation to Staff of the California Energy Commission, November 2009

Presentation to the California Energy Commission, December 2009.

**RETENTIONS AS TESTIFYING EXPERT (cont.)**

***Easley, Hornung, Inc. and Creole Engineering Sales Company, Inc. v. Timothy A. Shimko; Frank E. Piscitelli; Shimko & Piscitelli, a Law Partnership; Carter Dodge; Patrick G. Grattan; and, Geary, Shea, O'Donnell & Grattan, a Law Partnership, et al., California Superior Court, County of San Mateo, Southern Branch (Civil Case No. 436492).***

Report to Counsel on behalf of Defendants, April 2005.

***Novell, Inc. v. Unicom Sales, Inc., et al., U.S. District Court, Northern District of California (Case No. 3:03-cv-02785-MMC).***

Expert Report on behalf of Plaintiff, June 2004.

Supplemental Expert Report on behalf of Plaintiff, July 2004.

Deposition Testimony on behalf of Plaintiff, July 2004.

***Marla McGuire et al. v. Farmers Group Inc. et al., California Superior Court, County of Los Angeles (Civil Case No. BC 216294).***

Expert Declaration on behalf of The Farmers Group, Inc., September 2002.

***Novell, Inc. v. Network Systems Technology, Inc., et al., U.S. District Court for the Northern District of Georgia, Atlanta Division (Civil Action File No. 1:00-cv-0773-RLV).***

Expert Report on behalf of Plaintiff, December 2001.

***Novell, Inc. v. MBC Enterprises, LLC, et al.; Novell, Inc. v. Computer Recyclers, Inc., et al., U.S. District Court for the District of Utah (Consolidated Case 2:98-cv-00200- ST).***

Expert Report on behalf of Plaintiff, June 2000.

Supplemental Expert Report on behalf of Plaintiff, August 2000.

Trial Testimony on behalf of Plaintiff, November 2001.

***Adobe Systems Incorporated v. One Stop Micro dba Signal Computing, et al., U.S. District Court for the Northern District of California (San Jose Division), (Case No. 5:97-cv-20980-JW-PVT).***

Expert Report on behalf of Plaintiff, April 2000.

Reply Expert Report on behalf of Plaintiff, April 2000.

Supplemental Expert Report on behalf of Plaintiff, May 2000.

***Steve Carver, dba Steve Carver Chevron, et al. v. Chevron Company U.S.A., Inc., et al., California Superior Court, County of San Diego (Civil Case No. 658690)***

Declaration on behalf of Defendants, November 1999.

**RETENTIONS AS TESTIFYING EXPERT (cont.)**

***Oakland-Alameda County Coliseum Authority v. CC Partners dba The Golden State Warriors, American Arbitration Association.***

Declaration on behalf of Claimant OACCA, May 1999.  
Expert Report on behalf of Claimant OACCA, June 1999.  
Expert Report on behalf of Claimant OACCA, March 2000.  
Deposition Testimony on behalf of Claimant OACCA, March 2000.  
Testimony before Arbitrator on behalf of Claimant OACCA, April 2000.

***Novell, Inc. v. CPU Distributing, Inc.; Terry L. Green; and Leroy Hunter, U.S. District Court for the Southern District of Texas (Houston Division) (Case No. 4:97-cv-2326).***

Expert Report on behalf of Plaintiff, September 1998.

***Novell, Inc. v. Network Trade Center, Inc. and Mark Bondiatt, U.S. District Court for the District of Utah (Case No. 2:95-cv-00523-JTG).***

Testimony before Special Master on behalf of Plaintiff, May 1998.

***Novell, Inc. v. Vandy Micro Corp., et al., U.S. District Court, Central District of California (Case No. 2:96-cv-00507-MRP-Mc).***

Expert Report on behalf of Plaintiff, February 1997.  
Trial Testimony on behalf of Plaintiff, June 1997.

***Novell, Inc. v. Jaco Electronics, Inc., et al., U.S. District Court, Central District of California (Case No. 2:96-cv-00504-MRP-Mc).***

Expert Report on behalf of Plaintiff, February 1997.

***Novell, Inc. v. Softcom Computers, et al., U.S. District Court, Central District of California (Case No. 2:96-cv-00492-MRP-Mc).***

Expert Report on behalf of Plaintiff, February 1997.

***Novell, Inc. v. Micro Supply, Inc., et al., U.S. District Court, Central District of California (Case No. 2:96-cv-000505-MRP-Mc).***

Expert Report on behalf of Plaintiff, February 1997.

## **RETENTIONS AS CONSULTING EXPERT**

***Sky-Med, Inc. dba Pacific Skydiving Hawaii v. Skydiving School, Inc. dba SkyDive Hawaii, U.S. District Court, District of Hawaii (Case No. 13-cv-00193-DKW-BMK)***

Retained on behalf of Defendants, 2014.

***SkyWest Airlines, Inc. and Atlantic Southeast Airlines, Inc. v. Delta Air Lines, State Court of Fulton County, State of Georgia (Civil Action No. 11 EV 011971)***

Retained on behalf of Plaintiffs, 2008-2012.

***In re: ICANN's Expansion of Top Level Domains, Hearings before the U.S. Senate Committee on Commerce, Science & Transportation, December 8, 2011.***

Written submission (with Robert E. Hall) on behalf of the Association of National Advertisers.

***Freedom Medical, Inc. v. Premier Purchasing Partners L.P., Premier Inc., Novation L.L.C., Universal Hospital Services Inc., and Hill-Rom Company Inc., U.S. District Court, Eastern District of Texas (Case No. 5:09-cv-152)***

Retained on behalf of the Premier Defendants, 2010.

***Application of San Pablo Bay Pipeline Company LLC for Approval of Tariffs for the San Joaquin Valley Crude Oil Pipeline before the California Public Utilities Commission***

Retained on behalf of Applicant, 2008-2010.

***Starr International Company, Inc. v. American International Group, Inc. (including counterclaims against Starr International Company and Maurice R. Greenberg by American International Group), U.S. District Court, Southern District of New York.***

Retained on behalf of Starr International Company, 2005-2009.

***Ronald W. De Ruuk, as Bankruptcy Administrator for Holding Tusculum B.V., Claimant, against Louis Dreyfus S.A.S., Respondent, Court of Arbitration, International Chamber of Commerce, Geneva, Switzerland.***

Retained on behalf of Claimant, 2007-2008.

***Consortium Information Services, Inc. aka The Consortium Group v. Equifax, Inc. et al., Superior Court of California, County of Orange.***

Retained on behalf of Defendant, 2007-2008.



**RETENTIONS AS CONSULTING EXPERT (cont.)**

***Amgen, Inc. v. F. Hoffmann-La Roche Ltd., Roche Diagnostics GmbH, and Hoffmann-La Roche Inc.*** (including antitrust counterclaims against Amgen by Roche), U.S. District Court, District of Massachusetts.  
Retained on behalf of Counterclaim Defendant Amgen, 2007.

***High-Pressure Laminates Antitrust Litigation (MDL 1368)***, U.S. District Court, Southern District of New York.  
Retained on behalf of Defendant Wilsonart International, 2002-2006.

***Allianz Insurance Company and Atlantic Richfield Company. v. Olympic Pipe Line Company, et al.*** (and consolidated third-party recovery litigation), U.S. District Court, Western District of Washington.  
Retained on behalf of Plaintiffs, 2003-2005.

***Atlantic Richfield Company v. Allianz Insurance Company, et al.*** (and related litigation), Superior Court of Washington, County of Whatcom.  
Retained on behalf of Defendants, 2001-2003.

***Consolidated Credit Agency v. Equifax, Inc., et al.***, U.S. District Court, Central District of California.  
Retained on behalf of Defendant, 2004-2005.

***Grand Sprinkler Inc. v. The Toro Company***, U.S. District Court, District of Arizona.  
Retained on behalf of Defendant, 2003-2004.

***A&J Liquor Co, Inc., et al. v. State Compensation Insurance Fund***, Superior Court of the State of California, County of San Francisco.  
Retained on behalf of Defendant, 1999-2003.

***Irrigation Services Inc. v. The Toro Company and United Green Mark***, Superior Court of California, County of Orange.  
Retained on behalf of Defendant The Toro Company, 2001-2002.

***United States ex rel. v. Shell Oil Co., et al.***, U.S. District Court, Eastern District of Texas.  
Retained on behalf of Shell Oil Co., 1999-2000.

***ENCAD, Inc. v. Hewlett-Packard Company***, Superior Court of the State of California, County of San Francisco.  
Retained on behalf of Defendant, 2000.

**RETENTIONS AS CONSULTING EXPERT (cont.)**

***eBay, Inc. v. Bidder's Edge, Inc.*, U.S. District Court, Northern District of California  
(San Jose Division).**

Retained on behalf of Plaintiff, 2000.

***Brand Name Prescription Drugs Antitrust Litigation (MDL 997)*, U.S. District Court,  
Northern District of Illinois.**

Retained on behalf of Defendant Abbott Laboratories, 1995-1999.

***Lease Oil Antitrust Litigation (MDL 1206)*, U.S. District Court, Southern District of  
Texas.**

Retained on behalf of Defendants, 1995-1999.

***Oil Changer, Inc. v. Quaker State Corporation and Pennzoil Company*, U.S. District  
Court, Northern District of California.**

Retained on behalf of Defendants, 1999.

***National Football League v. Oakland Raiders* (and related litigation), U.S. District  
Court, Central District of California, and Superior Court of the State of California,  
County of Los Angeles.**

Retained on behalf of the National Football League, 1997-1998.

***Zeneca Limited v. Pharmachemie B.V.*, U.S. District Court, District of Massachusetts.**

Retained on behalf of Plaintiff, 1998.

***Zeneca Limited v. Mylan Pharmaceuticals, Inc.*, U.S. District Court, Western District  
of Pennsylvania.**

Retained on behalf of Plaintiff, 1998.

***Qualcomm, Incorporated v. Motorola Inc.*, U.S. District Court, Southern District of  
California.**

Retained on behalf of Plaintiff, 1998.

***Novell, Inc. v. Network Trade Center, Inc., et al.*, U.S. District Court, District of Utah.**

Retained on behalf of Plaintiff, 1996-1998.

***St. Louis Convention and Visitors Commission v. National Football League, et al.*,  
U.S. District Court, Eastern District of Missouri.**

Retained on behalf of Defendants, 1997.

**RETENTIONS AS CONSULTING EXPERT (cont.)**

***Adobe Systems Incorporated v. Southern Software, Inc., et al.***, U.S. District Court,  
Northern District of California.  
Retained on behalf of Plaintiff, 1997.

***Theresa Aguilar, et al. v. Atlantic Richfield Corporation, et al.***, Superior Court of the  
State of California, County of San Diego.  
Retained on behalf of Defendants, 1997.

***Cadence Design Systems, Inc. v Avant! Corporation***, US District Court, Northern  
District of California.  
Retained on behalf of Plaintiff, 1996.

***Nestlé Food Co. v. Abbott Laboratories, et al.***, U.S. District Court, Central District of  
California.  
Retained on behalf of Defendant Abbott Laboratories, 1994-1995.

***Carbon Dioxide Industry Antitrust Litigation (MDL 940)***, U.S. District Court, Middle  
District of Florida.  
Retained on behalf of Defendants, 1994-1995.

***Kambiz Ajir, et al. v. Exxon Corporation, et al.***, U.S. District Court, Northern District  
of California.  
Retained on behalf of Defendants, 1995.

***Donelan, et al. v. Abbott Laboratories, et al.***, 18<sup>th</sup> Judicial District Court, Sedgwick  
County, Kansas.  
Retained on behalf of Defendant Abbott Laboratories, 1995.

***Steve Carver, etc., et al. v. Chevron Company U.S.A., Inc., et al.***, Superior Court of the  
State of California, County of San Diego.  
Retained on behalf of Defendants, 1993-1995.

***Federal Trade Commission v. Abbott Laboratories***, U. S. District Court, District of  
Columbia.  
Retained on behalf of Defendant, 1993-1994.

***In the Matter of the Rates of: Nationwide Insurance Company***, Before The  
Insurance Commissioner, State of California.  
Retained on behalf of Applicant, 1994.

**RETENTIONS AS CONSULTING EXPERT (cont.)**

***In the Matter of the Rates of: State Farm Companies, Before The Insurance Commissioner, State of California.***

Retained on behalf of Applicant, 1994.

***In the Matter of the Rates of: 20<sup>th</sup> Century Insurance Companies, Before The Insurance Commissioner, State of California.***

Retained on behalf of Applicant, 1994.

***United States v. Eastman Kodak Co., U.S. District Court, Western District of New York.***

Retained on behalf of Intervenor Fuji Photo Film, 1992-1993.

***Infant Formula Antitrust Litigation (MDL 878), U.S. District Court, Northern District of Florida.***

Retained on behalf of Defendant Abbott Laboratories, 1992-1993.

***In the Matter of: Abbott Laboratories, Docket No. 9523, Before Administrative Law Judge, Federal Trade Commission.***

Retained on behalf of Respondent, 1992-1993.

***In the Matter of: Prudential Insurance Company, et al., before The Insurance Commissioner, State of California.***

Retained on behalf of Respondent, 1993.

***Texas Instruments, Inc. v. Dell Computer Corp., U.S. District Court, Northern District of Texas.***

Retained on behalf of Plaintiff, 1991-1992.

***Nintendo of America v. Louis Galoob Toys, U.S. District Court, Northern District of California.***

Retained on behalf of Defendant, 1991.

***Atari Corp. v. Nintendo Company, Ltd., U.S. District Court, Northern District of California.***

Retained on behalf of Plaintiff, 1989-1992.

Michael A. Flynn  
Director, Navigant Economics, LLC  
Page 11 of 11

**PROFESSIONAL AFFILIATIONS**

**Member, American Economic Association**

**Associate Member, Section of Antitrust Law, American Bar Association**

**Veteran, United States Army**

## Attachment A: Documents and Related Materials Reviewed

1 .ART Application (ID 1-1097-20833), Dadotart Inc.  
2 .ART Application (ID 1-1675-51302), EFLUX.ART, LLC  
3 .ART Community Priority Evaluation Report, Application ID 1-1097-20833, September 10, 2014  
4 .ART Community Priority Evaluation Report, Application ID 1-1675-51302, September 10, 2014  
5 .ECO Application (ID 1-912-59314), Big Room Inc.  
6 .ECO Community Priority Evaluation Report, Application ID 1-912-59314, October 6, 2014  
7 .GAY Application (ID 1-1713-23699), dotgay llc  
8 .GAY Community Priority Evaluation Report, Application ID 1-1713-23699, October 6, 2014  
9 .GMBH Application (1-1273-63351), TLDDOT GmbH  
10 .GMBH Community Priority Evaluation Report, Application ID 1-1273-63351, June 11, 2014  
11 .HOTEL Application (ID 1-1032-95136), HOTEL TLD s.a.r.l  
12 .HOTEL Community Priority Evaluation Report, Application ID 1-1032-95136, June 11, 2014  
13 .IMMO Application (ID 1-1000-62742), Starting Dot  
14 .IMMO Community Priority Evaluation Report, Application ID 1-1000-62742, March 17, 2014  
15 .INC Application (ID 1-880-35979), Dot Registry LLC  
16 .INC Community Priority Evaluation Report, Application ID 1-880-35979, June 11, 2014  
17 .LLC Application (ID 1-880-17627), Dot Registry LLC  
18 .LLC Community Priority Evaluation Report, Application ID 1-880-17627, June 11, 2014  
19 .LLP Application (ID 1-880-35508), Dot Registry LLC  
20 .LLP Community Priority Evaluation Report, Application ID 1-880-35508, June 11, 2014  
21 .MLS Application (ID 1-1888-47714), Canadian Real Estate Association  
22 .MLS Community Priority Evaluation Report, Application ID 1-1888-47714, March 17, 2014  
23 .MUSIC Application (ID 1-959-51046), .MUSIC LLC  
24 .MUSIC Community Priority Evaluation Report, Application ID 1-959-51046, October 6, 2014  
25 .OSAKA Application (ID 1-901-9391), Interlink Co., Ltd.  
26 .OSAKA Community Priority Evaluation Report, Application ID 1-901-9391, July 29, 2014  
27 .RADIO Application (ID 1-1083-39123), European Broadcasting Union  
28 .RADIO Community Priority Evaluation Report, Application ID 1-1083-39123, September 10, 2014  
29 .SHOP Application (ID 1-890-52063), GMO Registry, Inc.  
30 .SHOP Community Priority Evaluation Report, Application ID 1-890-52063, March 13, 2015  
31 .TAXI Application (ID 1-1025-18840), Taxi Pay GmbH  
32 .TAXI Community Priority Evaluation Report, Application ID 1-1025-18840, March 17, 2014  
33 .TENNIS Application (ID 1-1723-69677), Tennis Australia Ltd.  
34 .TENNIS Community Priority Evaluation Report, Application ID 1-1723-69677, March 17, 2014  
35 1.email of Tue 2-3-2015 710 PM.pdf  
36 10.Post-Hearing Submission.EIU Process Errors Claimed by Dot Registry.pdf  
37 12.15.2014 Emergency Arbitrator Correspondence.pdf  
38 2.1st link on 1 - ICANN's Application Comments and Program Feedback - View Comments.pdf  
39 2014-03-20 Dot Registry Response to Opposition.pdf  
40 2015.03.05 Booking.com Final Declaration.pdf  
41 3.Resources - ICANN v ICM.pdf  
42 3-25-14\_INC\_Objection\_Withdrawal\_Public Comment.docx  
43 3-25-14\_LLC\_Objection\_Withdrawal\_Public Comment.docx  
44 3-25-14\_LLP\_Objection\_Withdrawal\_Public Comment.docx  
45 3-4-14\_INC\_European Commission opposition\_Public Comment.docx  
46 3-4-14\_LLC\_European Commission opposition\_Public Comment.docx  
47 3-4-14\_LLP\_European Commission opposition\_Public Comment.docx

48 4.Independent Review Process Documents.pdf  
49 5.2015-03-27-CEP-IRP-Status-Update - 27mar15.pdf  
50 6.Dot Registry LLC v ICANN - IRP docs.pdf  
51 7.LLC\_Opposition letter of Scott Hemphill.pdf  
52 8.email of 18 Mar re ECO, RADIO, HOTEL and OSAKA materials.pdf  
53 9.Post-Hearing Correspondence 12 17 2014.pdf  
54 Batch 1 - Documents for Expert - Michael Flynn.zip  
55 BGC Determination.pdf  
56 BGC Determination.pdf  
57 BGC Meeting Minutes 24 July 2014.pdf  
58 BGC Meetings Minutes 24 July 2014.pdf  
59 Community Priority Evaluation (CPE) Guidelines Prepared by The Economist Intelligence Unit (v. 2.0, September 27, 2013)  
60 de-barrin-to-chalaby-02may14-en.pdf  
61 Dot Registry Business Registration by GDP-updated.xlsx  
62 Dot Registry Support and Opposition 3-24-15.xlsx  
63 Elaine Marshall NASS Witness Statement - Executed PDF Version.pdf  
64 Forbes Global 2000.May 2014.xlsx  
65 GAC-Board Consultations (2011)).zip  
66 GAY Application & Decisions.zip  
67 GAY Reconsideration Request 1.zip  
68 GAY Reconsideration Request 2.zip  
69 <http://audio.icann.org/new-gtlds/cpe-10sep13-en.mp3>.  
70 <http://businessroundtable.org/>  
71 <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD>  
72 <http://newgtlds.icann.org/en/applicants/cpe>  
73 <http://ssrn.com/abstract=1291854>  
74 <http://www.corporatecompliance.org>  
  
75 <http://www.forbes.com/sites/forbespr/2014/05/07/forbes-11th-annual-global-2000-the-worlds-biggest-public-companies/>  
76 <http://www.governanceprofessionals.org>  
77 [http://www.grcdi.nl/gsb/summary\\_%20company%20legal%20forms.html](http://www.grcdi.nl/gsb/summary_%20company%20legal%20forms.html)  
78 <http://www.nass.org>  
79 <http://www.nass.org/about-nass/about/>  
80 <http://www.nass.org/contact/corp-affiliates/>  
81 <http://www.nass.org/corpaffiliates/about-corp-affiliate-program/>  
82 <http://www.nass.org/reports/surveys-a-reports/>  
83 <http://www.nass.org/state-business-services/corporate-registration/>  
84 <http://www.ntia.doc.gov/press-release/2014/ntia-announces-intent-transition-key-internet-domain-name-functions>  
85 [https://en.wikipedia.org/wiki/Limited\\_liability\\_company](https://en.wikipedia.org/wiki/Limited_liability_company)  
86 [https://en.wikipedia.org/wiki/Limited\\_liability\\_partnership](https://en.wikipedia.org/wiki/Limited_liability_partnership)  
87 [https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_GDP\\_%28nominal%29](https://en.wikipedia.org/wiki/List_of_countries_by_GDP_%28nominal%29)  
88 [https://en.wikipedia.org/wiki/Types\\_of\\_business\\_entity](https://en.wikipedia.org/wiki/Types_of_business_entity)  
89 <https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12413>  
90 <https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12434>  
91 <https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments>  
92 <https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments>  
93 [https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments.](https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments)  
94 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1468>  
95 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1562>

96 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1753>  
97 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1781>  
98 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1804>  
99 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1805>  
100 <https://gtldresult.icann.org/applicationstatus/applicationdetails/1808>  
101 <https://www.icann.org/en/system/files/correspondence/bullock-to-crocker-20mar14-en.pdf>  
102 <https://www.icann.org/resources/pages/accountability/irp-en>  
103 <https://www.icann.org/resources/pages/accountability/irp-en>  
104 <https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en>  
105 <https://www.icann.org/resources/pages/bylaws-2012-02-25-enaffirmation-of-commitments-2009-09-30-en>  
106 <https://www.icann.org/resources/pages/icm-v-icann-2012-02-25-en>  
107 <https://www.nacdonline.org/>  
108 ICANN Bates 215-217.pdf  
109 ICANN, gTLD Applicant Guidebook (Version 2012-06004, June 12, 2012)  
110 INC Letters of Opposition.zip  
111 INC Public Comments 2012.zip  
112 INC Public Comments 2014 (1).zip  
113 INC Public Comments 2014 (2).zip  
114 INC Reconsideration Request.zip  
115 INC, LLC & LLP Letters of Support.zip  
116 INC\_Reconsideration Annex 1.pdf  
117 INC\_Reconsideration Request.pdf  
118 Initial MAF comments on ICANN Draft Advice Letter.docx  
119 International Monetary Fund, World Economic Outlook Database, April 2015 edition  
120 Jeffrey Bullock Delaware Witness Statement - Executed PDF Version.pdf  
121 Letter of Robert E. Hall & Michael A. Flynn to Secretary of Commerce.December 7 2011  
122 Letter of Support\_NASS Resolution.pdf  
123 LLC Letters of Opposition.zip  
124 LLC Public Comments 2012.zip  
125 LLC Public Comments 2014 (1).zip  
126 LLC Public Comments 2014 (2).zip  
127 LLC Reconsideration Request.zip  
128 LLC\_Reconsideration Annex 1.pdf  
129 LLC\_Reconsideration Request.pdf  
130 LLP Letters of Opposition.zip  
131 LLP Public Comments 2012.zip  
132 LLP Public Comments 2014 (1).zip  
133 LLP Public Comments 2014 (2).zip  
134 LLP Reconsideration Request.pdf  
135 LLP\_Reconsideration Request.pdf  
136 NASS representing interests of US companies.zip  
137 New Batch 1.zip  
138 New Batch 2.zip  
139 Post-Hearing Correspondence 12.17.2014.pdf  
140 Post-Hearing Submission 12.17.2014.pdf  
141 Post-Hearing Submission 12.17.2014.pdf  
142 Prevailing String CPE Records.zip/ECO Record  
143 Prevailing String CPE Records.zip/HOTEL Record  
144 Prevailing String CPE Records.zip/OSAKA Record



145 Prevailing String CPE Records.zip/RADIO Record  
146 Prevailing String Records.zip  
147 Prevailing String Records.zip  
148 Public Comment Summaries and Analyses (2007-11).zip  
149 Raghav Sharma, Limited Liability Partnerships in India  
150 Record materials filed to date in ICDR Case No. 01-14-0001-5004 (Dot Registry LLC v. ICANN)  
151 Reply Comments of Michael Flynn re Competition.pdf  
152 Reports.zip  
153 Support & Opposition Correspondence 1.zip  
154 Support & Opposition Correspondence 2.zip  
155 TAB 68 2014-07-17 Re- Response needed- background info on LLC, LLP, INC evaluations.pdf  
156 The Economist Intelligence Unit, CPE Panel and Its Processes, August 7, 2014  
157 Verification Letters of Support.zip  
158 white-paper-dot-registry-winter 15.pdf  
159 willett-to-de-barrin-02sep14-en.pdf

# gTLD Applicant Guidebook

Version 2012-06-04



4 June 2012



# gTLD Applicant Guidebook

(v. 2012-06-04)

Module 4

4 June 2012

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# Module 4

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## *String Contention Procedures*

This module describes situations in which contention over applied-for gTLD strings occurs, and the methods available to applicants for resolving such contention cases.

### *4.1 String Contention*

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String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or
2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in user confusion, called contending strings. If either situation above occurs, such applications will proceed to contention resolution through either community priority evaluation, in certain cases, or through an auction. Both processes are described in this module. A group of applications for contending strings is referred to as a contention set.

(In this Applicant Guidebook, “similar” means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone.)

#### *4.1.1 Identification of Contention Sets*

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Contention sets are groups of applications containing identical or similar applied-for gTLD strings. Contention sets are identified during Initial Evaluation, following review of all applied-for gTLD strings. ICANN will publish preliminary contention sets once the String Similarity review is completed, and will update the contention sets as necessary during the evaluation and dispute resolution stages.

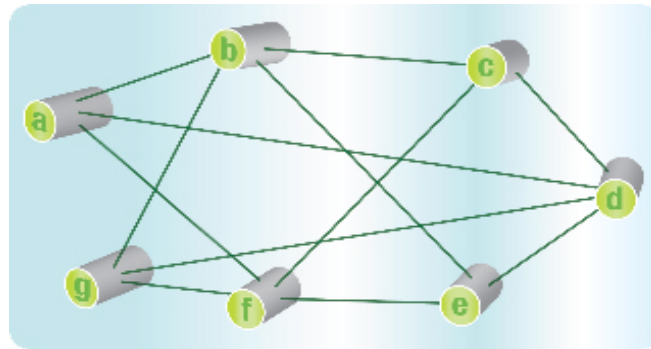
Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant IDN table. That is, two or more applicants whose applied-for strings or designated variants are variant strings according to an IDN table submitted to ICANN would be considered in direct contention with one another. For example, if one applicant applies for string A and another applies for string B, and strings A and B are variant TLD strings as defined in Module 1, then the two applications are in direct contention.

The String Similarity Panel will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String Similarity review described in Module 2 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Two strings are in **direct contention** if they are identical or similar to one another. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. The example that follows explains direct and indirect contention in greater detail.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect contention. C and G both contend with B, but not with one another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.



**Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.**

While preliminary contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process stages have concluded. This is because any application excluded through those processes might modify a contention set identified earlier.

A contention set may be augmented, split into two sets, or eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding. The composition of a contention set may also be modified as some applications may be voluntarily withdrawn throughout the process.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.

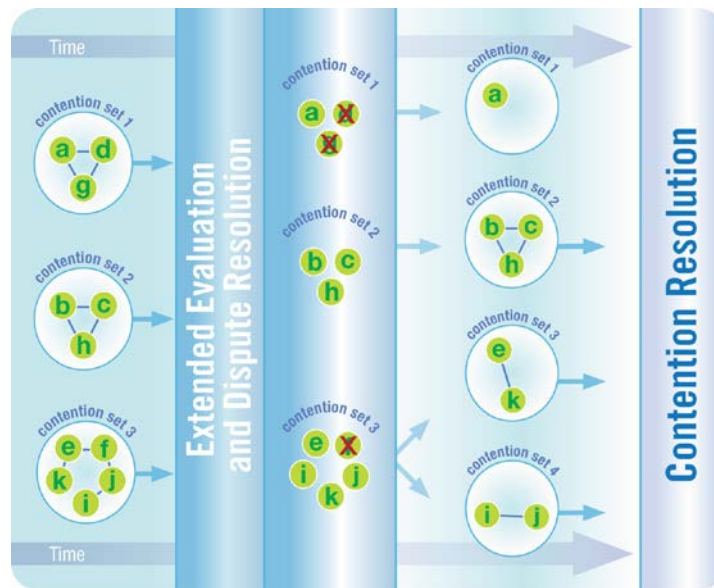


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

The remaining contention cases must then be resolved through community priority evaluation or by other means, depending on the circumstances. In the string contention resolution stage, ICANN addresses each contention set to achieve an unambiguous resolution.

As described elsewhere in this guidebook, cases of contention might be resolved by community priority evaluation or an agreement among the parties. Absent that, the last-resort contention resolution mechanism will be an auction.

#### 4.1.2 Impact of String Confusion Dispute Resolution Proceedings on Contention Sets

If an applicant files a string confusion objection against another application (refer to Module 3), and the panel finds that user confusion is probable (that is, finds in favor of the objector), the two applications will be placed in direct contention with each other. Thus, the outcome of a dispute resolution proceeding based on a string confusion objection would be a new contention set structure for the relevant applications, augmenting the original contention set.

If an applicant files a string confusion objection against another application, and the panel finds that string

confusion does not exist (that is, finds in favor of the responding applicant), the two applications will not be considered in direct contention with one another.

A dispute resolution outcome in the case of a string confusion objection filed by another applicant will not result in removal of an application from a previously established contention set.

#### *4.1.3 Self-Resolution of String Contention*

---

Applicants that are identified as being in contention are encouraged to reach a settlement or agreement among themselves that resolves the contention. This may occur at any stage of the process, once ICANN publicly posts the applications received and the preliminary contention sets on its website.

Applicants may resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that applicants may seek to establish joint ventures in their efforts to resolve string contention. However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might require additional fees or evaluation in a subsequent application round. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the remaining application. Accordingly, new joint ventures must take place in a manner that does not materially change the application, to avoid being subject to re-evaluation.

#### *4.1.4 Possible Contention Resolution Outcomes*

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An application that has successfully completed all previous stages and is no longer part of a contention set due to changes in the composition of the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next stage.

An application that prevails in a contention resolution procedure, either community priority evaluation or auction, may proceed to the next stage.



In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, consider a case where string A is in contention with B, and B is in contention with C, but C is not in contention with A. If A wins the contention resolution procedure, B is eliminated but C can proceed since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

## ***4.2 Community Priority Evaluation***

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Community priority evaluation will only occur if a community-based applicant selects this option. Community priority evaluation can begin once all applications in the contention set have completed all previous stages of the process.

The community priority evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the community priority evaluation. Each application participating in the community priority evaluation begins with a score of zero.

### ***4.2.1 Eligibility for Community Priority Evaluation***

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As described in subsection 1.2.3 of Module 1, all applicants are required to identify whether their application type is:

- Community-based; or
- Standard.

Applicants designating their applications as community-based are also asked to respond to a set of questions in the application form to provide relevant information if a community priority evaluation occurs.

Only community-based applicants are eligible to participate in a community priority evaluation.

At the start of the contention resolution stage, all community-based applicants within remaining contention sets will be notified of the opportunity to opt for a community priority evaluation via submission of a deposit by a specified date. Only those applications for which a deposit has been received by the deadline will be scored in the community priority evaluation. Following the evaluation, the deposit will be refunded to applicants that score 14 or higher.

Before the community priority evaluation begins, the applicants who have elected to participate may be asked to provide additional information relevant to the community priority evaluation.

#### *4.2.2 Community Priority Evaluation Procedure*

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Community priority evaluations for each eligible contention set will be performed by a community priority panel appointed by ICANN to review these applications. The panel's role is to determine whether any of the community-based applications fulfills the community priority criteria. Standard applicants within the contention set, if any, will not participate in the community priority evaluation.

If a single community-based application is found to meet the community priority criteria (see subsection 4.2.3 below), that applicant will be declared to prevail in the community priority evaluation and may proceed. If more than one community-based application is found to meet the criteria, the remaining contention between them will be resolved as follows:

- In the case where the applications are in indirect contention with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage. In this case, applications that are in direct contention with any of these community-based applications will be eliminated.
- In the case where the applications are in direct contention with one another, these applicants will proceed to an auction. If all parties agree and present a joint request, ICANN may postpone the auction for a three-month period while the parties attempt to reach a settlement before proceeding to auction. This is a one-time option; ICANN will grant no more than one such request for each set of contending applications.

If none of the community-based applications are found to meet the criteria, then all of the parties in the contention set (both standard and community-based applicants) will proceed to an auction.

Results of each community priority evaluation will be posted when completed.

Applicants who are eliminated as a result of a community priority evaluation are eligible for a partial refund of the gTLD evaluation fee (see Module 1).

### ***4.2.3 Community Priority Evaluation Criteria***

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The Community Priority Panel will review and score the one or more community-based applications having elected the community priority evaluation against four criteria as listed below.

The scoring 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). This calls for a holistic approach, taking multiple criteria into account, as reflected in the process. The scoring will be performed by a panel and be based on information provided in the application plus other relevant information available (such as public information regarding the community represented). The panel may also perform independent research, if deemed necessary to reach informed scoring decisions.

It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application, as embodied in the criteria below. Accordingly, a finding by the panel that an application does not meet the scoring threshold to prevail in a community priority evaluation is not necessarily an indication the community itself is in some way inadequate or invalid.

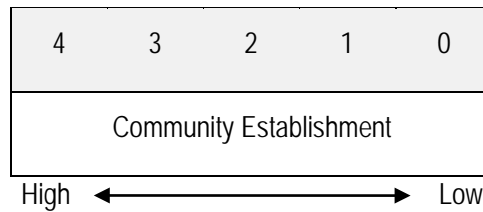
The sequence of the criteria reflects the order in which they will be assessed by the panel. The utmost care has been taken to avoid any “double-counting” - any negative aspect found in assessing an application for one criterion

should only be counted there and should not affect the assessment for other criteria.

An application must score at least 14 points to prevail in a community priority evaluation. The outcome will be determined according to the procedure described in subsection 4.2.2.

**Criterion #1: Community Establishment (0-4 points)**

A maximum of 4 points is possible on the Community Establishment criterion:



As measured by:

**A. Delineation (2)**

2	1	0
Clearly delineated, organized, and pre-existing community.	Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.	Insufficient delineation and pre-existence for a score of 1.

**B. Extension (2)**

2	1	0
Community of considerable size and longevity.	Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.	Community of neither considerable size nor longevity.

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not

considered here, but taken into account when scoring Criterion #2, "Nexus between Proposed String and Community.")

**Criterion 1 Definitions**

- "Community" - Usage of the expression "community" has evolved considerably from its Latin origin – "communitas" meaning "fellowship" – while still implying more of cohesion than a mere commonality of interest. Notably, as "community" is used throughout the application, there should be:  
(a) an awareness and recognition of a community among its members; (b) some understanding of the community's existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.
- "Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.
- "Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.
- "Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.
- "Extension" relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.
- "Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."

- "Longevity" means that the pursuits of a community are of a lasting, non-transient nature.

**Criterion 1 Guidelines**

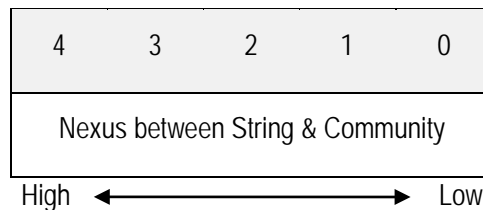
With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both "Delineation" and "Extension."

With respect to "Delineation," if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.

With respect to "Extension," if an application satisfactorily demonstrates both community size and longevity, it scores a 2.

**Criterion #2: Nexus between Proposed String and Community (0-4 points)**

A maximum of 4 points is possible on the Nexus criterion:



As measured by:

A. Nexus (3)

3	2	0
The string matches the name of the community or is a well-known short-form or abbreviation of the community	String identifies the community, but does not qualify for a score of 3.	String nexus does not fulfill the requirements for a score of 2.

3	2	0
---	---	---

name.

B. Uniqueness (1)

1	0
---	---

String has no other significant meaning beyond identifying the community described in the application.

String does not fulfill the requirement for a score of 1.

This section evaluates the relevance of the string to the specific community that it claims to represent.

**Criterion 2 Definitions**

- "Name" of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.
- "Identify" means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.

**Criterion 2 Guidelines**

With respect to "Nexus," for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.

With respect to "Nexus," for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a globally well-known but local tennis club applying for ".TENNIS") then it would not qualify for a 2.

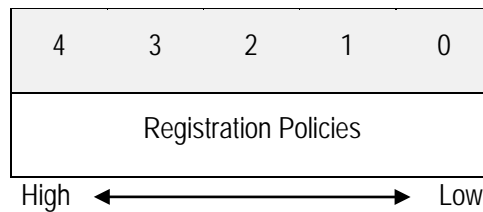
With respect to "Uniqueness," "significant meaning" relates to the public in general, with consideration of the community language context added.

"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness" implies a requirement that the string does identify the community, i.e. scores 2 or 3 for "Nexus," in order to be eligible for a score of 1 for "Uniqueness."

It should be noted that "Uniqueness" is only about the *meaning* of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."

**Criterion #3: Registration Policies (0-4 points)**

A maximum of 4 points is possible on the Registration Policies criterion:



As measured by:

A. Eligibility (1)

<b>1</b>	<b>0</b>
Eligibility restricted to community members.	Largely unrestricted approach to eligibility.



B. Name selection (1)

1	0
Policies include name selection rules consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

C. Content and use (1)

1	0
Policies include rules for content and use consistent with the articulated community-based purpose of the applied-for gTLD.	Policies do not fulfill the requirements for a score of 1.

D. Enforcement (1)

1	0
Policies include specific enforcement measures (e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms.	Policies do not fulfill the requirements for a score of 1.

This section evaluates the applicant's registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

### **Criterion 3 Definitions**

- "Eligibility" means the qualifications that entities or individuals must have in order to be allowed as registrants by the registry.
- "Name selection" means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.
- "Content and use" means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.
- "Enforcement" means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.

### **Criterion 3 Guidelines**

With respect to "Eligibility," the limitation to community "members" can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant's physical address is within the boundaries of the location.

With respect to "Name selection," "Content and use," and "Enforcement," scoring of applications against these sub-criteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.

**Criterion #4: Community Endorsement (0-4 points)**

4	3	2	1	0	
Community Endorsement					
High		←————→			Low

As measured by:

A. Support (2)

2	1	0
Applicant is, or has documented support from, the recognized community institution(s)/ member organization(s) or has otherwise documented authority to represent the community.	Documented support from at least one group with relevance, but insufficient support for a score of 2.	Insufficient proof of support for a score of 1.

B. Opposition (2)

2	1	0
No opposition of relevance.	Relevant opposition from one group of non-negligible size.	Relevant opposition from two or more groups of non-negligible size.

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed as stated in the application, with due regard for the communities implicitly addressed by the string.

**Criterion 4 Definitions**

- "Recognized" means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by

the community members as representative of the community.

- "Relevance" and "relevant" refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied-for string would be considered relevant.

#### **Criterion 4 Guidelines**

With respect to "Support," it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.

Also with respect to "Support," the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.

The applicant will score a 1 for "Support" if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on "Support" if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to represent the community. It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.

To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or expressions of support received.

When scoring "Opposition," previous objections to the application as well as public comments during the same application round will be taken into account and assessed

in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular score for “Opposition.” To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant.

### ***4.3 Auction: Mechanism of Last Resort***

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It is expected that most cases of contention will be resolved by the community priority evaluation, or through voluntary agreement among the involved applicants. Auction is a tie-breaker method for resolving string contention among the applications within a contention set, if the contention has not been resolved by other means.

An auction will not take place to resolve contention in the case where the contending applications are for geographic names (as defined in Module 2). In this case, the applications will be suspended pending resolution by the applicants.

An auction will take place, where contention has not already been resolved, in the case where an application for a geographic name is in a contention set with applications for similar strings that have not been identified as geographic names.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching the auction stage. However, there is a possibility that significant funding will accrue to ICANN as a result of one or more auctions.<sup>1</sup>

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<sup>1</sup> The purpose of an auction is to resolve contention in a clear, objective manner. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Any proceeds from auctions will be reserved and earmarked until the uses of funds are determined. Funds must be used in a manner that supports directly ICANN's Mission and Core Values and also allows ICANN to maintain its not for profit status.

Possible uses of auction funds include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

### 4.3.1 Auction Procedures

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An auction of two or more applications within a contention set is conducted as follows. The auctioneer successively increases the prices associated with applications within the contention set, and the respective applicants indicate their willingness to pay these prices. As the prices rise, applicants will successively choose to exit from the auction. When a sufficient number of applications have been eliminated so that no direct contentions remain (i.e., the remaining applications are no longer in contention with one another and all the relevant strings can be delegated as TLDs), the auction will be deemed to conclude. At the auction's conclusion, the applicants with remaining applications will pay the resulting prices and proceed toward delegation. This procedure is referred to as an "ascending-clock auction."

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. The detailed set of Auction Rules will be available prior to the commencement of any auction proceedings. If any conflict arises between this module and the auction rules, the auction rules will prevail.

For simplicity, this section will describe the situation where a contention set consists of two or more applications for identical strings.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants ("bidders") will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described

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The amount of funding resulting from auctions, if any, will not be known until all relevant applications have completed this step. Thus, a detailed mechanism for allocation of these funds is not being created at present. However, a process can be pre-established to enable community consultation in the event that such funds are collected. This process will include, at a minimum, publication of data on any funds collected, and public comment on any proposed models.

in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.

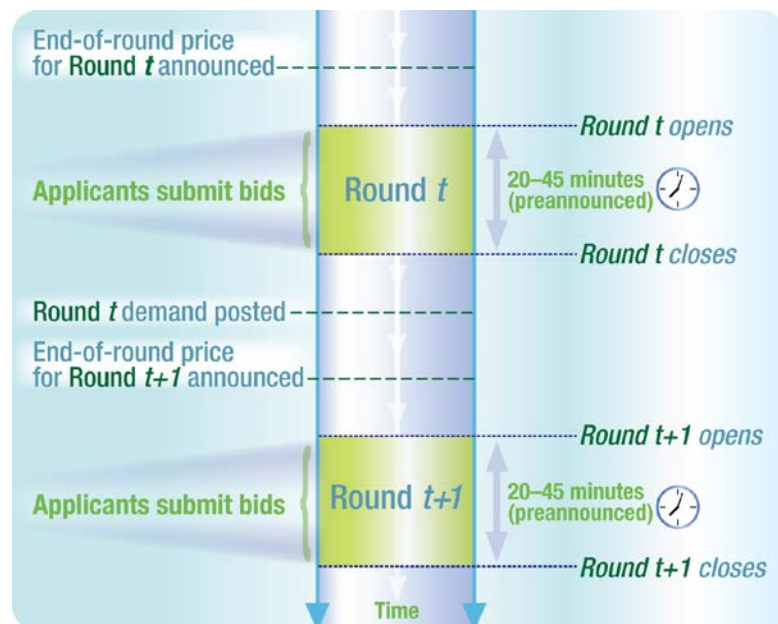


Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.
3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.

4. Bidders may submit their bid or bids at any time during the auction round.
5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.
6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the relevant gTLD strings at prices up to the respective bid amounts, subject to closure of the auction in accordance with the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.
7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.
  - Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.
  - If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.
  - If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.
  - To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.



- No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round. That is, once an application has exited the auction, it may not return.
  - If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid is taken to be an exit bid at the start-of-round price for the current auction round.
8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.

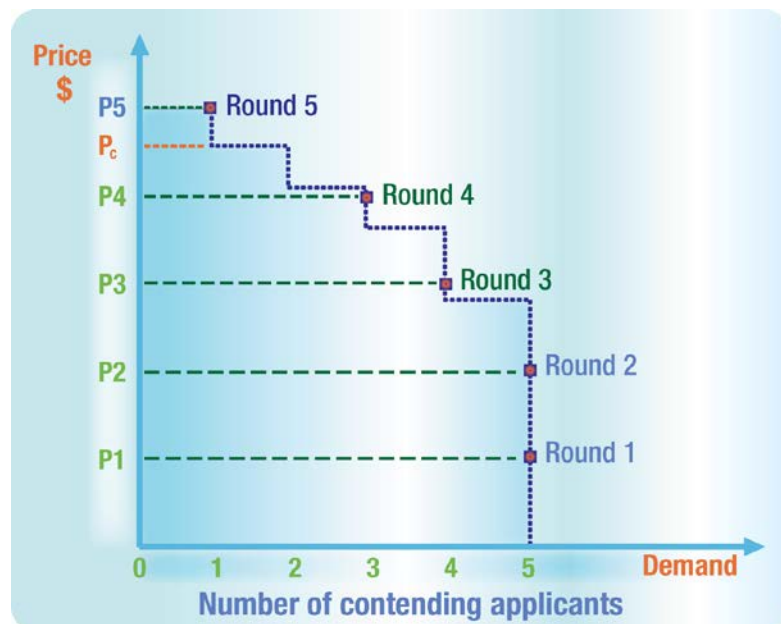


Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price  $P_1$ .
- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least  $P_1$ . Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five contending applications remained at  $P_1$  and announces the end-of-round price  $P_2$ .
- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least  $P_2$ . The auctioneer discloses that five contending applications remained at  $P_2$  and announces the end-of-round price  $P_3$ .
- During Auction round 3, one of the bidders submits an exit bid at slightly below  $P_3$ , while the other four bidders submit bids of at least  $P_3$ . The auctioneer discloses that four contending applications remained at  $P_3$  and announces the end-of-round price  $P_4$ .
- During Auction round 4, one of the bidders submits an exit bid midway between  $P_3$  and  $P_4$ , while the other three remaining bidders submit bids of at least  $P_4$ . The auctioneer discloses that three contending applications remained at  $P_4$  and announces the end-of-auction round price  $P_5$ .
- During Auction round 5, one of the bidders submits an exit bid at slightly above  $P_4$ , and one of the bidders submits an exit bid at  $P_c$  midway between  $P_4$  and  $P_5$ . The final bidder submits a bid greater than  $P_c$ . Since the aggregate demand at  $P_5$  does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is  $P_c$ , as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations will be conducted simultaneously.

#### 4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

#### 4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined. The bidding deposit must be transmitted by wire transfer to a specified bank account specified by ICANN or its auction provider at a major international bank, to be received in advance of the auction date. The amount of the deposit will determine a bidding limit for each bidder: the bidding deposit will equal 10% of the bidding limit; and the bidder will not be permitted to submit any bid in excess of its bidding limit.

In order to avoid the need for bidders to pre-commit to a particular bidding limit, bidders may be given the option of making a specified deposit that will provide them with unlimited bidding authority for a given application. The amount of the deposit required for unlimited bidding authority will depend on the particular contention set and will be based on an assessment of the possible final prices within the auction.

All deposits from non-defaulting losing bidders will be returned following the close of the auction.

#### 4.3.2 Winning Bid Payments

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Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins (i.e., if its application is approved), and to enter into the prescribed registry agreement with ICANN— together with a specified penalty for defaulting on payment of its winning bid or failing to enter into the required registry agreement.

The winning bidder in any auction will be required to pay the full amount of the final price within 20 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

In the event that a bidder anticipates that it would require a longer payment period than 20 business days due to verifiable government-imposed currency restrictions, the bidder may advise ICANN well in advance of the auction and ICANN will consider applying a longer payment period to all bidders within the same contention set.

Any winning bidder for whom the full amount of the final price is not received within 20 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

Any winning bidder for whom the full amount of the final price is received within 20 business days of the end of an auction retains the obligation to execute the required registry agreement within 90 days of the end of auction. Such winning bidder who does not execute the agreement within 90 days of the end of the auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that execution of the registry agreement is imminent.

### *4.3.3 Post-Default Procedures*

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Once declared in default, any winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price. The same default procedures and penalties are in place for any runner-up bidder receiving such an offer.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 20 business days to submit its full payment. A bidder who declines such an offer cannot revert on that statement, has no further obligations in this context and will not be considered in default.

The penalty for defaulting on a winning bid will equal 10% of the defaulting bid.<sup>2</sup> Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned.

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<sup>2</sup> If bidders were given the option of making a specified deposit that provided them with unlimited bidding authority for a given application and if the winning bidder utilized this option, then the penalty for defaulting on a winning bid will be the lesser of the following: (1) 10% of the defaulting bid, or (2) the specified deposit amount that provided the bidder with unlimited bidding authority.

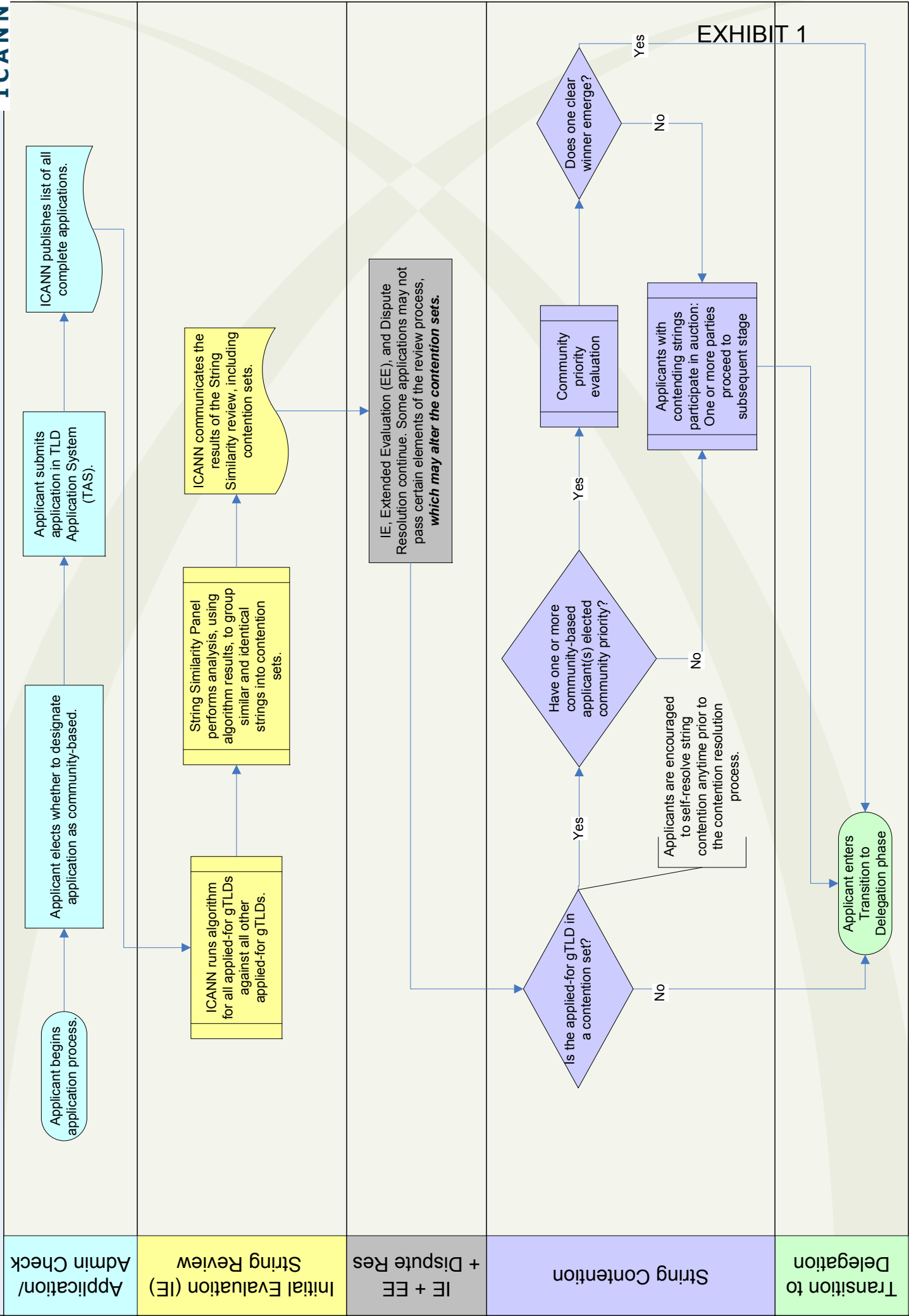
#### *4.4 Contention Resolution and Contract Execution*

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An applicant that has been declared the winner of a contention resolution process will proceed by entering into the contract execution step. (Refer to section 5.1 of Module 5.)

If a winner of the contention resolution procedure has not executed a contract within 90 calendar days of the decision, ICANN has the right to deny that application and extend an offer to the runner-up applicant, if any, to proceed with its application. For example, in an auction, another applicant who would be considered the runner-up applicant might proceed toward delegation. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time. If the winning applicant can demonstrate that it is working diligently and in good faith toward successful completion of the steps necessary for entry into the registry agreement, ICANN may extend the 90-day period at its discretion. Runner-up applicants have no claim of priority over the winning application, even after what might be an extended period of negotiation.

# DRAFT - New gTLD Program - String Contention



# **Community Priority Evaluation (CPE) Guidelines**

**Prepared by The Economist Intelligence Unit**

Version 2.0

## **Interconnection between Community Priority Evaluation (CPE) Guidelines and the Applicant Guidebook (AGB)**

The CPE Guidelines are an accompanying document to the AGB, and are meant to provide additional clarity around the process and scoring principles outlined in the AGB. This document does not modify the AGB framework, nor does it change the intent or standards laid out in the AGB. The Economist Intelligence Unit (EIU) is committed to evaluating each applicant under the criteria outlined in the AGB. The CPE Guidelines are intended to increase transparency, fairness and predictability around the assessment process.



## Criterion #1: Community Establishment

This section relates to the community as explicitly identified and defined according to statements in the application. (The implicit reach of the applied-for string is not considered here, but taken into account when scoring Criterion #2, “Nexus between Proposed String and Community.”)

Measured by

1-A Delineation

1-B Extension

A maximum of 4 points is possible on the Community Establishment criterion, and each sub-criterion has a maximum of 2 possible points.

### 1-A Delineation

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
<p>2= Clearly delineated, organized, and pre-existing community.</p> <p>1= Clearly delineated and pre-existing community, but not fulfilling the requirements for a score of 2.</p> <p>0= Insufficient delineation and pre-existence for a score of 1.</p>	<p>The following questions must be scored when evaluating the application:</p> <p><i>Is the community clearly delineated?</i></p> <p><i>Is there at least one entity mainly dedicated to the community?</i></p> <p><i>Does the entity (referred to above) have documented evidence of community activities?</i></p> <p><i>Has the community been active since at least September 2007?</i></p>
<b>Definitions</b>	
<p>“Community” - Usage of the expression “community” has evolved considerably from its Latin origin – “communitas” meaning “fellowship” – while still implying more of cohesion than a mere commonality of interest. Notably, as “community” is used throughout the application, there should be: (a) an awareness and recognition of a community among its members; (b) some</p>	<p>The “community,” as it relates to Criterion #1, refers to the stated community in the application.</p> <p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Was the entity established to administer the community?</i></li> <li>• <i>Does the entity’s mission statement clearly identify the community?</i></li> </ul>

<p>understanding of the community’s existence prior to September 2007 (when the new gTLD policy recommendations were completed); and (c) extended tenure or longevity—non-transience—into the future.</p>	<p>Additional research may need to be performed to establish that there is documented evidence of community activities. Research may include reviewing the entity’s web site, including mission statements, charters, reviewing websites of community members (pertaining to groups), if applicable, etc.</p>
<p>"Delineation" relates to the membership of a community, where a clear and straight-forward membership definition scores high, while an unclear, dispersed or unbound definition scores low.</p>	<p>“Delineation” also refers to the extent to which a community has the requisite awareness and recognition from its members.</p> <p>The following non-exhaustive list denotes elements of straight-forward member definitions: fees, skill and/or accreditation requirements, privileges or benefits entitled to members, certifications aligned with community goals, etc.</p>
<p>"Pre-existing" means that a community has been active as such since before the new gTLD policy recommendations were completed in September 2007.</p>	
<p>"Organized" implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.</p>	<p>“Mainly” could imply that the entity administering the community may have additional roles/functions beyond administering the community, but one of the key or primary purposes/functions of the entity is to administer a community or a community organization.</p> <p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Was the entity established to administer the community?</i></li> <li>• <i>Does the entity’s mission statement clearly identify the community?</i></li> </ul>
<p><b>Criterion 1-A guidelines</b></p>	
<p>With respect to “Delineation” and “Extension,” it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the</p>	<p>With respect to the Community, consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Are community members aware of the existence of the community as defined by the applicant?</i></li> <li>• <i>Do community members recognize the community as defined by the applicant?</i></li> </ul>

<p>community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both “Delineation” and “Extension.”</p> <p>With respect to “Delineation,” if an application satisfactorily demonstrates all three relevant parameters (delineation, pre-existing and organized), then it scores a 2.</p>	<ul style="list-style-type: none"> <li>• <i>Is there clear evidence of such awareness and recognition?</i></li> </ul>
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**1-B Extension**

<b>AGB Criteria</b>	<b>Evaluation Guidelines</b>
<b>Scoring</b>	
<p>Extension:</p> <p>2=Community of considerable size and longevity</p> <p>1=Community of either considerable size or longevity, but not fulfilling the requirements for a score of 2.</p> <p>0=Community of neither considerable size nor longevity</p>	<p>The following questions must be scored when evaluating the application:</p> <p><i>Is the community of considerable size?</i></p> <p><i>Does the community demonstrate longevity?</i></p>
<b>Definitions</b>	
<p>“Extension” relates to the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime, as further explained in the following.</p>	
<p>"Size" relates both to the number of members and the geographical reach of the community, and will be scored depending on the context rather than on absolute numbers - a geographic location community may count millions of members in a limited location, a language community may have a million members with some spread over the globe, a community of service providers may have "only" some hundred members although well spread over the globe, just to mention some examples - all these can be regarded as of "considerable size."</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Is the designated community large in terms of membership and/or geographic dispersion?</i></li> </ul>

<p>"Longevity" means that the pursuits of a community are of a lasting, non-transient nature.</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Is the community a relatively short-lived congregation (e.g. a group that forms to represent a one-off event)?</i></li> <li>• <i>Is the community forward-looking (i.e. will it continue to exist in the future)?</i></li> </ul>
<p><b>Criterion 1-B Guidelines</b></p>	
<p>With respect to "Delineation" and "Extension," it should be noted that a community can consist of legal entities (for example, an association of suppliers of a particular service), of individuals (for example, a language community) or of a logical alliance of communities (for example, an international federation of national communities of a similar nature). All are viable as such, provided the requisite awareness and recognition of the community is at hand among the members. Otherwise the application would be seen as not relating to a real community and score 0 on both "Delineation" and "Extension."</p> <p>With respect to "Extension," if an application satisfactorily demonstrates both community size and longevity, it scores a 2.</p>	

## Criterion #2: Nexus between Proposed String and Community

This section evaluates the relevance of the string to the specific community that it claims to represent.

Measured by

2-A Nexus

2-B Uniqueness

A maximum of 4 points is possible on the Nexus criterion, and with the Nexus sub-criterion having a maximum of 3 possible points, and the Uniqueness sub-criterion having a maximum of 1 possible point.

### 2-A Nexus

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
<p>Nexus:</p> <p>3= The string matches the name of the community or is a well-known short-form or abbreviation of the community</p> <p>2= String identifies the community, but does not qualify for a score of 3</p> <p>0= String nexus does not fulfill the requirements for a score of 2</p>	<p>The following question must be scored when evaluating the application:</p> <p style="text-align: center;"><i>Does the string match the name of the community or is it a well-known short-form or abbreviation of the community name? The name may be, but does not need to be, the name of an organization dedicated to the community.</i></p>
<b>Definitions</b>	
<p>“Name” of the community means the established name by which the community is commonly known by others. It may be, but does not need to be, the name of an organization dedicated to the community.</p>	<p>“Others” refers to individuals outside of the community itself, as well as the most knowledgeable individuals in the wider geographic and language environment of direct relevance. It also refers to recognition from other organization(s), such as quasi-official, publicly recognized institutions, or other peer groups.</p>
<p>“Identify” means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.</p>	<p>“Match” is of a higher standard than “identify” and means ‘corresponds to’ or ‘is equal to’.</p> <p>“Identify” does not simply mean ‘describe’, but means ‘closely describes the community’.</p> <p>“Over-reaching substantially” means that the string indicates a wider geographical or thematic remit than the community has.</p>

	<p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Does the string identify a wider or related community of which the applicant is a part, but is not specific to the applicant’s community?</i></li> <li>• <i>Does the string capture a wider geographical/thematic remit than the community has? The “community” refers to the community as defined by the applicant.</i></li> <li>• <i>An Internet search should be utilized to help understand whether the string identifies the community and is known by others.</i></li> <li>• <i>Consider whether the application mission statement, community responses, and websites align.</i></li> </ul>
<p><b>Criterion 2-A Guidelines</b></p>	
<p>With respect to “Nexus,” for a score of 3, the essential aspect is that the applied-for string is commonly known by others as the identification / name of the community.</p> <p>With respect to “Nexus,” for a score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a globally well-known but local tennis club applying for “.TENNIS”) then it would not qualify for a 2.</p>	

**2-B Uniqueness**

<p><b>AGB Criteria</b></p>	<p><b>Evaluation Guidelines</b></p>
<p><b>Scoring</b></p>	
<p>Uniqueness: 1=String has no other significant meaning beyond</p>	<p>The following question must be scored when evaluating the application:</p>

<p>identifying the community described in the application. 0=String does not fulfill the requirement for a score of 1.</p>	<p><i>Does the string have any other significant meaning (to the public in general) beyond identifying the community described in the application?</i></p>
<p><b>Definitions</b></p>	
<p>“Identify” means that the applied for string closely describes the community or the community members, without over-reaching substantially beyond the community.</p>	<p>“Over-reaching substantially” means that the string indicates a wider geographical or thematic remit than the community has.</p>
<p>“Significant meaning” relates to the public in general, with consideration of the community language context added</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li>• <i>Will the public in general immediately think of the applying community when thinking of the applied-for string?</i></li> <li>• <i>If the string is unfamiliar to the public in general, it may be an indicator of uniqueness.</i></li> <li>• <i>Is the geography or activity implied by the string?</i></li> <li>• <i>Is the size and delineation of the community inconsistent with the string?</i></li> <li>• <i>An internet search should be utilized to find out whether there are repeated and frequent references to legal entities or communities other than the community referenced in the application.</i></li> </ul>
<p><b>Criterion 2-B Guidelines</b></p>	
<p>"Uniqueness" will be scored both with regard to the community context and from a general point of view. For example, a string for a particular geographic location community may seem unique from a general perspective, but would not score a 1 for uniqueness if it carries another significant meaning in the common language used in the relevant community location. The phrasing "...beyond identifying the community" in the score of 1 for "uniqueness" implies a requirement that the string does identify the community, i.e. scores</p>	

<p>2 or 3 for "Nexus," in order to be eligible for a score of 1 for "Uniqueness."</p> <p>It should be noted that "Uniqueness" is only about the meaning of the string - since the evaluation takes place to resolve contention there will obviously be other applications, community-based and/or standard, with identical or confusingly similar strings in the contention set to resolve, so the string will clearly not be "unique" in the sense of "alone."</p>	
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## Criterion #3: Registration Policies

This section evaluates the applicant’s registration policies as indicated in the application. Registration policies are the conditions that the future registry will set for prospective registrants, i.e. those desiring to register second-level domain names under the registry.

Measured by

3-A Eligibility

3-B Name Selection

3-C Content and Use

3-D Enforcement

A maximum of 4 points is possible on the Registration Policies criterion and each sub-criterion has a maximum of 1 possible point.

### 3-A Eligibility

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
Eligibility: 1= Eligibility restricted to community members 0= Largely unrestricted approach to eligibility	The following question must be scored when evaluating the application:  <i>Is eligibility for being allowed as a registrant restricted?</i>
<b>Definitions</b>	
“Eligibility” means the qualifications that organizations or individuals must have in order to be allowed as registrants by the registry.	
<b>Criterion 3-A Guidelines</b>	
With respect to “eligibility” the limitation to community “members” can invoke a formal membership but can also be satisfied in other ways, depending on the structure and orientation of the community at hand. For example, for a geographic location community TLD, a limitation to members of the community can be achieved by requiring that the registrant’s physical address be within the boundaries of the location.	

### 3-B Name Selection

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
<p>Name selection:            1= Policies include name selection rules consistent with the articulated community-based purpose of the applied-for TLD            0= Policies do not fulfill the requirements for a score of 1</p>	<p>The following questions must be scored when evaluating the application:</p> <p style="text-align: center;"><i>Do the applicant’s policies include name selection rules?</i></p> <p style="text-align: center;"><i>Are name selection rules consistent with the articulated community-based purpose of the applied-for gTLD?</i></p>
<b>Definitions</b>	
<p>“Name selection” means the conditions that must be fulfilled for any second-level domain name to be deemed acceptable by the registry.</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li><i>Are the name selection rules consistent with the entity’s mission statement?</i></li> </ul>
<b>Criterion 3-B Guidelines</b>	
<p>With respect to “Name selection,” scoring of applications against these subcriteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.</p>	

### 3-C Content and Use

AGB Criteria	Evaluation Guidelines
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<b>Scoring</b>	
<p>Content and use:                      1= Policies include rules for content and use consistent with the articulated community-based purpose of the applied-for TLD                      0= Policies do not fulfill the requirements for a score of 1</p>	<p>The following questions must be scored when evaluating the application:</p> <p><i>Do the applicant’s policies include content and use rules?</i></p> <p><i>If yes, are content and use rules consistent with the articulated community-based purpose of the applied-for gTLD?</i></p>
<b>Definitions</b>	
<p>“Content and use” means the restrictions stipulated by the registry as to the content provided in and the use of any second-level domain name in the registry.</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li><i>Are the content and use rules consistent with the applicant’s mission statement?</i></li> </ul>
<b>Criterion 3-C Guidelines</b>	
<p>With respect to “Content and Use,” scoring of applications against these subcriteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.</p>	

**3-D Enforcement**

<b>AGB Criteria</b>	<b>Evaluation Guidelines</b>
<b>Scoring</b>	
<p>Enforcement                      1= Policies include specific enforcement measures</p>	<p>The following question must be scored when evaluating the application:</p>

<p>(e.g. investigation practices, penalties, takedown procedures) constituting a coherent set with appropriate appeal mechanisms 0= Policies do not fulfill the requirements for a score of 1</p>	<p><i>Do the policies include specific enforcement measures constituting a coherent set with appropriate appeal mechanisms?</i></p>
<p><b>Definitions</b></p>	
<p>“Enforcement” means the tools and provisions set out by the registry to prevent and remedy any breaches of the conditions by registrants.</p>	<p>“Coherent set” refers to enforcement measures that ensure continued accountability to the named community, and can include investigation practices, penalties, and takedown procedures with appropriate appeal mechanisms. This includes screening procedures for registrants, and provisions to prevent and remedy any breaches of its terms by registrants.</p> <p>Consider the following: Do the enforcement measures include:</p> <ul style="list-style-type: none"> <li>• <i>Investigation practices</i></li> <li>• <i>Penalties</i></li> <li>• <i>Takedown procedures (e.g., removing the string)</i></li> <li>• <i>Whether such measures are aligned with the community-based purpose of the TLD</i></li> <li>• <i>Whether such measures demonstrate continuing accountability to the community named in the application</i></li> </ul>
<p><b>Criterion 3-D Guidelines</b></p>	
<p>With respect to “Enforcement,” scoring of applications against these subcriteria will be done from a holistic perspective, with due regard for the particularities of the community explicitly addressed. For example, an application proposing a TLD for a language community may feature strict rules imposing this language for name selection as well as for content and use, scoring 1 on both B and C above. It could nevertheless include forbearance in the enforcement measures for tutorial sites assisting those wishing to learn the language and still score 1 on D. More restrictions do not automatically result in a higher score. The restrictions and corresponding enforcement</p>	

<p>mechanisms proposed by the applicant should show an alignment with the community-based purpose of the TLD and demonstrate continuing accountability to the community named in the application.</p>	
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## Criterion #4: Community Endorsement

This section evaluates community support and/or opposition to the application. Support and opposition will be scored in relation to the communities explicitly addressed in the application, with due regard for communities implicitly addressed by the string.

Measured by

4-A Support

4-B Opposition

A maximum of 4 points is possible on the Community Endorsement criterion and each sub-criterion (Support and Opposition) has a maximum of 2 possible points.

### 4-A Support

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
<p>Support:</p> <p>2= Applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community</p> <p>1= Documented support from at least one group with relevance, but insufficient support for a score of 2</p> <p>0= Insufficient proof of support for a score of 1</p>	<p>The following questions must be scored when evaluating the application:</p> <p><i>Is the applicant the recognized community institution or member organization?</i></p> <p>To assess this question please consider the following:</p> <p><i>a. Consider whether the community institution or member organization is the clearly recognized representative of the community.</i></p> <p>If the applicant meets this provision, proceed to Letter(s) of support and their verification. If it does not, or if there is more than one recognized community institution or member organization (and the applicant is one of them), consider the following:</p> <p><i>Does the applicant have documented</i></p>

	<p><i>support from the recognized community institution(s)/member organization(s) to represent the community?</i></p> <p>If the applicant meets this provision, proceed to Letter(s) of support and their verification. If not, consider the following:</p> <p><i>Does the applicant have documented authority to represent the community?</i></p> <p>If the applicant meets this provision, proceed to Letter(s) of support and their verification. If not, consider the following:</p> <p><i>Does the applicant have support from at least one group with relevance?</i></p> <p>If the applicant meets this provision, proceed to Letter(s) of support and their verification.</p> <p>➤ Instructions on letter(s) of support requirements are located below, in <b>Letter(s) of support and their verification</b></p>
<p><b>Definitions</b></p>	
<p>“Recognized” means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of that community.</p>	
<p>“Relevance” and “relevant” refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied for string would be considered relevant.</p>	<p>The institution(s)/organization(s) could be deemed relevant when not identified in the application but has an association to the applied-for string.</p>
<p><b>Criterion 4-A Guidelines</b></p>	
<p>With respect to “Support,” it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 if the string is clearly oriented to that national level, but only a 1 if the string implicitly addresses similar communities in other nations.</p>	<p><b>Letter(s) of support and their verification:</b> Letter(s) of support must be evaluated to determine both the relevance of the organization and the validity of the documentation and must meet the criteria spelled out below. The letter(s) of support is an input used to determine the relevance of the organization and the validity of</p>

<p>Also with respect to “Support,” the plurals in brackets for a score of 2, relate to cases of multiple institutions/organizations. In such cases there must be documented support from institutions/organizations representing a majority of the overall community addressed in order to score 2.</p> <p>The applicant will score a 1 for “Support” if it does not have support from the majority of the recognized community institutions/member organizations, or does not provide full documentation that it has authority to represent the community with its application. A 0 will be scored on “Support” if the applicant fails to provide documentation showing support from recognized community institutions/community member organizations, or does not provide documentation showing that it has the authority to represent the community. It should be noted, however, that documented support from groups or communities that may be seen as implicitly addressed but have completely different orientations compared to the applicant community will not be required for a score of 2 regarding support.</p> <p>To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or expressions of support received.</p>	<p>the documentation.</p> <p>Consider the following:</p> <p>Are there multiple institutions/organizations supporting the application, with documented support from institutions/organizations representing a majority of the overall community addressed?</p> <p>Does the applicant have support from the majority of the recognized community institution/member organizations?</p> <p>Has the applicant provided full documentation that it has authority to represent the community with its application?</p> <p>A majority of the overall community may be determined by, but not restricted to, considerations such as headcount, the geographic reach of the organizations, or other features such as the degree of power of the organizations.</p> <p><u>Determining relevance and recognition</u></p> <p><i>Is the organization relevant and/or recognized as per the definitions above?</i></p> <p><u>Letter requirements &amp; validity</u></p> <p><i>Does the letter clearly express the organization’s support for the community-based application?</i></p> <p><i>Does the letter demonstrate the organization’s understanding of the string being requested?</i></p> <p><i>Is the documentation submitted by the applicant valid (i.e. the organization exists and the letter is authentic)?</i></p> <p>To be taken into account as relevant support, such documentation must contain a description of the process and rationale used in arriving at the expression of support. Consideration of support is not based merely on the number of comments or</p>
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	expressions of support received.
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**4-B Opposition**

AGB Criteria	Evaluation Guidelines
<b>Scoring</b>	
<p>Opposition:                      2= No opposition of relevance                      1= Relevant opposition from one group of non-negligible size                      0= Relevant opposition from two or more groups of non-negligible size</p>	<p>The following question must be scored when evaluating the application:</p> <p style="text-align: center;"><i>Does the application have any opposition that is deemed relevant?</i></p>
<b>Definitions</b>	
<p>“Relevance” and “relevant” refer to the communities explicitly and implicitly addressed. This means that opposition from communities not identified in the application but with an association to the applied for string would be considered relevant.</p>	<p>Consider the following:                      For “non-negligible” size, “relevant” and “relevance” consider:</p> <ul style="list-style-type: none"> <li>• <i>If the application has opposition from communities that are deemed to be relevant.</i></li> <li>• <i>If a web search may help determine relevance and size of the objecting organization(s).</i></li> <li>• <i>If there is opposition by some other reputable organization(s), such as a quasi-official, publicly recognized organization(s) or a peer organization(s)?</i></li> <li>• <i>If there is opposition from a part of the community explicitly or implicitly addressed?</i></li> </ul>
<b>Criterion 4-B Guidelines</b>	
<p>When scoring “Opposition,” previous objections to the application as well as public comments during the same application round will be taken into account and assessed in this context. There will be no presumption that such objections or comments would prevent a score of 2 or lead to any particular score for “Opposition.” To be taken into account as relevant opposition, such objections or</p>	<p><b>Letter(s) of opposition and their verification:</b>                      Letter(s) of opposition should be evaluated to determine both the relevance of the organization and the validity of the documentation and should meet the criteria spelled out below.</p> <p><u>Determining relevance and recognition</u>  <i>Is the organization relevant and/or</i></p>

<p>comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant.</p>	<p><i>recognized as per the definitions above?</i></p> <p><u>Letter requirements &amp; validity</u></p> <p><i>Does the letter clearly express the organization’s opposition to the applicant’s application?</i></p> <p><i>Does the letter demonstrate the organization’s understanding of the string being requested?</i></p> <p><i>Is the documentation submitted by the organization valid (i.e. the organization exists and the letter is authentic)?</i></p> <p>To be considered relevant opposition, such documentation should contain a description of the process and rationale used in arriving at the expression of opposition. Consideration of opposition is not based merely on the number of comments or expressions of opposition received.</p>
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## Verification of letter(s) of support and opposition

Additional information on the verification of letter(s) of support and opposition:

- Changes in governments may result in new leadership at government agencies. As such, the signatory need only have held the position as of the date the letter was signed or sealed.
- A contact name should be provided in the letter(s) of support or opposition.
- The contact must send an email acknowledging that the letter is authentic, as a verbal acknowledgement is not sufficient.
- In cases where the letter was signed or sealed by an individual who is not currently holding that office or a position of authority, the letter is valid only if the individual was the appropriate authority at the time that the letter was signed or sealed.

## About the Community Priority Evaluation Panel and its Processes

The Economist Intelligence Unit (EIU) is the business information arm of The Economist Group, publisher of The Economist. Through a global network of more than 900 analysts and contributors, the EIU continuously assesses political, economic, and business conditions in more than 200 countries. As the world's leading provider of country intelligence, the EIU helps executives, governments, and institutions by providing timely, reliable, and impartial analysis.

The EIU was selected as a Panel Firm for the gTLD evaluation process based on a number of criteria, including:

- The panel will be an internationally recognized firm or organization with significant demonstrated expertise in the evaluation and assessment of proposals in which the relationship of the proposal to a defined public or private community plays an important role.
- The provider must be able to convene a linguistically and culturally diverse panel capable, in the aggregate, of evaluating Applications from a wide variety of different communities.
- The panel must be able to exercise consistent and somewhat subjective judgment in making its evaluations in order to reach conclusions that are compelling and defensible, and
- The panel must be able to document the way in which it has done so in each case.

The evaluation process will respect the principles of fairness, transparency, avoiding potential conflicts of interest, and non-discrimination. Consistency of approach in scoring Applications will be of particular importance.

The following principles characterize the EIU evaluation process for gTLD applications:

- All EIU evaluators must ensure that no conflicts of interest exist.
- All EIU evaluators must undergo training and be fully cognizant of all CPE requirements as listed in the Applicant Guidebook. This process will include a pilot testing process.
- EIU evaluators are selected based on their knowledge of specific countries, regions and/or industries, as they pertain to Applications.
- Language skills will also be considered in the selection of evaluators and the assignment of specific Applications.
- All applications will be evaluated and scored, in the first instance by two evaluators, working independently.
- All Applications will subsequently be reviewed by members of the core project team to verify accuracy and compliance with the AGB, and to ensure consistency of approach across all applications.

- The EIU will work closely with ICANN when questions arise and when additional information may be required to evaluate an application.
- The EIU will fully cooperate with ICANN's quality control process.

## **COMMUNITY PRIORITY EVALUATION PANEL AND ITS PROCESSES**

### **Overview**

At the time of submitting the new gTLD application, applicants had the opportunity to designate themselves as a community-based application, as prescribed in the section 1.2.3 of the Applicant Guidebook (AGB).

Community Priority Evaluation (CPE) is defined in section 4.2 of the AGB, and allows a community based-application to undergo an evaluation against the criteria as defined in section 4.2.3 of the AGB, to determine if the application warrants the minimum score of 14 points (out of a maximum of 16 points) to earn priority and thus win the contention set.

Only community-based applicants are eligible to participate in a community priority evaluation. A determination by a community priority panel, appointed by ICANN, must be made before a community name is awarded to an applicant. This determination will be based on the string and the completeness and validity of supporting documentation.

There are two possible outcomes to a Community Priority Evaluation:

- Determination that the application met the CPE requirements specified in the Applicant Guidebook (Section 4.2.2) to receive priority over other applications for the same or confusingly similar string = Prevailed.
- Determination that the application did not meet the CPE requirements specified in the Applicant Guidebook (Section 4.2.2) to receive priority over other applications for the same or confusingly similar string = Did not prevail.

Section 4.2.2 of the AGB prescribes that the Community Priority Evaluations will be conducted by an independent panel. ICANN selected the Economist Intelligence Unit (EIU) as the panel firm for Community Priority Evaluations.

### **The Economist Intelligence Unit**

The Economist Intelligence Unit (EIU) was selected as a Panel Firm for the gTLD evaluation process. The EIU is the business information arm of The Economist Group, publisher of The Economist. Through a global network of more than 500 analysts and contributors, the EIU continuously assesses political, economic, and business conditions in more than 200 countries. As the world's leading provider of country intelligence, the EIU helps executives, governments, and institutions by providing timely, reliable, and impartial analysis.

The evaluation process respects the principles of fairness, transparency, avoidance of potential conflicts of interest, and non-discrimination. Consistency of approach in scoring applications is of particular importance. In this regard, the Economist Intelligence Unit has more than six decades of experience building evaluative frameworks and benchmarking models for its clients, including governments, corporations, academic institutions and NGOs. Applying scoring systems to complex questions is a core competence.

### **EIU evaluators and core team**

The Community Priority Evaluation panel comprises a core team, in addition to several independent<sup>1</sup> evaluators. The core team comprises a Project Manager, who oversees the Community Priority Evaluation project, a Project Coordinator, who is in charge of the day-to-day management of the project and provides guidance to the independent evaluators, and other senior staff members, including The Economist Intelligence Unit's Executive Editor and Global Director of Public Policy. Together, this team assesses the evaluation results. Each application is assessed by seven individuals: two independent evaluators, and the core team, which comprises five people.

The following principles characterize the EIU evaluation process for gTLD applications:

- All EIU evaluators, including the core team, have ensured that no conflicts of interest exist.
- All EIU evaluators undergo regular training to ensure full understanding of all CPE requirements as listed in the Applicant Guidebook, as well as to ensure consistent judgment. This process included a pilot training process, which has been followed by regular training sessions to ensure that all evaluators have the same understanding of the evaluation process and procedures.
- EIU evaluators are highly qualified, they speak several languages and have expertise in applying criteria and standardized methodologies across a broad variety of issues in a consistent and systematic manner.
- Language skills and knowledge of specific regions are also considered in the selection of evaluators and the assignment of specific applications.

### **CPE Evaluation Process**

The EIU evaluates applications for gTLDs once they become eligible for review under CPE.

The evaluation process as described in section 4.2.3 of the Applicant Guidebook and discussed in the CPE Guidelines document is described below:

- The Panel Firm's Project Manager is notified by ICANN that an application for a gTLD is ready for CPE, and the application ID and public comments are delivered to the EIU. The EIU is responsible for gathering the application materials and other documentation, including letter(s) of support and relevant correspondence, from the public ICANN website. The EIU Project Manager reviews the application and associated materials, in conjunction with the EIU Project Coordinator. The Project Coordinator assigns the application to each of two evaluators, who work independently to assess and score the application.
- Each evaluator reviews the application and accompanying documentation, such as letter(s) of support and opposition. Based on this information and additional independent research, the evaluators assign scores to the four CPE criteria as defined in the Applicant Guidebook.
- As part of this process, one of the two evaluators assigned to assess the same string is asked to verify the letters of support and opposition. (Please see "Verification of letter(s) of support and opposition" section for further details.)
- When evaluating an application the CPE Panel also considers the public application comments. The public comments are provided to EIU by ICANN following the close of the 14-day window associated with the CPE invitation. For every comment of support/opposition received, the designated evaluator assesses the relevance of the organization of the poster along with the content of the comment. A separate verification of the comment author is not performed as the Application Comments

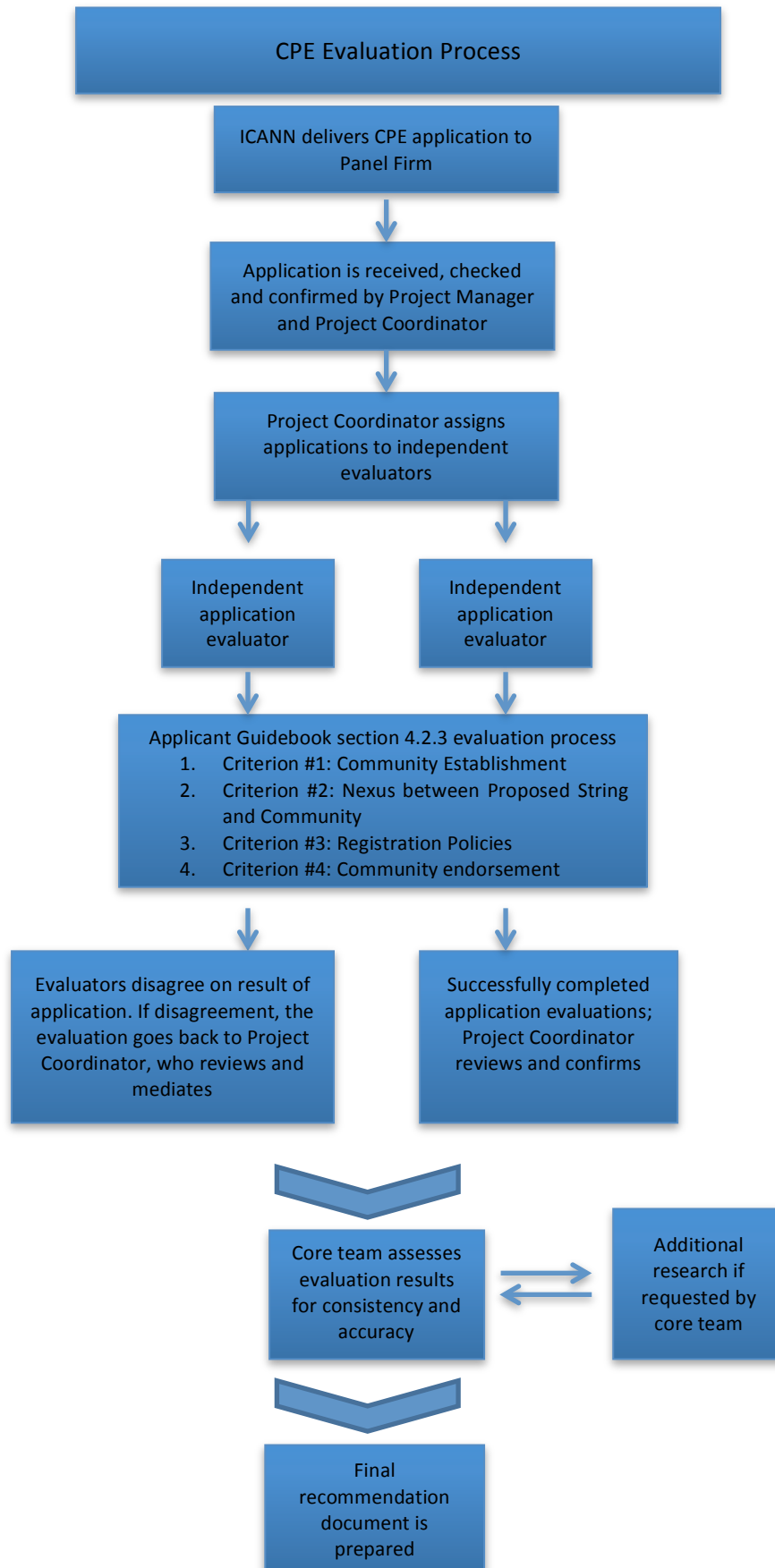
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<sup>1</sup> The term "independent" means that the evaluators do not have any conflict of interest with CPE applicants. It also means that the evaluators sit outside the core EIU team; they provide individual evaluation results based on their assessment of the AGB criteria, application materials, and secondary research without any influence from core team members.

system requires that users register themselves with an active email account before they are allowed to post any comments. However, the evaluator will check the affiliated website to ascertain if the person sending the comment(s) is at that entity/organization named, unless the comment has been sent in an individual capacity.

- Once the two evaluators have completed this process, the evaluation results are reviewed by the Project Coordinator, who checks them for completeness and consistency with the procedures of the Applicant Guidebook.
- If the two evaluators disagree on one or more of the scores, the Project Coordinator mediates and works to achieve consensus, where possible.
- The Project Director and Project Coordinator, along with other members of the core team, meet to discuss the evaluators' results and to verify compliance with the Applicant Guidebook. Justifications for the scores are further refined and articulated in this phase.
- If the core team so decides, additional research may be carried out to answer questions that arise during the review, especially as they pertain to the qualitative aspects of the Applicant Guidebook scoring procedures.
- If the core team so decides, the EIU may provide a clarifying question (CQ) to be issued via ICANN to the applicant to clarify statements in the application materials and/or to inform the applicant that letter(s) of support could not be verified.
- When the core team achieves consensus on the scores for each application, an explanation, or justification, for each score is prepared. A final document with all scores and justifications for a given application, including a determination of whether the application earned the requisite 14 points for prevailing, is presented to ICANN.
- The Economist Intelligence Unit works with ICANN when questions arise or when additional process information may be required to evaluate an application.
- The Panel Firm exercises consistent judgment in making its evaluations in order to reach conclusions that are compelling and defensible, and documents the way in which it has done so in each case.





### Verification of letter(s) of support and opposition

As part of this CPE evaluation process, one of the two evaluators assigned to assess the same string verifies the letters of support and opposition. This process is outlined below:

- On a regular basis, the EIU reviews ICANN's public correspondence page (<http://newgtlds.icann.org/en/program-status/correspondence>) for recently received correspondence to assess whether it is relevant to an ongoing evaluation. If it is relevant, the public correspondence is provided to the evaluators assigned to the evaluation for review.
- For every letter of support/opposition received, the designated evaluator assesses both the relevance of the organization and the validity of the documentation. Only one of the two evaluators is responsible for the letter verification process.
- With few exceptions, verification emails are sent to every entity that has sent a letter(s) of support or opposition to validate their identity and authority.
- The exceptions noted above regarding sending verification letter(s) include but may not be limited to:
  - If there are no contact details included in the letter(s). However, the evaluator will attempt to obtain this information through independent research.
  - If the person sending the letters(s) does not represent an organization. However, if the content of the letter(s) suggests that the individual sending a letter has sent this letter(s) on behalf of an organization/entity the evaluator will attempt to validate this affiliation.
- The verification email for letter(s) of support/opposition requests the following information from the author of the letter:
  - Confirmation of the authenticity of the organization(s) letter.
  - Confirmation that the sender of the letter has the authority to indicate the organization(s) support/opposition for the application.
  - In instances where the letter(s) of support do not clearly and explicitly endorse the applicant, the verification email asks for confirmation as to whether or not the organization(s) explicitly supports the community based application.
- To provide every opportunity for a response, the evaluator regularly contacts the organization for a response by email and phone for a period of at least a month.
- A verbal acknowledgement is not sufficient. The contacted individual must send an email to the EIU acknowledging that the letter is authentic.



## New gTLD Application Submitted to ICANN by: Dot Registry LLC

**String: INC**

**Originally Posted: 13 June 2012**

**Application ID: 1-880-35979**

### Applicant Information

#### 1. Full legal name

Dot Registry LLC

#### 2. Address of the principal place of business

6600 College BLVD  
Suite 125  
Overland Park Kansas 66211  
US

#### 3. Phone number

9136004088

#### 4. Fax number

8169947333

#### 5. If applicable, website or URL

### Primary Contact

#### 6(a). Name

Ms. Tess Pattison-Wade

#### 6(b). Title

Executive Director

#### 6(c). Address

#### 6(d). Phone Number

8168986598

#### 6(e). Fax Number

#### 6(f). Email Address

tpw5029@hotmail.com

## Secondary Contact

### 7(a). Name

Shaul Jolles

### 7(b). Title

CEO

### 7(c). Address

### 7(d). Phone Number

8162007080

### 7(e). Fax Number

### 7(f). Email Address

sjolles@gmail.com

## Proof of Legal Establishment

### 8(a). Legal form of the Applicant

Limited Liability Company

**8(b). State the specific national or other jurisdiction that defines the type of entity identified in 8(a).**

Kansas

**8(c). Attach evidence of the applicant's establishment.**

Attachments are not displayed on this form.

**9(a). If applying company is publicly traded, provide the exchange and symbol.**

**9(b). If the applying entity is a subsidiary, provide the parent company.**

**9(c). If the applying entity is a joint venture, list all joint venture partners.**

## Applicant Background

**11(a). Name(s) and position(s) of all directors**

Christopher Michael Parrott	Director of Finance
Paul Eugene Spurgeon	COO
Scott Adam Schactman	Director Law & Policy
Shaul Jolles	CEO

**11(b). Name(s) and position(s) of all officers and partners**

**11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares**

Ecyber Solutions Group Inc	not applicable
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**11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility**

## **Applied-for gTLD string**

**13. Provide the applied-for gTLD string. If an IDN, provide the U-label.**

INC

**14(a). If an IDN, provide the A-label (beginning with "xn--").**

**14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.**

**14(c). If an IDN, provide the language of the label (in English).**

**14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).**

**14(d). If an IDN, provide the script of the label (in English).**

**14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).**

**14(e). If an IDN, list all code points contained in the U-label according to Unicode form.**

**15(a). If an IDN, Attach IDN Tables for the proposed registry.**

Attachments are not displayed on this form.

**15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.**

**15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.**

**16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.**

There are no known operational or rendering issues associated with our applied for string. We are relying on the proven capabilities of Neustar to troubleshoot and quickly eliminate these should they arise.

**17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>).**

## **Mission/Purpose**



## 18(a). Describe the mission/purpose of your proposed gTLD.

To build confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Corporations. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Registered Community of Corporations. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".INC" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Registered Community of Corporations.

## 18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

With the increased popularity of the Internet as a consumer marketplace and the ease with which individuals are able to access information online, it is essential that safeguards be put in place to validate and identify legitimate businesses.

Businesses representing themselves as corporations by including Inc., Incorporated or Corporation in their business names create an expectation amongst consumers that they have the legal right to conduct business as a corporation. Unfortunately, consumers are currently unable to quickly verify the accuracy of this representation. Fraudulent business entities rely on this consumer assumption and the lack of available verification resources to prey on both businesses and consumers. As online commerce replaces brick-and-mortar businesses, there has been a corresponding rise in business identity theft online, which in turn creates a lack of consumer confidence.

In the vast majority of states, the Secretary of State is responsible for overseeing the business entities in the state – from the registration of corporations or verification of business filings, to the administration of the Uniform Commercial Code, an act, which provides for the uniform application of business contracts and practices across the United States. The Secretaries' role is critical to the chartering of businesses (including, but not limited to the formation of corporations) that wish to operate in their state. In this regard, the Secretaries of State maintain all records of business activities within the state, and in some states, the Secretary of State has wide-ranging regulatory authority over businesses as well.

The ".INC" gTLD will be exclusively available to members of the Community of Registered Corporations, as verified through the records of each registrant's Secretary of State's Office (or other state official where applicable). By verifying that a registrant is a registered U.S. corporation, DOT Registry will be able to bring unprecedented clarity and security to consumers and business owners, assuring Internet users, registry applicants, and others that web addresses ending in ".INC" are a hallmark of a valid corporation recognized by a governmental authority of the United States. This process will decrease the possibility of identity misrepresentation in a cyber setting and assist lesser-known businesses in legitimizing their services to consumers.

In January 2012, after many public forums and contributions from consumer advocates, the Business Services Committee of the National Association of Secretaries of State (NASS) released the NASS White Paper on Business Identity Theft, indicating that at least 26 states have reported business identity theft cases resulting from fraudulent business representations online. North Carolina Secretary of State Elaine Marshall, who serves as Co-Chair of the NASS Business Services Committee, indicates that the primary function of the White Paper is to "Harness new technology to develop cost-effective solutions, and ultimately make it harder for identity thieves to prey upon state-based businesses." With the implementation of the ".INC" gTLD, consumers would have the ability to quickly

identify the presented business as a valid U.S. corporation. As ".INC" registrations grow, we will see a reduction in the ease with which criminals are able to hide behind fictitious entities because consumers will be conditioned to look for the appropriate gTLD ending before conducting business online. This simple gTLD extension would provide an efficient and cost-effective solution to a growing economic concern in the United States by creating a verifiable online business community network. Through this innovative concept, the DNS system will help to build a stronger more resilient business platform for members of the Registered Community of Corporations, while fostering increased user confidence, by ensuring accurate business representation.

It is our goal to provide an efficient and secure application process by minimizing the input required by the registrant and creating a streamlined, efficient evaluation process. We will accomplish this by reviewing the applicant's proof of business registration with their State. Registry Applicants will only be awarded a domain through DOT Registry if the Registrant is an active member of the Community of Registered Corporations. "Active" in this context can be defined as any corporation registered with a Secretary of State in the United States and its territories, that is determined to be authorized to conduct business within that State at the time of their registration. Registrant's "Active" status will be verified on an annual basis to ensure the reputation and validity of the ".INC" gTLD. DOT Registry will also ensure that registrants are represented by a web address that is both simple and intuitive allowing for easy recognition by search engines and internet users. Awarded addresses will identify the registrant's company and may be presented in the shortest, most memorable way.

At DOT Registry, we believe in complete transparency, consistent with the Secretaries of State Policy with regard to "Active" members of the Community of Registered Corporations becoming publicly recorded upon completion of their entity registration process. Further, DOT Registry is informed by the position of the United States Senate Task Force for Financial Integrity and Economic Development, which was created to advocate for improved levels of transparency and accountability with regard to beneficial ownership, control, and accounts of companies. Over the last decade the Task Force has focused specifically on combatting fraudulent business registrations which result in "fake" entities absorbing, hiding, and transferring wealth outside the reach of law enforcement agencies. Because of this DOT Registry will not allow private or proxy registrations.

All approved domain registrants will be made public and available, so as to further validate DOT Registry's mission of fostering consumer peace of mind by creating a gTLD string dedicated solely to valid members of the Community of Registered Corporations. These transparency mechanisms will also serve as a deterrent for fraudulent entities by creating an expectation among consumers as to who they are conducting business with. The social implications of business identity theft and consumer confusion are a paramount concern to DOT Registry. In our currently unstable economy, stimulating economic growth is vital. One means to such growth is by defusing the rampant, legitimate fear caused by online crimes and abuse, which leads to curtailed consumer behavior. By introducing the ".INC" domain into the DNS, DOT Registry will attempt to reduce the social impact of identity theft on business owners which will in turn reduce consumer fears related to spending and ultimately boost economic growth in regards to consumption and purchase power. Further, the ".INC" gTLD will strive to foster competition by presenting members of the Community of Registered Corporations with a highly valued customized domain name that not only represents their business, but also their validity in the marketplace. Within the current existing top-level domains it is hard for businesses to find naming options that appropriately represent them. One advantage of the ".INC" gTLD is that it will drive the "right" kind of online registrations by offering a valued alternative to the currently overcrowded and often unrestricted name space. Registrants will be inspired to pursue ".INC" domains not only because they will be guaranteed a name representative to their business, but also because of the increased validity for their business operations brought about by the ".INC" verification process. DOT Registry anticipates that the security offered through a ".INC" extension will increase consumer traffic to websites which in turn will boost advertising revenue online and consumer purchasing.

Successful implementation of the ".INC" domain will require two registration goals: (1)

capture newly formed corporations and assist them in securing a ".INC" domain relative to their legal business name, and (2) converting existing online members of our community to a ".INC" domain relative to their legal business name. These goals will be accomplished by the following practices:

- 1) Through our Founder's Program, DOT Registry will secure key community tenants in the name space who will act as innovative leaders to assist us in changing the online culture of business representation by promoting the benefits of the ".INC" gTLD and shaping economic growth through increased consumer confidence.
- 2) DOT Registry will work closely with companies such as Legalzoom and CSC (both companies assist in the formation of entities and their registration processes), as well as individual Secretary of State's offices, to capture newly admitted members of the community.
- 3) DOT Registry will educate members of the Community of Registered Corporations on the benefits and importance of using a ".INC" gTLD by building a strong relationship with organizations like the Small Business Administration and the Better Business Bureau, which promote business validation and consumer insight. By working closely with these well-known and highly regarded entities, DOT Registry will be able to reach a larger majority of community members and enhance our message's validity.
- 4) DOT Registry will strive to create consumer and Internet user awareness through a strong Internet marketing presence and by developing a relationship with the National Association of Consumer Advocates, which was formed with the intention of curbing consumer abuse through predatory business practices.

At DOT Registry, we strive to meet the exact needs of our registrants and the Internet users who patronize them. This will be accomplished by the creation of a seamless connection and strong communication channel between our organization and the governmental authority charged with monitoring the creation and good standing of corporations. DOT Registry will work closely with each Secretary of State's office to tailor our validation process to complement each office's current information systems and to maximize the benefits of accurate information reporting. These processes are essential in fully assisting consumers in making educated decisions in regards to what businesses to patronize. The reach of the ".INC" gTLD will not only impact online consumerism, but also offer an additional validation process for consumers to research contractors, businesses, and solicitors before choosing to do business with them in person.

The guidelines listed below were developed through collaborations with both NASS and individual Secretary of State's offices in order to ensure the integrity of the ".INC" domain. All policies comply with ICANN-developed consensus policies. To maintain the integrity of our mission statement and our relationship with each Secretary of State's office we will implement Registration Guidelines. In order to apply for a domain name ending in ".INC", a Registrant must be registered with one of the Secretary of State's offices in the United States, the District of Columbia, or any of the U.S. possessions or territories as a corporation pursuant to that jurisdiction's laws on valid corporate registration. In addition, Applicant will implement the following Registration Guidelines and naming conventions:

- 1) A Registrant will only be awarded the ".INC" domain that matches or includes a substantial part of the Registrant's legal name. For example, Blue Star Partners, Inc. would be able to purchase either BlueStarPartners.INC or BlueStar.INC.
- 2) Registrants will not be allowed to register product line registrations, regardless of the products affiliation to the corporation. All awarded domains must match or include a substantial part of the Registrant's legal name.
- 3) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".INC" domain will be awarded on a first-come, first-served basis to the first registrant.
- 4) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".INC" domain.
- 5) If a registrant's ".INC" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a

- ".INC" domain with a distinctive denominator including but not limited to a tag, company describer, or name abbreviation. For example, if BlueStar.INC was awarded to Blue Star Partners, Inc. of California, then Blue Star Partners, Inc. of Kansas would be offered the opportunity to use BlueStarPartners.INC.
- 6) DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its domain names. DOT Registry will utilize the Secretary of States' online resources to confirm that companies applying for their ".INC" domain are in fact registered businesses.
- 7) All registrants that are awarded the ".INC" domain will agree to a one-year minimum contract for their domain names that will automatically renew for an additional year on an annual basis if such contract is not terminated prior to the expiration of the renewal date.
- 8) DOT Registry or it's designated agent will annually verify each registrants community status. Verification will occur in a process similar to the original registration process for each registrant, in which the registrars will verify each registrant's "Active" Status with the applicable state authority. Each registrar will evaluate whether its registrants can still be considered "Active" members of the Community of Registered Corporations. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".INC" domain:
- (a) If a registrant previously awarded the ".INC" domain ceases to be registered with the State.
- (b) If a registrant previously awarded a ".INC" domain is dissolved and/or forfeits the domain for any reason.
- (c) If a registrant previously awarded the ".INC" domain is administratively dissolved by the State.
- Any registrant is found to be "Inactive," or which falls into scenarios (a) through (c) above, they will be issued a probationary warning by their registrar, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined 30 day probationary period, their previously assigned ".INC" will be forfeited. DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State. Domains will be temporarily suspended during the review process.
- 9) If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".INC" domain, then such ".INC" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Corporations, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other computers or networks, and domain kiting<tasting).
- 10) In the case of domain forfeiture due to any of the above described options, all payments received by the Registrant for registration services to date or in advance payment will be non-refundable.
- 11) All registration information will be made publicly available. DOT Registry will not accept blind registration or registration by proxy. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.inc](http://www.whois.inc). The WHOIS Web application will be an intuitive and easy to use application. A complete description of these services can be found in Question 26 below.
- 12) Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed

to maintain the previously awarded “.INC” domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a “.INC” domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry’s guidelines, the awarded domain will be revoked.

13) If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid.

14) DOT Registry will implement a reserved names policy consisting of both names DOT Registry wishes to reserve for our own purposes as the registry operator and names protected by ICANN. DOT Registry will respect all ICANN reserved names including, but not limited to, two letter country codes and existing TLD’s. Additionally, DOT Registry will seek ICANN approval on any additional names we plan to reserve in order to appropriately secure them prior to the opening of general availability.

In addition to DOT Registry’s comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM), including but not limited to: Support for and interaction with the Trademark Clearinghouse (“Clearinghouse”); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; and stringent take down policies and all required dispute resolution policies.

### **18(c). What operating rules will you adopt to eliminate or minimize social costs?**

“.INC” was proposed for the sole purpose of eliminating business and consumer vulnerability in a cyber setting. In order to maintain the integrity of that mission and minimize the negative consequences to consumers and business owners, the following policies will be adhered to:

- (a) No information collected from any registrant will be used for marketing purposes.
- (b) Data collected will not be traded or sold.
- (c) All data collected on any registrant will be available to the registrant free of charge.
- (d) Registrants will be allowed to correct data inaccuracies as needed.
- (e) All data will be kept secure.

DOT Registry will strictly uphold the rules set forth in their registration guidelines in order to accurately service the Community of Registered Corporations and mitigate any negative consequences to consumers or Internet users.

Price structures for the “.INC” gTLD are designed to reflect the cost of verification within our community requirements and the ongoing cost of operations. Price escalation will only occur to accommodate rising business costs or fees implemented by the Secretaries of State with regard to verifying the “Active” status of a Registrant. Any price increases would be submitted to ICANN as required in our Registry Agreement and will be compiled in a thoughtful and responsible manner, in order to best reduce the affects on both the registrants and the overall retail market.

DOT Registry does not plan to offer registrations to registrants directly therefore our pricing commitments will be made within our Registry-Registrar Agreements. It is our intention that these commitments will percolate down to registrants directly and that the contractual commitments contained within our Registry-Registrar Agreements will be

reflected in the retail sale process of our gTLD, thus minimizing the negative consequences that might be imposed on registrants via the retail process.

DOT Registry plans to offer bulk registration benefits to Registrars during the first 6 months of operation. Registrars wishing to purchase bulk registrations of 1,000 names or more would be offered a 5% discount at the time of purchase. DOT Registry shall provide additional financial incentives to its Registrars for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database.

Additionally, DOT Registry, through our founders program will provide a 25% discount to founders participants as a participation incentive. It is possible that DOT Registry would offer additional pricing benefits from time to time as relative to the market. All future pricing discounts not detailed in this application will be submitted through the appropriate ICANN channels for approval prior to introduction to the market.

## Community-based Designation

### 19. Is the application for a community-based TLD?

Yes

### 20(a). Provide the name and full description of the community that the applicant is committing to serve.

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

Corporations are the oldest form of organized business in the United States, with the first organized corporation dating back to the 18th century. In 1819 The US Supreme Court formalized their policy on corporation formation by enhancing the rights granted to US Corporations. This policy change for the United States spurred increased corporate registrations and acted as an early economic boom for the states. Well known early corporations included the British East India Company, Carnegie Steel Company, and Standard Oil. The creation of corporations is synonymous with the development of free enterprise in the United States and much of our countries infrastructure and services were created by early and innovative corporations.

Corporation creation has been viewed as especially unique throughout US history because corporations are considered the only business model that are recognized by law to have the rights and responsibilities similar to natural persons. Corporations can exercise human rights against real individuals and the state. Additionally, they themselves can be responsible for human rights violations. This unique human element makes corporations

acutely responsible for their actions as an entity. This feature becomes especially applicable when we begin to view corporations as a community. "Community" is defined by Merriam Webster's dictionary as a group sharing common characteristics or interests and perceived or perceiving itself as distinct in some respect from the larger society within which it exists. DOT Registry believes that corporations fall well within this definition due to their specific registration requirements, which set them apart from individuals and other business entities, while granting them operating privileges and distinct rights and responsibilities.

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

Business formation favors the corporate entity structure because it provides its shareholders with limited personal liability and a unique taxing structure.

Corporations provide the backbone of the American business culture. Fortune 500's top ten US corporations for 2011 include: Wal-Mart Stores, Exxon Mobil, Chevron, ConocoPhillips, Fannie Mae, General Electric, Berkshire Hathaway, General Motors, Bank of America and Ford Motors. From this listing one can ascertain that corporations span every genre of business and play an intricate role in the daily lives of consumers. From gas stations to hospitals, grocery stores to financial lending institutions corporations drive the stock market, industry production, and consumer spending.

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

Corporations can be formed through any jurisdiction of the United States. Therefore members of this community exist in all 50 US states and its territories. Corporation formation guidelines are dictated by state law and can vary based on each State's regulations.

Persons form a corporation by filing required documents with the appropriate state authority, usually the Secretary of State. Most states require the filing of Articles of Incorporation. These are considered public documents and are similar to articles of organization, which establish a limited liability company as a legal entity. At minimum, the Articles of Incorporation give a brief description of proposed business activities, shareholders, stock issued and the registered business address.

Corporations are expected to conduct business in conjunction with the policies of the State in which they are formed, and the Secretary of State periodically evaluates a corporation's level of good standing based on their commercial interactions with both the state and consumers. DOT Registry or its designated agents would verify membership to the Community of Corporations by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to maintain the reputation of the ".INC" string and accurately delineate the member to consumers, Registrants would only be awarded a domain that accurately represents their registered legal business name. Additionally, DOT Registry will not allow blind registrations or registration by proxy, therefore DOT Registry's WHOIS service will tie directly back to each member's state registration information and will be publicly available in order to provide complete transparency for consumers.

Over 64% of US public corporations are registered in the state of Delaware. Because of this preeminence, Dot Registry has drawn on Delaware Law as an example of formation requirements and operating privileges.

According to Delaware Law corporations may be formed by:

(a) Any person, partnership, association or corporation, singly or jointly with others, and without regard to such person's or entity's residence, domicile or state of incorporation, may incorporate or organize a corporation under this chapter by filing with the Division of Corporations in the Department of State a certificate of incorporation

which shall be executed, acknowledged and filed in accordance with this title.

(b) A corporation may be incorporated or organized under this chapter to conduct or promote any lawful business or purposes, except as may otherwise be provided by the Constitution or other law of this State.

Entities are required to comply with formation practices in order to receive the right to conduct business in the US. Once formed a corporation must be properly maintained. Corporations are expected to comply with state regulations, submit annual filings, and pay specific taxes and fees. Should a corporation fail to comply with state statutes it could result in involuntary dissolution by the state in addition to imposed penalties, taxes and fees.

All entities bearing the words Corporation or Incorporated in their business name create the assumption that they have been awarded the privileges associated to that title such as: the ability to conduct commerce transactions within US borders or territories, the ability to market products, solicit consumers and provide reputable services in exchange for monetary values, and finally to provide jobs or employment incentives to other citizens. Membership in the Community of Corporations is established through your business entity registration. In order to maintain your membership to this community you must remain an "Active" member of the community. Active" in this context can be defined as any corporation registered with a Secretary of State in the United States and its territories, that is determined to be authorized to conduct business within that State.

## **20(b). Explain the applicant's relationship to the community identified in 20(a).**

DOT Registry, LLC is owned solely by ECYBER Solutions Group, Inc., a registered Corporation in the State of Kansas. DOT Registry has a direct relationship to the proposed community because of our ownership makeup. In addition, DOT Registry is a corporate affiliate of the National Association of Secretaries of State (NASS), an organization which acts as a medium for the exchange of information between states and fosters cooperation in the development of public policy, and is working to develop individual relationships with each Secretary of State's office in order to ensure our continued commitment to honor and respect the authorities of each state.

DOT Registry is acutely aware of our responsibility to uphold our mission statement of: building confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Corporations. DOT Registry has also specifically pledged to various Secretaries of State to responsibly manage this gTLD in a manner that will both protect and promote business development in the US. Further our policies were developed through direct collaboration with the state offices so as to mitigate any possibility of misrepresenting their regulations.

In order to ensure that we accomplish this goal and preserve the credibility of our operations DOT Registry has taken the following advance actions to ensure compliance and community protection:

- 1) Developed registration policies that are currently reflective of common state law dictating the creation and retention of corporations in the United States.
- 2) Created a strong partnership with CSC (an ICANN approved registrar also specializing in corporate formation services). Through this partnership DOT Registry was able to develop a streamlined verification process to validate potential Registrants as members of the community and ensure that continued annual verifications are completed in a time sensitive and efficient manner. This process will ensure that consumers are not misled by domains registered with the ".INC" gTLD. Additionally, this process will create peace of mind amongst community members by ensuring that their integrity is not diminished by falsely identified corporations being represented by a ".INC" extension.
- 3) Built a strong relationship with several Secretaries of State in order to receive and give consistent input on policy implementation and state regulation updates. DOT Registry has also notified NASS that we have designed our registration policies and



procedures to address NASS' concerns about verification requirements in the TLD.

4) Established an in-house legal and policy director to review, enhance, and ensure compliance and consistency with all registration guidelines and community representations. As indicated in many of the attached letters, DOT Registry will be held specifically accountable for protecting the integrity of its restrictions and of the members of this community. DOT Registry will consult directly with NASS and policy advisors in the state offices consistently in order to continue to accurately represent the Community of Corporations and live up to the vast standards associated to the ".INC" gTLD. In furtherance of this goal, DOT Registry has attached letters from critical advocates for and representatives of the proposed community, including:

1) Various Secretary of States Offices: Specifically The Secretary of State of Delaware which represents over 55% of public corporations in the United States and a majority of members in this community and The Secretary of State of South Dakota, which is working towards combatting business identity theft and fictitious business registration.

2) Members of the community including but not limited to CSC our registrar partner and Legal Zoom, the nation's leading provider for online business registration. DOT Registry can be viewed as an exemplary community representative not only through its pledged commitment to excellence, but also through its continued commitment to build relationships with the state offices charged with registering and overseeing members of this community. DOT Registry pledges through its registry policies to uphold a common standard of evaluation for all applicants and to add increased integrity to the Community of Registered Corporations. These pledges are further enforced by the endorsement letters from the above organizations, which call the authentication-verification measures proposed by DOT Registry critical to the success of the proposed community. Similarly, DOT Registry will adhere to all standards of business operations as described in the Kansas state business statutes and will be equally accountable to consumers to deliver continuously accurate findings and valid registrations.

## 20(c). Provide a description of the community-based purpose of the applied-for gTLD.

The goal of the ".INC" gTLD is to build confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Corporations. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Corporations. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".INC" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Registered Community of Corporations. The creation of the ".INC" gTLD will bring innovation and unprecedented coordination of this valuable service of verification, a purpose endorsed by many individual Secretary of States and NASS. Additionally, ".INC" will further promote the importance of accurate business registrations in the US, while assisting in combatting business identity theft by increasing registration visibility through our WHOIS services and strict abuse policies.

The intended registrants of the ".INC" gTLD would consist of members of the Community of Corporations. This would be verified by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to ensure that this process is accomplished in a secure and time effective manner DOT Registry will develop partnerships with each Secretary of State's office in order to create the applicable applications to securely verify registrant data.

End-users for this TLD would include everyday consumers, members of the community, businesses without the community, and consumers looking for more accurate information with

regards to those with whom they may conduct business. DOT Registry plans to initiate a robust marketing campaign geared towards the proposed end-users in order to ensure that consumers are aware of what ".INC" stands for and its significance throughout the Community of Corporations. In addition to the vast consumer benefits from the creation of the ".INC" gTLD, DOT Registry believes that ".INC" domains would be considerably beneficial to business end users. Since DOT Registry will not allow blind registration or registration by proxy businesses viewing ".INC" sites would be able to instantly ascertain what businesses operate under the blanket of parent companies, are subsidiaries of other businesses, and of course where a corporation is domiciled. This easily identifiable information not only assists businesses in accurately identifying who they are doing business with, it would also assist in locating sales and use tax information, identifying applicable state records, and tracking an entity's history. These factors could help to determine the outcome of sales, mergers, contract negotiations, and business relationships. Ensuring that this kind of transparency and accountability – qualities previously not attainable in a TLD – shall be at the fingertips of potential business partners or investors. Our registry policies will be adapted to match any changing state statutes in relation to the definition and creation of corporations in the U.S., ensuring the longevity and reputation of our registry services and our commitment to consumers to only represent valid U.S. corporations. Much like the perpetuity of the members of the Community of Corporations, the ".INC" gTLD will enjoy a similar immortality, for as long as incorporated entities continue to exist in the United States the ".INC" relevance will not diminish. As awareness of the gTLD's mission becomes more widely recognized by end-users expectations to understand who you choose to do business with will increase, making the need for the ".INC" gTLD more prominent.

In addition, it is our concern that the implementation of the gTLD string ".INC" as a generic string, without the restrictions and community delineations described in this application and endorsed by NASS and the various Secretaries of State, could promote confusion among consumers and provide clever criminal enthusiasts the tools necessary to misrepresent themselves as a U.S.-based corporation. There is an expectation amongst consumers that entities using the words corporation, incorporated, or INC in their business name have the legal right and ability to conduct business in the United States. This representation by non-members of the Community of Registered Corporations is not only fraudulent, but a great disservice to consumers

## **20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).**

".INC" was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language the word incorporation is primarily shortened to Inc. when used to delineate business entity types. For example, McMillion Incorporated would additionally be referred to as McMillion Inc. Since all of our community members are incorporated businesses we believed that ".INC" would be the simplest, most straightforward way to accurately represent our community. Inc. is a recognized abbreviation in all 50 states and US Territories denoting the corporate status of an entity. Our research indicates that Inc. as corporate identifier is used in three other jurisdictions (Canada, Australia, and the Philippines) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our community definition.

## **20(e). Provide a description of the applicant's intended registration policies in**

## support of the community-based purpose of the applied-for gTLD.

In order to accurately protect the integrity of our domain name and serve the proposed community the following safeguards will be adapted:

- 1) All Registrants will be required to submit a minimum of: Their registered business address, State of Incorporation, name and contact information of responsible party, and legally registered business name. DOT Registry or its agents will use this information to cross-reference the applicable state's registration records in order to verify the accuracy of the Registrant's application. Should DOT Registry be unable to verify the legitimacy of the Registrants application additional information might be requested in order to award a domain name.
- 2) A Registrant will only be awarded the ".INC" domain that matches or includes a substantial part of the Registrant's legal name. For example, Blue Star Partners, Inc. would be able to purchase either BlueStarPartners.INC or BlueStar.INC.
- 3) Registrants will not be allowed to register product line registrations, regardless of the product's affiliation to the corporation. All awarded domains must match or include a substantial part of the Registrant's legal name.
- 4) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".INC" domain will be awarded on a first-come, first-served basis to the first registrant.
- 5) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".INC" domain.
- 6) If a registrant's ".INC" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a ".INC" domain with a distinctive denominator including but not limited to a geographic tag, company describer, or name abbreviation. For example, if BlueStar.INC was awarded to Blue Star, Inc. of California, then Blue Star, Inc. of Kansas would be offered the opportunity to use BlueStar-KS.INC. Companies will be able to choose a geographic tag that either matches their State of Incorporation or their principal place of business, which is listed with their applicable Secretary of State's office or legally reciprocal jurisdiction.
- 7) DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its domain names. DOT Registry will utilize the Secretary of States' online resources to confirm that companies applying for their ".INC" domain are in fact registered businesses.
- 8) DOT Registry or its designated agent will annually verify each registrants community status. Verification will occur in a process similar to the original registration process for each registrant, in which the registrars will verify each registrant's "Active" Status with the applicable state authority. Each registrar will evaluate whether its registrants can still be considered "Active" members of the Community of Registered Corporations. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".INC" domain:
  - (a) If a registrant previously awarded the ".INC" domain ceases to be registered with the State.
  - (b) If a registrant previously awarded a ".INC" domain is dissolved and/or forfeits the domain for any reason.
  - (c) If a registrant previously awarded the ".INC" domain is administratively dissolved by the State.Any registrant found to be "Inactive," or which falls into scenarios (a) through (c) above, will be issued a probationary warning by their registrar, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined 30 day probationary period their previously assigned ".INC" will be forfeited.

DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State.

9)If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".INC" domain, then such ".INC" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Corporations, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other computers or networks, and domain kiting-tasting).

10)All registration information will be made publicly available. DOT Registry will not accept blind registration or registration by proxy. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.inc](http://www.whois.inc). The WHOIS Web application will be an intuitive and easy to use application which will allow the general public to easily access registration information for each ".INC" site. A complete description of these services can be found in Question 26 below.

11)Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed to maintain the previously awarded ".INC" domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a ".INC" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a 30 day grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry's guidelines, the awarded domain will be revoked.

12)If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid. In addition to Applicant's comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM), including but not limited to: Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; stringent take down policies in order to properly operate the registry; and Applicant shall comply with any RRDRP decision, further reinforcing the fact that Applicant is committed to acting in best interest of the community. DOT Registry will employ an in house Rights Protection Mechanism Team consisting of our Director of Legal and Policy and two additional support personnel. The RPM team will work to mitigate any RPM complaints, while protecting the general rights and integrity of the ".INC" gTLD. The RPM team will strictly enforce the rights protection mechanisms described in this application.

Membership verification will be performed via DOT Registry's designated agents that which have software systems in place to efficiently interface with each state's data records. By utilizing the resources of industry leaders in this field, DOT Registry will ensure accurate and timely verification in addition to our ability to meet the needs of such a vast community. "Active" status will be specifically verified by cross referencing an applicant's registration data with state records. If this process is unable to be automated at any given time DOT Registry's agents will manually verify the information by contacting the applicable state agencies. While manual verification will obviously employ a larger pool of resources, DOT Registry believes that its industry partners are sufficiently able to accomplish this task based on their employee pool and past business accomplishments. Registrants will be expected to provide a minimum of their legal registered name, state of incorporation, registered business address, and administrative contact. All additional

information required such as proof of incorporation or "active" status verification will be the sole responsibility of DOT Registry or its designated agents and will be acquired through the processes described herein.

DOT Registry will not restrict the content of ".INC" sites other than through the enforcement of our Abuse Mitigation practices or Rights Protection Mechanisms as described in question 28 and 29 of this application. All ".INC" sites will be expected to adhere to the content restrictions described in DOT Registry's abuse policies. Any sites infringing on the legal rights of other individuals or companies, trademarks, or participating in the practice and promotion of illegal activities will be subject to Applicant's take down procedures. ".INC" domains are designed for the sole use of community members with the intention of promoting their specific business activities.

**20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## Geographic Names

**21(a). Is the application for a geographic name?**

No

## Protection of Geographic Names

**22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.**

Applicant has thoroughly reviewed ISO 3166-1 and ISO 3166-2, relevant UN documents on the standardization of geographic names, GAC correspondence relating to the reservation of geographic names in the .INFO TLD, and understands its obligations under Specification 5 of the draft Registry Agreement. Applicant shall implement measures similar to those used to protect geographic names in the .INFO TLD by reserving and registering to itself all the geographic place names found in ISO-3166 and official country names as specified by the UN. Applicant has already discussed this proposed measure of protecting geographic names with its registry services provider, Neustar, and has arranged for such reservation to occur as soon after delegation as is technically possible.

As with the .INFO TLD, only if a potential second-level domain registrant makes a proper

showing of governmental support for country or territorial names will Applicant then relay this request to ICANN. At this point, Applicant would wait for the approval of the GAC and of ICANN before proceeding to delegate the domain at issue.

## Registry Services

### 23. Provide name and full description of all the Registry Services to be provided.

#### 23.1 Introduction

DOT Registry has elected to partner with NeuStar, Inc (Neustar) to provide back-end services for the ".INC" registry. In making this decision, DOT Registry recognized that Neustar already possesses a production-proven registry system that can be quickly deployed and smoothly operated over its robust, flexible, and scalable world-class infrastructure. The existing registry services will be leveraged for the ".INC" registry. The following section describes the registry services to be provided.

#### 23.2 Standard Technical and Business Components

Neustar will provide the highest level of service while delivering a secure, stable and comprehensive registry platform. DOT Registry will use Neustar's Registry Services platform to deploy the ".INC" registry, by providing the following Registry Services (none of these services are offered in a manner that is unique to ".INC"):

- Registry-Registrar Shared Registration Service (SRS)
- Extensible Provisioning Protocol (EPP)
- Domain Name System (DNS)
- WHOIS
- DNSSEC
- Data Escrow
- Dissemination of Zone Files using Dynamic Updates
- Access to Bulk Zone Files
- Dynamic WHOIS Updates

- IPv6 Support
- Rights Protection Mechanisms
- Internationalized Domain Names (IDN). [Optional should be deleted if not being offered].

The following is a description of each of the services.

#### 23.2.1 SRS

Neustar's secure and stable SRS is a production-proven, standards-based, highly reliable, and high-performance domain name registration and management system. The SRS includes an EPP interface for receiving data from registrars for the purpose of provisioning and managing domain names and name servers. The response to Question 24 provides specific SRS information.

#### 23.2.2 EPP

The ".INC" registry will use the Extensible Provisioning Protocol (EPP) for the provisioning of domain names. The EPP implementation will be fully compliant with all RFCs. Registrars are provided with access via an EPP API and an EPP based Web GUI. With more than 10 gTLD, ccTLD, and private TLDs implementations, Neustar has extensive experience building EPP-based registries. Additional discussion on the EPP approach is presented in the response to Question 25.

#### 23.2.3 DNS

DOT Registry will leverage Neustar's world-class DNS network of geographically distributed nameserver sites to provide the highest level of DNS service. The service utilizes Anycast routing technology, and supports both IPv4 and IPv6. The DNS network is highly proven, and currently provides service to over 20 TLDs and thousands of enterprise companies. Additional information on the DNS solution is presented in the response to Questions 35.

#### 23.2.4 WHOIS

Neustar's existing standard WHOIS solution will be used for the ".INC". The service provides supports for near real-time dynamic updates. The design and construction is agnostic with regard to data display policy is flexible enough to accommodate any data

model. In addition, a searchable WHOIS service that complies with all ICANN requirements will be provided. The following WHOIS options will be provided:

Standard WHOIS (Port 43)

Standard WHOIS (Web)

Searchable WHOIS (Web)

#### 23.2.5 DNSSEC

An RFC compliant DNSSEC implementation will be provided using existing DNSSEC capabilities. Neustar is an experienced provider of DNSSEC services, and currently manages signed zones for three large top level domains: .biz, .us, and .co. Registrars are provided with the ability to submit and manage DS records using EPP, or through a web GUI. Additional information on DNSSEC, including the management of security extensions is found in the response to Question 43.

#### 23.2.6 Data Escrow

Data escrow will be performed in compliance with all ICANN requirements in conjunction with an approved data escrow provider. The data escrow service will:

- Protect against data loss
- Follow industry best practices
- Ensure easy, accurate, and timely retrieval and restore capability in the event of a hardware failure
- Minimizes the impact of software or business failure.

Additional information on the Data Escrow service is provided in the response to Question 38.

#### 23.2.7 Dissemination of Zone Files using Dynamic Updates

Dissemination of zone files will be provided through a dynamic, near real-time process. Updates will be performed within the specified performance levels. The proven technology



ensures that updates pushed to all nodes within a few minutes of the changes being received by the SRS. Additional information on the DNS updates may be found in the response to Question 35.

#### 23.2.8 Access to Bulk Zone Files

DOT Registry will provide third party access to the bulk zone file in accordance with specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider.

#### 23.2.9 Dynamic WHOIS Updates

Updates to records in the WHOIS database will be provided via dynamic, near real-time updates. Guaranteed delivery message oriented middleware is used to ensure each individual WHOIS server is refreshed with dynamic updates. This component ensures that all WHOIS servers are kept current as changes occur in the SRS, while also decoupling WHOIS from the SRS. Additional information on WHOIS updates is presented in response to Question 26.

#### 23.2.10 IPv6 Support

The ".INC" registry will provide IPv6 support in the following registry services: SRS, WHOIS, and DNS-DNSSEC. In addition, the registry supports the provisioning of IPv6 AAAA records. A detailed description on IPv6 is presented in the response to Question 36.

#### 23.2.11 Required Rights Protection Mechanisms

DOT Registry, will provide all ICANN required Rights Mechanisms, including:

- Trademark Claims Service
- Trademark Post-Delegation Dispute Resolution Procedure (PDDRP)
- Registration Restriction Dispute Resolution Procedure (RRDRP)
- UDRP
- URS
- Sunrise service.

More information is presented in the response to Question 29.

#### 23.2.12 Internationalized Domain Names (IDN)

IDN registrations are provided in full compliance with the IDNA protocol. Neustar possesses extensive experience offering IDN registrations in numerous TLDs, and its IDN implementation uses advanced technology to accommodate the unique bundling needs of certain languages. Character mappings are easily constructed to block out characters that may be deemed as confusing to users. A detailed description of the IDN implementation is presented in response to Question 44.

#### 23.3 Unique Services

DOT Registry will not be offering services that are unique to ".INC".

#### 23.4 Security or Stability Concerns

All services offered are standard registry services that have no known security or stability concerns. Neustar has demonstrated a strong track record of security and stability within the industry.

## Demonstration of Technical & Operational Capability

### 24. Shared Registration System (SRS) Performance

#### 24.1 Introduction

DOT Registry has partnered with NeuStar, Inc ("Neustar"), an experienced TLD registry operator, for the operation of the ".INC" Registry. The applicant is confident that the plan in place for the operation of a robust and reliable Shared Registration System (SRS) as currently provided by Neustar will satisfy the criterion established by ICANN.

Neustar built its SRS from the ground up as an EPP based platform and has been operating it reliably and at scale since 2001. The software currently provides registry services to five TLDs (.BIZ, .US, TEL, .CO and .TRAVEL) and is used to provide gateway services to the .CN and .TW registries. Neustar's state of the art registry has a proven track record of being secure, stable, and robust. It manages more than 6 million domains, and has over 300 registrars connected today.

The following describes a detailed plan for a robust and reliable SRS that meets all ICANN requirements including compliance with Specifications 6 and 10.

## 24.2 The Plan for Operation of a Robust and Reliable SRS

### 24.2.1 High-level SRS System Description

The SRS to be used for ".INC" will leverage a production-proven, standards-based, highly reliable and high-performance domain name registration and management system that fully meets or exceeds the requirements as identified in the new gTLD Application Guidebook.

The SRS is the central component of any registry implementation and its quality, reliability and capabilities are essential to the overall stability of the TLD. Neustar has a documented history of deploying SRS implementations with proven and verifiable performance, reliability and availability. The SRS adheres to all industry standards and protocols. By leveraging an existing SRS platform, DOT Registry is mitigating the significant risks and costs associated with the development of a new system. Highlights of the SRS include:

- State-of-the-art, production proven multi-layer design
- Ability to rapidly and easily scale from low to high volume as a TLD grows
- Fully redundant architecture at two sites
- Support for IDN registrations in compliance with all standards
- Use by over 300 Registrars
- EPP connectivity over IPv6
- Performance being measured using 100% of all production transactions (not sampling).

### 24.2.2 SRS Systems, Software, Hardware, and Interoperability

The systems and software that the registry operates on are a critical element to providing a high quality of service. If the systems are of poor quality, if they are difficult to maintain and operate, or if the registry personnel are unfamiliar with them, the registry will be prone to outages. Neustar has a decade of experience operating registry infrastructure to extremely high service level requirements. The infrastructure is designed using best of breed systems and software. Much of the application software that performs registry-specific operations was developed by the current engineering team and a result the team is intimately familiar with its operations.

The architecture is highly scalable and provides the same high level of availability and performance as volumes increase. It combines load balancing technology with scalable server technology to provide a cost effective and efficient method for scaling.

The Registry is able to limit the ability of any one registrar from adversely impacting other registrars by consuming too many resources due to excessive EPP transactions. The system uses network layer 2 level packet shaping to limit the number of simultaneous connections registrars can open to the protocol layer.

All interaction with the Registry is recorded in log files. Log files are generated at each layer of the system. These log files record at a minimum:

- The IP address of the client
- Timestamp
- Transaction Details
- Processing Time.

In addition to logging of each and every transaction with the SRS Neustar maintains audit records, in the database, of all transformational transactions. These audit records allow the Registry, in support of the applicant, to produce a complete history of changes for any domain name.

#### 24.2.3 SRS Design

The SRS incorporates a multi-layer architecture that is designed to mitigate risks and easily scale as volumes increase. The three layers of the SRS are:

- Protocol Layer

- Business Policy Layer

- Database.

Each of the layers is described below.

#### 24.2.4 Protocol Layer

The first layer is the protocol layer, which includes the EPP interface to registrars. It consists of a high availability farm of load-balanced EPP servers. The servers are designed to be fast processors of transactions. The servers perform basic validations and then feed information to the business policy engines as described below. The protocol layer is horizontally scalable as dictated by volume.

The EPP servers authenticate against a series of security controls before granting service, as follows:

- The registrar's host exchanges keys to initiate a TLS handshake session with the EPP server.

- The registrar's host must provide credentials to determine proper access levels.

- The registrar's IP address must be preregistered in the network firewalls and traffic-shapers.

#### 24.2.5 Business Policy Layer

The Business Policy Layer is the brain of the registry system. Within this layer, the policy engine servers perform rules-based processing as defined through configurable attributes. This process takes individual transactions, applies various validation and policy rules, persists data and dispatches notification through the central database in order to publish to various external systems. External systems fed by the Business Policy Layer include backend processes such as dynamic update of DNS, WHOIS and Billing.

Similar to the EPP protocol farm, the SRS consists of a farm of application servers within this layer. This design ensures that there is sufficient capacity to process every transaction in a manner that meets or exceeds all service level requirements. Some registries couple the business logic layer directly in the protocol layer or within the database. This architecture limits the ability to scale the registry. Using a decoupled architecture enables the load to be distributed among farms of inexpensive servers that can

be scaled up or down as demand changes.

The SRS today processes over 30 million EPP transactions daily.

#### 24.2.6 Database

The database is the third core components of the SRS. The primary function of the SRS database is to provide highly reliable, persistent storage for all registry information required for domain registration services. The database is highly secure, with access limited to transactions from authenticated registrars, trusted application-server processes, and highly restricted access by the registry database administrators. A full description of the database can be found in response to Question 33.

Figure 24-1 attached depicts the overall SRS architecture including network components.

#### 24.2.7 Number of Servers

As depicted in the SRS architecture diagram above Neustar operates a high availability architecture where at each level of the stack there are no single points of failures. Each of the network level devices run with dual pairs as do the databases. For the ".INC" registry, the SRS will operate with 8 protocol servers and 6 policy engine servers. These expand horizontally as volume increases due to additional TLDs, increased load, and through organic growth. In addition to the SRS servers described above, there are multiple backend servers for services such as DNS and WHOIS. These are discussed in detail within those respective response sections.

#### 24.2.8 Description of Interconnectivity with Other Registry Systems

The core SRS service interfaces with other external systems via Neustar's external systems layer. The services that the SRS interfaces with include:

- WHOIS
- DNS
- Billing
- Data Warehouse (Reporting and Data Escrow).

Other external interfaces may be deployed to meet the unique needs of a TLD. At this time there are no additional interfaces planned for ".INC".

The SRS includes an external notifier concept in its business policy engine as a message dispatcher. This design allows time-consuming backend processing to be decoupled from critical online registrar transactions. Using an external notifier solution, the registry can utilize control levers that allow it to tune or to disable processes to ensure optimal performance at all times. For example, during the early minutes of a TLD launch, when unusually high volumes of transactions are expected, the registry can elect to suspend processing of one or more back end systems in order to ensure that greater processing power is available to handle the increased load requirements. This proven architecture has been used with numerous TLD launches, some of which have involved the processing of over tens of millions of transactions in the opening hours. The following are the standard three external notifiers used the SRS:

#### 24.2.9 WHOIS External Notifier

The WHOIS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on WHOIS. It is important to note that, while the WHOIS external notifier feeds the WHOIS system, it intentionally does not have visibility into the actual contents of the WHOIS system. The WHOIS external notifier serves just as a tool to send a signal to the WHOIS system that a change is ready to occur. The WHOIS system possesses the intelligence and data visibility to know exactly what needs to change in WHOIS. See response to Question 26 for greater detail.

#### 24.2.10 DNS External Notifier

The DNS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on DNS. Like the WHOIS external notifier, the DNS external notifier does not have visibility into the actual contents of the DNS zones. The work items that are generated by the notifier indicate to the dynamic DNS update sub-system that a change occurred that may impact DNS. That DNS system has the ability to decide what actual changes must be propagated out to the DNS constellation. See response to Question 35 for greater detail.

#### 24.2.11 Billing External Notifier

The billing external notifier is responsible for sending all billable transactions to the downstream financial systems for billing and collection. This external notifier contains the necessary logic to determine what types of transactions are billable. The financial systems use this information to apply appropriate debits and credits based on registrar.

#### 24.2.12 Data Warehouse

The data warehouse is responsible for managing reporting services, including registrar reports, business intelligence dashboards, and the processing of data escrow files. The Reporting Database is used to create both internal and external reports, primarily to support registrar billing and contractual reporting requirement. The data warehouse databases are updated on a daily basis with full copies of the production SRS data.

#### 24.2.13 Frequency of Synchronization between Servers

The external notifiers discussed above perform updates in near real-time, well within the prescribed service level requirements. As transactions from registrars update the core SRS, update notifications are pushed to the external systems such as DNS and WHOIS. These updates are typically live in the external system within 2-3 minutes.

#### 24.2.14 Synchronization Scheme (e.g., hot standby, cold standby)

Neustar operates two hot databases within the data center that is operating in primary mode. These two databases are kept in sync via synchronous replication. Additionally, there are two databases in the secondary data center. These databases are updated real time through asynchronous replication. This model allows for high performance while also ensuring protection of data. See response to Question 33 for greater detail.

#### 24.2.15 Compliance with Specification 6 Section 1.2

The SRS implementation for ".INC" is fully compliant with Specification 6, including section 1.2. EPP Standards are described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. Extensible Provisioning Protocol or EPP is defined by a core set of RFCs that standardize the interface that make up the registry-registrar model. The SRS interface supports EPP 1.0 as defined in the following RFCs shown in Table 24-1 attached.

Additional information on the EPP implementation and compliance with RFCs can be found in the response to Question 25.

#### 24.2.16 Compliance with Specification 10



Specification 10 of the New TLD Agreement defines the performance specifications of the TLD, including service level requirements related to DNS, RDDS (WHOIS), and EPP. The requirements include both availability and transaction response time measurements. As an experienced registry operator, Neustar has a long and verifiable track record of providing registry services that consistently exceed the performance specifications stipulated in ICANN agreements. This same high level of service will be provided for the ".INC" Registry. The following section describes Neustar's experience and its capabilities to meet the requirements in the new agreement.

To properly measure the technical performance and progress of TLDs, Neustar collects data on key essential operating metrics. These measurements are key indicators of the performance and health of the registry. Neustar's current .biz SLA commitments are among the most stringent in the industry today, and exceed the requirements for new TLDs. Table 24-2 compares the current SRS performance levels compared to the requirements for new TLDs, and clearly demonstrates the ability of the SRS to exceed those requirements.

Their ability to commit and meet such high performance standards is a direct result of their philosophy towards operational excellence. See response to Question 31 for a full description of their philosophy for building and managing for performance.

#### 24.3 Resourcing Plans

The development, customization, and on-going support of the SRS are the responsibility of a combination of technical and operational teams, including:

- Development/Engineering
- Database Administration
- Systems Administration
- Network Engineering.

Additionally, if customization or modifications are required, the Product Management and Quality Assurance teams will be involved in the design and testing. Finally, the Network Operations and Information Security play an important role in ensuring the systems involved are operating securely and reliably.

The necessary resources will be pulled from the pool of operational resources described in detail in the response to Question 31. Neustar's SRS implementation is very mature, and has

been in production for over 10 years. As such, very little new development related to the SRS will be required for the implementation of the ".INC" registry. The following resources are available from those teams:

- Development/Engineering 19 employees
- Database Administration- 10 employees
- Systems Administration 24 employees
- Network Engineering 5 employees

The resources are more than adequate to support the SRS needs of all the TLDs operated by Neustar, including the ".INC" registry.

## 25. Extensible Provisioning Protocol (EPP)

### 25.1 Introduction

DOT Registry's back-end registry operator, Neustar, has over 10 years of experience operating EPP based registries. They deployed one of the first EPP registries in 2001 with the launch of .biz. In 2004, they were the first gTLD to implement EPP 1.0. Over the last ten years Neustar has implemented numerous extensions to meet various unique TLD requirements. Neustar will leverage its extensive experience to ensure DOT Registry is provided with an unparalleled EPP based registry. The following discussion explains the EPP interface which will be used for the ".INC" registry. This interface exists within the protocol farm layer as described in Question 24 and is depicted in Figure 25-1 attached.

### 25.2 EPP Interface

Registrars are provided with two different interfaces for interacting with the registry. Both are EPP based, and both contain all the functionality necessary to provision and manage domain names. The primary mechanism is an EPP interface to connect directly with the registry. This is the interface registrars will use for most of their interactions with the registry.

However, an alternative web GUI (Registry Administration Tool) that can also be used to perform EPP transactions will be provided. The primary use of the Registry Administration Tool is for performing administrative or customer support tasks.

The main features of the EPP implementation are:

-Standards Compliance: The EPP XML interface is compliant to the EPP RFCs. As future EPP RFCs are published or existing RFCs are updated, Neustar makes changes to the implementation keeping in mind of any backward compatibility issues.

-Scalability: The system is deployed keeping in mind that it may be required to grow and shrink the footprint of the Registry system for a particular TLD.

-Fault-tolerance: The EPP servers are deployed in two geographically separate data centers to provide for quick failover capability in case of a major outage in a particular data center. The EPP servers adhere to strict availability requirements defined in the SLAs.

-Configurability: The EPP extensions are built in a way that they can be easily configured to turn on or off for a particular TLD.

-Extensibility: The software is built ground up using object oriented design. This allows for easy extensibility of the software without risking the possibility of the change rippling through the whole application.

-Auditable: The system stores detailed information about EPP transactions from provisioning to DNS and WHOIS publishing. In case of a dispute regarding a name registration, the Registry can provide comprehensive audit information on EPP transactions.

-Security: The system provides IP address based access control, client credential-based authorization test, digital certificate exchange, and connection limiting to the protocol layer.

### 25.3 Compliance with RFCs and Specifications

The registry-registrar model is described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. As shown in Table 25-1 attached, EPP is defined by the core set of RFCs that standardize the interface that registrars use to provision domains with the SRS. As a core component of the SRS architecture, the implementation is fully compliant with all EPP RFCs.

Neustar ensures compliance with all RFCs through a variety of processes and procedures. Members from the engineering and standards teams actively monitor and participate in the development of RFCs that impact the registry services, including those related to EPP. When new RFCs are introduced or existing ones are updated, the team performs a full compliance review of each system impacted by the change. Furthermore, all code releases include a full regression test that includes specific test cases to verify RFC compliance.

Neustar has a long history of providing exceptional service that exceeds all performance specifications. The SRS and EPP interface have been designed to exceed the EPP specifications defined in Specification 10 of the Registry Agreement and profiled in Table 25-2 attached. Evidence of Neustar's ability to perform at these levels can be found in the .biz monthly progress reports found on the ICANN website.

### 25.3.1 EPP Toolkits

Toolkits, under open source licensing, are freely provided to registrars for interfacing with the SRS. Both Java and C++ toolkits will be provided, along with the accompanying documentation. The Registrar Tool Kit (RTK) is a software development kit (SDK) that supports the development of a registrar software system for registering domain names in the registry using EPP. The SDK consists of software and documentation as described below.

The software consists of working Java and C++ EPP common APIs and samples that implement the EPP core functions and EPP extensions used to communicate between the registry and registrar. The RTK illustrates how XML requests (registration events) can be assembled and forwarded to the registry for processing. The software provides the registrar with the basis for a reference implementation that conforms to the EPP registry-registrar protocol. The software component of the SDK also includes XML schema definition files for all Registry EPP objects and EPP object extensions. The RTK also includes a dummy server to aid in the testing of EPP clients.

The accompanying documentation describes the EPP software package hierarchy, the object data model, and the defined objects and methods (including calling parameter lists and expected response behavior). New versions of the RTK are made available from time to time to provide support for additional features as they become available and support for other platforms and languages.

### 25.4 Proprietary EPP Extensions

[Default Response]

The ".INC" registry will not include proprietary EPP extensions. Neustar has implemented

various EPP extensions for both internal and external use in other TLD registries. These extensions use the standard EPP extension framework described in RFC 5730. Table 25-3 attached provides a list of extensions developed for other TLDs. Should the ".INC" registry require an EPP extension at some point in the future, the extension will be implemented in compliance with all RFC specifications including RFC 3735.

The full EPP schema to be used in the ".INC" registry is attached in the document titled EPP Schema Files.

## 25.5 Resourcing Plans

The development and support of EPP is largely the responsibility of the Development-Engineering and Quality Assurance teams. As an experience registry operator with a fully developed EPP solution, on-going support is largely limited to periodic updates to the standard and the implementation of TLD specific extensions.

The necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

-Development-Engineering 19 employees

-Quality Assurance - 7 employees.

These resources are more than adequate to support any EPP modification needs of the ".INC" registry.

## 26. Whois

DOT Registry, LLC recognizes the importance of an accurate, reliable, and up-to-date WHOIS database to governments, law enforcement, intellectual property holders, and the public as a whole, and is firmly committed to complying with all of the applicable WHOIS specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 10 to the Registry Agreement and relevant RFCs.

DOT Registry, LLC's back-end registry services provider, Neustar, has extensive experience providing ICANN and RFC-compliant WHOIS services for each of the TLDs that it operates both

as a Registry Operator for gTLDs, ccTLDs, and back-end registry services provider. As one of the first "thick" registry operators in the gTLD space, the WHOIS service provided by DOT Registry, LLC's registry services operator has been designed from the ground up to display as much information as required by ICANN and respond to a very stringent availability and performance requirement.

Some of the key features of DOT Registry, LLC's WHOIS services will include:

- Fully compliant with all relevant RFCs including 3912;
- Production proven, highly flexible, and scalable (DOT Registry, LLC's back-end registry services provider has a track record of 100% availability over the past 10 years);
- Exceeds current and proposed performance specifications;
- Supports dynamic updates with the capability of doing bulk updates;
- Geographically distributed sites to provide greater stability and performance; and
- Search capabilities (e.g., IDN, registrant data) that mitigate potential forms of abuse as discussed below.

DOT Registry, LLC's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement.

DOT Registry, LLC's WHOIS service will support port 43 queries, and will be optimized for speed using an in-memory database and a master-slave architecture between SRS and WHOIS slaves. RFC 3912 is a simple text based protocol over TCP that describes the interaction between the server and client on port 43. DOT Registry, LLC's registry services operator currently processes millions of WHOIS queries per day.

In addition to the WHOIS Service on port 43, DOT Registry, LLC will provide a Web-based WHOIS application, which will be located at [www.whois.inc](http://www.whois.inc). This WHOIS Web application will be an intuitive and easy to use application for the general public to use. The WHOIS Web application provides all of the features available in the port 43 WHOIS. This includes full and partial search on:

- Domain names
- Nameservers
- Registrant, Technical and Administrative Contacts
- Registrars

The WHOIS web application will also provide features not available on the port 43 service. These include:

- Extensive support for international domain names (IDN)
- Ability to perform WHOIS lookups on the actual Unicode IDN
- Display of the actual Unicode IDN in addition to the ACE-encoded name
- A Unicode to Punycode and Punycode to Unicode translator
- An extensive FAQ
- A list of upcoming domain deletions

DOT Registry, LLC will also provide a searchable web-based WHOIS service in accordance with Specification 4 Section 1.8 The application will enable users to search the WHOIS directory to find exact or partial matches using any one or more of the following fields:

- Domain name
- Contacts and registrant's name
- Contact and registrant's postal address, including all the sub-fields described in EPP (e.g., street, city, state or province, etc.)
- Registrar ID
- Name server name and IP address
- Internet Protocol addresses
- The system will also allow search using non-Latin character sets which are compliant with IDNA specification

The WHOIS user will be able to choose one or more search criteria, combine them by Boolean operators (AND, OR, NOT) and provide partial or exact match regular expressions for each of the criterion name-value pairs. The domain names matching the search criteria and their

WHOIS information will quickly be returned to the user.

In order to reduce abuse for this feature, only authorized users will have access to the Whois search features after providing a username and password. DOT Registry, LLC will provide third party access to the bulk zone file in accordance with Specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider, which will make access to the zone files in bulk via FTP to any person or organization that signs and abides by a Zone File Access (ZFA) Agreement with the registry. Contracted gTLD registries will provide this access daily and at no charge.

DOT Registry, LLC will also provide ICANN and any emergency operators with up-to-date Registration Data on a weekly basis (the day to be designated by ICANN). Data will include data committed as of 00:00:00 UTC on the day previous to the one designated for retrieval by ICANN. The file(s) will be made available for download by SFTP, unless ICANN requests other means in the future.

DOT Registry, LLC's Legal Team consisting of 3 dedicated employees, will regularly monitor the registry service provider to ensure that they are providing the services as described above. This will entail random monthly testing of the WHOIS port 43 and Web-based services to ensure that they meet the ICANN Specifications and RFCs as outlined above, if not, to follow up with the registry services provider to ensure that they do. As the relevant WHOIS will only contain DOT Registry, LLC's information, DOT Registry, LLC's WHOIS services will necessarily be in compliance with any applicable privacy laws or policies.

## 27. Registration Life Cycle

### 27.1 Registration Life Cycle

#### 27.1.1 Introduction

".INC" will follow the lifecycle and business rules found in the majority of gTLDs today. Our back-end operator, Neustar, has over ten years of experience managing numerous TLDs that utilize standard and unique business rules and lifecycles. This section describes the business rules, registration states, and the overall domain lifecycle that will be use for ".INC".

#### 27.1.2 Domain Lifecycle - Description

The registry will use the EPP 1.0 standard for provisioning domain names, contacts and hosts. Each domain record is comprised of three registry object types: domain, contacts, and hosts.

Domains, contacts and hosts may be assigned various EPP defined statuses indicating either a particular state or restriction placed on the object. Some statuses may be applied by the Registrar; other statuses may only be applied by the Registry. Statuses are an integral part of the domain lifecycle and serve the dual purpose of indicating the particular state

of the domain and indicating any restrictions placed on the domain. The EPP standard defines 17 statuses, however only 14 of these statuses will be used in the ".INC" registry per the defined ".INC" business rules.

The following is a brief description of each of the statuses. Server statuses may only be applied by the Registry, and client statuses may be applied by the Registrar.

-OK Default status applied by the Registry.

-Inactive Default status applied by the Registry if the domain has less than 2 nameservers.

-PendingCreate Status applied by the Registry upon processing a successful Create command, and indicates further action is pending. This status will not be used in the ".INC" registry.

-PendingTransfer Status applied by the Registry upon processing a successful Transfer request command, and indicates further action is pending.

-PendingDelete Status applied by the Registry upon processing a successful Delete command that does not result in the immediate deletion of the domain, and indicates further action is pending.

-PendingRenew Status applied by the Registry upon processing a successful Renew command that does not result in the immediate renewal of the domain, and indicates further action is pending. This status will not be used in the ".INC" registry.

-PendingUpdate Status applied by the Registry if an additional action is expected to complete the update, and indicates further action is pending. This status will not be used in the ".INC" registry.

-Hold Removes the domain from the DNS zone.

-UpdateProhibited Prevents the object from being modified by an Update command.

-TransferProhibited Prevents the object from being transferred to another Registrar by the Transfer command.

-RenewProhibited Prevents a domain from being renewed by a Renew command.

-DeleteProhibited Prevents the object from being deleted by a Delete command.

The lifecycle of a domain begins with the registration of the domain. All registrations must follow the EPP standard, as well as the specific business rules described in the response to Question 18 above. Upon registration a domain will either be in an active or inactive state. Domains in an active state are delegated and have their delegation information published to the zone. Inactive domains either have no delegation information or their delegation information is not published in the zone. Following the initial registration of a domain, one of five actions may occur during its lifecycle:



- Domain may be updated
- Domain may be deleted, either within or after the add-grace period
- Domain may be renewed at anytime during the term
- Domain may be auto-renewed by the Registry
- Domain may be transferred to another registrar.

Each of these actions may result in a change in domain state. This is described in more detail in the following section. Every domain must eventually be renewed, auto-renewed, transferred, or deleted. A registrar may apply EPP statuses described above to prevent specific actions such as updates, renewals, transfers, or deletions.

## 27.2 Registration States

### 27.2.1 Domain Lifecycle Registration States

As described above the ".INC" registry will implement a standard domain lifecycle found in most gTLD registries today. There are five possible domain states:

- Active
- Inactive
- Locked
- Pending Transfer
- Pending Delete.

All domains are always in either an Active or Inactive state, and throughout the course of the lifecycle may also be in a Locked, Pending Transfer, and Pending Delete state. Specific conditions such as applied EPP policies and registry business rules will determine whether a domain can be transitioned between states. Additionally, within each state, domains may be subject to various timed events such as grace periods, and notification periods.

### 27.2.2 Active State

The active state is the normal state of a domain and indicates that delegation data has been provided and the delegation information is published in the zone. A domain in an Active state may also be in the Locked or Pending Transfer states.

### 27.2.3 Inactive State

The Inactive state indicates that a domain has not been delegated or that the delegation data has not been published to the zone. A domain in an Inactive state may also be in the Locked or Pending Transfer states. By default all domain in the Pending Delete state are also in the Inactive state.

### 27.2.4 Locked State

The Locked state indicates that certain specified EPP transactions may not be performed to the domain. A domain is considered to be in a Locked state if at least one restriction has been placed on the domain; however up to eight restrictions may be applied simultaneously. Domains in the Locked state will also be in the Active or Inactive, and under certain conditions may also be in the Pending Transfer or Pending Delete states.

### 27.2.5 Pending Transfer State

The Pending Transfer state indicates a condition in which there has been a request to transfer the domain from one registrar to another. The domain is placed in the Pending Transfer state for a period of time to allow the current (losing) registrar to approve (ack) or reject (nack) the transfer request. Registrars may only nack requests for reasons specified in the Inter-Registrar Transfer Policy.

### 27.2.6 Pending Delete State

The Pending Delete State occurs when a Delete command has been sent to the Registry after the first 5 days (120 hours) of registration. The Pending Delete period is 35-days during which the first 30-days the name enters the Redemption Grace Period (RGP) and the last 5-days guarantee that the domain will be purged from the Registry Database and available to public pool for registration on a first come, first serve basis.

## 27.3 Typical Registration Lifecycle Activities

### 27.3.1 Domain Creation Process

The creation (registration) of domain names is the fundamental registry operation. All other operations are designed to support or compliment a domain creation. The following steps occur when a domain is created.

1. Contact objects are created in the SRS database. The same contact object may be used for each contact type, or they may all be different. If the contacts already exist in the database this step may be skipped.
2. Nameservers are created in the SRS database. Nameservers are not required to complete the registration process; however any domain with less than 2 name servers will not be resolvable.
3. The domain is created using the each of the objects created in the previous steps. In addition, the term and any client statuses may be assigned at the time of creation.

The actual number of EPP transactions needed to complete the registration of a domain name can be as few as one and as many as 40. The latter assumes seven distinct contacts and 13 nameservers, with Check and Create commands submitted for each object.

### 27.3.2 Update Process

Registry objects may be updated (modified) using the EPP Modify operation. The Update transaction updates the attributes of the object.

For example, the Update operation on a domain name will only allow the following attributes to be updated:

- Domain statuses
- Registrant ID
- Administrative Contact ID
- Billing Contact ID
- Technical Contact ID

- Nameservers
- AuthInfo
- Additional Registrar provided fields.

The Update operation will not modify the details of the contacts. Rather it may be used to associate a different contact object (using the Contact ID) to the domain name. To update the details of the contact object the Update transaction must be applied to the contact itself. For example, if an existing registrant wished to update the postal address, the Registrar would use the Update command to modify the contact object, and not the domain object.

#### 27.3.4 Renew Process

The term of a domain may be extended using the EPP Renew operation. ICANN policy general establishes the maximum term of a domain name to be 10 years, and Neustar recommends not deviating from this policy. A domain may be renewed/extended at any point time, even immediately following the initial registration. The only stipulation is that the overall term of the domain name may not exceed 10 years. If a Renew operation is performed with a term value will extend the domain beyond the 10 year limit, the Registry will reject the transaction entirely.

#### 27.3.5 Transfer Process

The EPP Transfer command is used for several domain transfer related operations:

- Initiate a domain transfer
- Cancel a domain transfer
- Approve a domain transfer
- Reject a domain transfer.

To transfer a domain from one Registrar to another the following process is followed:

1. The gaining (new) Registrar submits a Transfer command, which includes the AuthInfo code of the domain name.

2. If the AuthInfo code is valid and the domain is not in a status that does not allow transfers the domain is placed into pendingTransfer status
3. A poll message notifying the losing Registrar of the pending transfer is sent to the Registrar's message queue
4. The domain remains in pendingTransfer status for up to 120 hours, or until the losing (current) Registrar Acks (approves) or Nack (rejects) the transfer request
5. If the losing Registrar has not Acked or Nacked the transfer request within the 120 hour timeframe, the Registry auto-approves the transfer
6. The requesting Registrar may cancel the original request up until the transfer has been completed.

A transfer adds an additional year to the term of the domain. In the event that a transfer will cause the domain to exceed the 10 year maximum term, the Registry will add a partial term up to the 10 year limit. Unlike with the Renew operation, the Registry will not reject a transfer operation.

#### 27.3.6 Deletion Process

A domain may be deleted from the SRS using the EPP Delete operation. The Delete operation will result in either the domain being immediately removed from the database or the domain being placed in pendingDelete status. The outcome is dependent on when the domain is deleted. If the domain is deleted within the first five days (120 hours) of registration, the domain is immediately removed from the database. A deletion at any other time will result in the domain being placed in pendingDelete status and entering the Redemption Grace Period (RGP). Additionally, domains that are deleted within five days (120) hours of any billable (add, renew, transfer) transaction may be deleted for credit.

#### 27.4 Applicable Time Elements

The following section explains the time elements that are involved.

##### 27.4.1 Grace Periods

There are six grace periods:

- Add-Delete Grace Period (AGP)
- Renew-Delete Grace Period
- Transfer-Delete Grace Period
- Auto-Renew-Delete Grace Period
- Auto-Renew Grace Period
- Redemption Grace Period (RGP).

The first four grace periods listed above are designed to provide the Registrar with the ability to cancel a revenue transaction (add, renew, or transfer) within a certain period of time and receive a credit for the original transaction.

The following describes each of these grace periods in detail.

#### 27.4.2 Add-Delete Grace Period

The APG is associated with the date the Domain was registered. Domains may be deleted for credit during the initial 120 hours of a registration, and the Registrar will receive a billing credit for the original registration. If the domain is deleted during the Add Grace Period, the domain is dropped from the database immediately and a credit is applied to the Registrar's billing account.

#### 27.4.3 Renew-Delete Grace Period

The Renew-Delete Grace Period is associated with the date the Domain was renewed. Domains may be deleted for credit during the 120 hours after a renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly renewed. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP (see below).

#### 27.4.4 Transfer-Delete Grace Period

The Transfer-Delete Grace Period is associated with the date the Domain was transferred to another Registrar. Domains may be deleted for credit during the 120 hours after a transfer. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP. A deletion of domain after a transfer is not the method used to correct a transfer mistake. Domains that have been erroneously transferred or hijacked by another party can be transferred back to the original registrar through various means including contacting the Registry.

#### 27.4.5 Auto-Renew-Delete Grace Period

The Auto-Renew-Delete Grace Period is associated with the date the Domain was auto-renewed. Domains may be deleted for credit during the 120 hours after an auto-renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly auto-renewed. It should be noted that domains that are deleted during the auto-renew delete grace period will be placed into pendingDelete and will enter the RGP.

#### 27.4.6 Auto-Renew Grace Period

The Auto-Renew Grace Period is a special grace period intended to provide registrants with an extra amount of time, beyond the expiration date, to renew their domain name. The grace period lasts for 45 days from the expiration date of the domain name. Registrars are not required to provide registrants with the full 45 days of the period.

#### 27.4.7 Redemption Grace Period

The RGP is a special grace period that enables Registrars to restore domains that have been inadvertently deleted but are still in pendingDelete status within the Redemption Grace Period. All domains enter the RGP except those deleted during the AGP.

The RGP period is 30 days, during which time the domain may be restored using the EPP RenewDomain command as described below. Following the 30day RGP period the domain will remain in pendingDelete status for an additional five days, during which time the domain may NOT be restored. The domain is released from the SRS, at the end of the 5 day non-restore period. A restore fee applies and is detailed in the Billing Section. A renewal fee will be automatically applied for any domain past expiration.

Neustar has created a unique restoration process that uses the EPP Renew transaction to restore the domain and fulfill all the reporting obligations required under ICANN policy. The following describes the restoration process.

## 27.5 State Diagram

Figure 27-1 attached provides a description of the registration lifecycle.

The different states of the lifecycle are active, inactive, locked, pending transfer, and pending delete. Please refer to section 27.2 for detailed descriptions of each of these states. The lines between the states represent triggers that transition a domain from one state to another.

The details of each trigger are described below:

- Create: Registry receives a create domain EPP command.
- WithNS: The domain has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.
- WithoutNS: The domain has not met the minimum number of nameservers required by registry policy. The domain will not be in the DNS zone.
- Remove Nameservers: Domain's nameserver(s) is removed as part of an update domain EPP command. The total nameserver is below the minimum number of nameservers required by registry policy in order to be published in the DNS zone.
- Add Nameservers: Nameserver(s) has been added to domain as part of an update domain EPP command. The total number of nameservers has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.
- Delete: Registry receives a delete domain EPP command.
- DeleteAfterGrace: Domain deletion does not fall within the add grace period.
- DeleteWithinAddGrace: Domain deletion falls within add grace period.
- Restore: Domain is restored. Domain goes back to its original state prior to the delete command.
- Transfer: Transfer request EPP command is received.
- Transfer Approve/Cancel/Reject: Transfer requested is approved or cancel or rejected.
- TransferProhibited: The domain is in clientTransferProhibited and/or serverTransferProhibited status. This will cause the transfer request to fail. The domain goes back to its original state.
- DeleteProhibited: The domain is in clientDeleteProhibited and/or serverDeleteProhibited status. This will cause the delete command to fail. The domain goes back to its original state.



Note: the locked state is not represented as a distinct state on the diagram as a domain may be in a locked state in combination with any of the other states: inactive, active, pending transfer, or pending delete.

#### 27.5.1 EPP RFC Consistency

As described above, the domain lifecycle is determined by ICANN policy and the EPP RFCs. Neustar has been operating ICANN TLDs for the past 10 years consistent and compliant with all the ICANN policies and related EPP RFCs.

#### 27.6 Resources

The registration lifecycle and associated business rules are largely determined by policy and business requirements; as such the Product Management and Policy teams will play a critical role in working Applicant to determine the precise rules that meet the requirements of the TLD. Implementation of the lifecycle rules will be the responsibility of Development-Engineering team, with testing performed by the Quality Assurance team. Neustar's SRS implementation is very flexible and configurable, and in many case development is not required to support business rule changes.

The ".INC" registry will be using standard lifecycle rules, and as such no customization is anticipated. However should modifications be required in the future, the necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

- Development-Engineering 19 employees
- Registry Product Management 4 employees

These resources are more than adequate to support the development needs of all the TLDs operated by Neustar, including the ".INC" registry.

## 28. Abuse Prevention and Mitigation

### General Statement of Policy

Abuse within the registry will not be tolerated. DOT Registry will implement very strict policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. DOT Registry's homepages will provide clear contact information for its Abuse Team, and in accordance with ICANN policy DOT Registry shall host NIC.INC, providing access to .INC's WhoIs services, the Abuse Policy, and contact information for the Abuse Team.

#### Anti-Abuse Policy

DOT Registry will implement in its internal policies and its Registry-Registrar Agreements (RRAs) that all registered domain names in the TLD will be subject to a Domain Name Anti-Abuse Policy ("Abuse Policy").

The Abuse Policy will provide DOT Registry with broad power to suspend, cancel, or transfer domain names that violate the Abuse Policy. DOT Registry will publish the Abuse Policy on its home website at NIC.INC and clearly provide DOT Registry's Point of Contact ("Abuse Contact") and its contact information. This information shall consist of, at a minimum, a valid e-mail address dedicated solely to the handling of abuse complaints, and a telephone number and mailing address for the primary contact. DOT Registry will ensure that this information will be kept accurate and up to date and will be provided to ICANN if and when changes are made.

In addition, with respect to inquiries from ICANN-Accredited registrars, the Abuse Contact shall handle requests related to abusive domain name practices.

Inquiries addressed to the Abuse Contact will be routed to DOT Registry's Legal Team who will review and if applicable remedy any Complaint regarding an alleged violation of the Abuse Policy as described in more detail below. DOT Registry will catalog all abuse communications in its CRM software using a ticketing system that maintains records of all abuse complaints indefinitely. Moreover, DOT Registry shall only provide access to these records to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

The Abuse Policy will state, at a minimum, that DOT Registry reserves the right to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary to ; (1) to protect the integrity and stability of the registry; (2) to comply with applicable laws, government rules or requirements, or court orders; (3) to avoid any liability, civil or criminal, on the part of DOT Registry, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) to correct mistakes made by the DOT Registry, registry services provider, or any registrar in connection with a domain name registration; (5) during resolution of any dispute regarding the domain; and (6) if a Registrant's pre-authorization or payment fails; or (7) to prevent the bad faith use of a domain name that is identical to a registered trademark and being used to confuse users.

The Abuse Policy will define the abusive use of domain names to include, but not be limited to, the following activities:

- Illegal or fraudulent actions: use of the DOT Registry's or Registrar's services to violate the laws or regulations of any country, state, or infringe upon the laws of any other jurisdiction, or in a manner that adversely affects the legal rights of any other person;
- Spam: use of electronic messaging systems from email addresses from domains in the TLD to send unsolicited bulk messages. The term applies to e-mail spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of Web sites and Internet forums;

- Trademark and Copyright Infringement: DOT Registry will take great care to ensure that trademark and copyright infringement does not occur within the .INC TLD. DOT Registry will employ notice and takedown procedures based on the provisions of the Digital Millennium Copyright Act (DMCA) ;
- Phishing: use of counterfeit Web pages within the TLD that are designed to trick recipients into divulging sensitive data such as usernames, passwords, or financial data;
- Pharming: redirecting of unknowing users to fraudulent Web sites or services, typically through DNS hijacking or poisoning;
- Willful distribution of malware: dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and trojan horses.
- Fast flux hosting: use of fast-flux techniques to disguise the location of Web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities. Fast-flux techniques use DNS to frequently change the location on the Internet to which the domain name of an Internet host or name server resolves. Fast flux hosting may be used only with prior permission of DOT Registry;
- Botnet command and control: services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct denial-of-service attacks (DDoS attacks);
- Distribution of pornography;
- Illegal Access to Other Computers or Networks: illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity);
- Domain Kiting-Tasting: registration of domain names to test their commercial viability before returning them during a Grace Period;
- High Volume Registrations-Surveying: registration of multiple domain names in order to warehouse them for sale or pay-per-click websites in a way that can impede DOT Registry from offering them to legitimate users or timely services to other subscribers;
- Geographic Name: registering a domain name that is identical to a Geographic Name, as defined by Specification 5 of the Registry Agreement;
- Inadequate Security: registering and using a domain name to host a website that collects third-party information but does not employ adequate security measures to protect third-party information in accordance with that geographic area's data and financial privacy laws;
- Front Running: registrars mining their own web and WhoIs traffic to obtain insider information with regard to high-value second-level domains, which the registrar will then register to itself or an affiliated third party for sale or to generate advertising revenue;
- WhoIs Accuracy: Intentionally inserting false or misleading Registrant information into the TLD's WhoIs database in connection with the bad faith registration and use of the domain in question;
- WhoIs Misuse: abusing access to the WhoIs database by using Registrant information for data mining purposes or other malicious purposes;
- Fake Renewal Notices; misusing WhoIs Registrant information to send bogus renewal notices to Registrants on file with the aim of causing the Registrant to spend unnecessary money or steal or redirect the domain at issue.

#### Domain Anti-Abuse Procedure

DOT Registry will provide a domain name anti-abuse procedure modeled after the DMCA's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.INC the Abuse Policy and the contact information for the Abuse Contact. Inquiries addressed to the Point of Contact will be addressed to and received by DOT Registry's Legal Time who will review and if

applicable remedy any Complaint regarding an alleged violation of the Abuse Policy. DOT Registry will catalog all abuse communications and provide them to third parties only under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any correspondence ("Complaint") from a complaining party ("Complainant") to the Abuse Contact will be ticketed in DOT Registry's CRM software and relayed to DOT Registry's Abuse Team. A member of DOT Registry's Abuse Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email and that DOT Registry will notify the Complainant of the results of the Complaint within ten (10) days of receiving the Complaint.

DOT Registry's Abuse Team will review the Complaint and give it a "quick look" to see if the Complaint reasonably falls within an abusive use as defined by the Abuse Policy. If not, the Contact will write an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated abusive uses as defined by the Abuse Policy and that DOT Registry considers the matter closed.

If the quick look does not resolve the matter, DOT Registry's Abuse Team will give the Complaint a full review. Any Registrant that has been determined to be in violation of DOT Registry policies shall be notified of the violation of such policy and their options to cure the violation.

Such notification shall state:

- 1) the nature of the violation;
- 2) the proposed remedy to the violation;
- 3) the time frame to cure the violation; and
- 4) the Registry's options to take subsequent action if the Registrant does not cure the violation.

If an abusive use is determined DOT Registry's Abuse Team will alert it's Registry services team to immediately cancel the resolution of the domain name. DOT Registry's Abuse Team will immediately notify the Registrant of the suspension of the domain name, the nature of the complaint, and provide the Registrant with the option to respond within ten (10) days or the domain will be canceled.

If the Registrant responds within ten (10) business days, it'[s response will be reviewed by the DOT Registry's Abuse Team for further review. If DOT Registry's Abuse Team is satisfied by the Registrant's response that the use is not abusive, DOT Registry's Abuse Team will submit a request by the registry services provider to reactivate the domain name. DOT Registry's Abuse Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the Registrant does not respond within ten (10) business days, DOT Registry will notify the registry services team to cancel the abusive domain name.

This Anti-Abuse Procedure will not prejudice either party's election to pursue another dispute mechanism, such as URS or UDRP.

With the resources of DOT Registry's registry services personnel, DOT Registry can meet its obligations under Section 2.8 of the Registry Agreement where required to take reasonable steps to investigate and respond to reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of its TLD. The Registry will respond to legitimate law enforcement inquiries within one (1) business day from receiving the request. Such response shall include, at a minimum, an acknowledgement of receipt of the request, questions, or comments concerning the request, and an outline of the next steps to be taken by Application for rapid resolution of the request.

In the event such request involves any of the activities which can be validated by DOT Registry and involves the type of activity set forth in the Abuse Policy, the sponsoring

registrar is then given forty-eight (48) hours to investigate the activity further and either take down the domain name by placing the domain name on hold or by deleting the domain name in its entirety or providing a compelling argument to the registry to keep the name in the zone. If the registrar has not taken the requested action after the 48-hour period (i.e., is unresponsive to the request or refuses to take action), DOT Registry will place the domain on "serverHold".

#### Maintenance of Registration Criteria

If a Registrant previously awarded the ".INC" domain ceases to be registered with a Secretary of State or legally applicable jurisdiction, such Registrant will be required to forfeit the assigned ".INC" domain at their designated renewal date.

If DOT Registry discovers that a Registrant wrongfully applied for and was awarded a ".INC" domain, then such ".INC" will be immediately forfeited to DOT Registry.

If a Registrant previously awarded a ".INC" domain is dissolved and/or forfeited for any reason, then such ".INC" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".INC" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".INC" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

A Registrant's "Active" Status will be verified annually. Any Registrant not considered "Active" by the definition listed above in question 18 will be given a probationary warning, allowing time for the Registrant to restore itself to "Active" Status. If the Registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".INC" will be forfeited. In addition, DOT Registry's definition of "Active" may change in accordance with the policies of the Secretaries of State.

#### Orphan Glue Removal

As the Security and Stability Advisory Committee of ICANN (SSAC) rightly acknowledges, although orphaned glue records may be used for abusive or malicious purposes, the "dominant use of orphaned glue supports the correct and ordinary operation of the DNS." See <http://www.icann.org/en/committees/security/sac048.pdf>.

While orphan glue often supports correct and ordinary operation of the DNS, we understand that such glue records can be used maliciously to point to name servers that host domains used in illegal phishing, bot-nets, malware, and other abusive behaviors. Problems occur when the parent domain of the glue record is deleted but its children glue records still remain in the DNS. Therefore, when DOT Registry has written evidence of actual abuse of orphaned glue, DOT Registry will take action to remove those records from the zone to mitigate such malicious conduct.

DOT Registry's registry service operator will run a daily audit of entries in its DNS systems and compare those with its provisioning system. This serves as an umbrella protection to make sure that items in the DNS zone are valid. Any DNS record that shows up in the DNS zone but not in the provisioning system will be flagged for investigation and removed if necessary. This daily DNS audit serves to not only prevent orphaned hosts but also other records that should not be in the zone.

In addition, if either DOT Registry or its registry services operator becomes aware of actual abuse on orphaned glue after receiving written notification by a third party through its Abuse Contact or through its customer support, such glue records will be removed from the zone.

#### WhoIs Accuracy

DOT Registry will provide WhoIs accessibility in a reliable, consistent, and predictable fashion in order to promote Whois accuracy. The Registry will adhere to port 43 WhoIs Service Level Agreements (SLAs), which require that port 43 WHOIS service be highly accessible and fast.

DOT Registry will offer thick WhoIs services, in which all authoritative WhoIs data—including contact data—is maintained at the registry. DOT Registry will maintain timely, unrestricted, and public access to accurate and complete WhoIs information, including all data objects as specified in Specification 4. Moreover, prior to the release of any domain names, DOT Registry's registrar will provide DOT Registry with an authorization code to verify eligible Registrants provide accurate Registrant contact information.

In order to further promote WhoIs accuracy, DOT Registry will offer a mechanism whereby third parties can submit complaints directly to the DOT Registry (as opposed to ICANN or the sponsoring Registrar) about inaccurate or incomplete WhoIs data. Such information shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the inaccuracies, DOT Registry reserves the right to cancel or suspend the applicable domain name(s) should DOT Registry determine that the domains are being used in a manner contrary to DOT Registry's abuse policy.

DOT Registry shall also require authentication and verification of all Registrant data. DOT Registry shall verify the certificates of incorporation, whether a corporation is in active status, contact information, e-mail address, and, to the best of its abilities, determine whether address information supplied is accurate. Second-level domains in the TLD shall not be operational unless two (2) out of three (3) of the above authentication methods have been satisfied.

With regard to registrars, DOT Registry shall provide financial incentives for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database.

DOT Registry will also maintain historical databases of Registrants and associated information which have provided inaccurate WhoIs information. DOT Registry will endeavor to use this database to uncover patterns of suspicious registrations which DOT Registry shall then flag for further authentication or for review of the Registrant's use of the domain in question to ensure Registrant's use is consonant with DOT Registry's abuse policy.

In addition, DOT Registry's Abuse Team shall on its own initiative, no less than twice per year, perform a manual review of a random sampling of domain names within the applied-for TLD to test the accuracy of the WhoIs information. Although this will not include verifying the actual information in the WHOIS record, DOT Registry will be examining the WHOIS data for prima facie evidence of inaccuracies. In the event that such evidence exists, it shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, the DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the

inaccuracies, DOT Registry reserves the right to suspend the applicable domain name(s) should DOT Registry determine that the Registrant is using the domain in question in a manner contrary to DOT Registry's abuse policy. DOT Registry shall also reserve the right to report such recalcitrant registrar activities directly to ICANN.

#### Abuse Prevention and Mitigation – Domain Name Access

All domain name Registrants will have adequate controls to ensure proper access to domain functions.

In addition to the above, all domain name Registrants in the applied-for TLD will be required to name at least two (2) unique points of contact who are authorized to request and/or approve update, transfer, and deletion requests. The points of contact must establish strong passwords with the registrar that must be authenticated before a point of contact will be allowed to process updates, transfer, and deletion requests. Once a process update, transfer, or deletion request is entered, the points of contact will automatically be notified when a domain has been updated, transferred, or deleted through an automated system run by DOT Registry's registrar. Authentication of modified Registrant information shall be accomplished 48 Hours.

## 29. Rights Protection Mechanisms

DOT Registry is committed to implementing strong and integrated Rights Protection Mechanisms (RPM). Use of domain names that infringe upon the legal rights of others in the TLD will not be tolerated. The nature of such uses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in general. DOT Registry will protect the legal rights of others by implementing RPMs and anti-abuse policies backed by robust responsiveness to complaints and requirements of DOT Registry's registrars.

#### Trademark Clearinghouse

Each new gTLD Registry will be required to implement support for, and interaction with, the Trademark Clearinghouse ("Clearinghouse"). The Clearinghouse is intended to serve as a central repository for information to be authenticated, stored, and disseminated pertaining to the rights of trademark holders. The data maintained in the Clearinghouse will support and facilitate other RPMs, including the mandatory Sunrise Period and Trademark Claims service.

Utilizing the Clearinghouse, all operators of new gTLDs must offer: (i) a Sunrise registration service for at least 30 days during the pre-launch phase giving eligible trademark owners an early opportunity to register second-level domains in new gTLDs; and (ii) a Trademark Claims Service for at least the first 60 days that second-level registrations are open. The Trademark Claims Service is intended to provide clear notice to a potential registrant of the rights of a trademark owner whose trademark is registered in the Clearinghouse.

#### Sunrise A Period

DOT Registry will offer segmented Sunrise Periods. The initial Sunrise Period will last [minimum 30 days] for owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks. All domain names

registered during the Sunrise Period will be subject to DOT Registry's domain name registration policy, namely, that all registrants be validly registered corporations and all applied-for domains will only be awarded the ".INC" domain that matches or includes a substantial part of the Registrant's legal name. DOT Registry will assign its Rights Protection Team; which is lead by our Director of Legal and Policy and further supported by two dedicated employees to receive and authenticate all Sunrise Registrations.

DOT Registry's registrar will ensure that all Sunrise Registrants meet sunrise eligibility requirements (SERs), which will be verified by Clearinghouse data. The proposed SERs include: (i) ownership of a mark that is (a) nationally or regionally registered and for which proof of use, such as a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse; or (b) that have been court-validated; or (c) that are specifically protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008, (ii) optional registry elected requirements concerning international classes of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

Upon receipt of the Sunrise application, DOT Registry will issue a unique tracking number to the Registrar, which will correspond to that particular application. All applications will receive tracking numbers regardless of whether they are complete. Applications received during the Sunrise period will be accepted on a first-come, first-served basis and must be active corporations in good standing before they may be awarded the requested domain, or able to proceed to auction. Upon submission of all of the required information and documentation, registrar will forward the information to DOT Registry's [RPM Team] for authentication. DOT Registry's [RPM Team] will review the information and documentation and verify the trademark information, and notify the potential registrant of any deficiencies. If a registrant does not cure any trademark-related deficiencies and/or respond by the means listed within one (1) week, DOT Registry will notify its registrar and the domain name will be released for registration.

DOT Registry will incorporate a Sunrise Dispute Resolution Policy (SDRP). The SRDP will allow challenges to Sunrise Registrations by third parties for a ten-day period after acceptance of the registration based on the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national or regional effect or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

After receiving a Sunrise Complaint, DOT Registry's [RPM Team] will review the Complaint to see if the Complaint reasonably asserts a legitimate challenge as defined by the SDRP. If not, DOT Registry's [RPM Team] will send an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated grounds as defined by the SDRP and that DOT Registry considers the matter closed.

If the domain name is not found to have adequately met the SERs, DOT Registry's [RPM Team] will alert the registrar and registry services provider to immediately suspend the resolution of the domain name. Thereafter, DOT Registry's [RPM Team] will immediately notify the Sunrise Registrant of the suspension of the domain name, the nature of the complaint, and provide the registrant with the option to respond within ten (10) days to cure the SER deficiencies or the domain name will be canceled.



If the registrant responds within ten (10) business days, its response will be reviewed by DOT Registry's [RPM Team] to determine if the SERs are met. If DOT Registry's [RPM Team] is satisfied by the registrant's response, DOT Registry's [RPM Team] will submit a request to the registrar and the registry services provider to unsuspend the domain name. DOT Registry's [RPM Team] will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial.

Names secured as described through the Sunrise AT-AD processes will result in the registration of resolving domain names at the registry. Names reserved through the Sunrise B process will not result in resolving domain name at DOT Registry. Rather, these names will be reserved and blocked from live use. The applied for string will resolve to an informational page informing visitors that the name is unavailable for registration and reserved from use.

Applications that fit the following criteria will be considered during the Sunrise A period: Applicant owns and operates an existing domain name in another gTLD or ccTLD, in connection with eligible commerce and satisfies the registration requirements described in Section 1.

#### Sunrise B

Applications that fit the following criteria will be considered during the Sunrise B period:

- a) Applicant holds valid trademark registrations or owns rights to a particular name and wishes to block the use of such name.
- b) The Applicant must seek to block a name that corresponds to the entire text of its trademark or the complete textual component of a graphical or compound trademark. Certain variances are permitted for trademarks containing spaces or special characters that are not available for domain names.

Any entity, applying for blocks under Sunrise B as a non-member of the sponsored community cannot apply for names in the TLD.

#### Founder's Program

Applications for the Founder's Program will be accepted after the close of the Sunrise Periods. Potential registrants should understand that certain expectations, as described herein will accompany the issuance of a domain name under the Founder's Program and all registrations resulting from this program will be required to follow the below listed guidelines, which will be further described in their Program Agreement:

- a) Registrants awarded a domain through the Founder's Program must use their best efforts to launch a ".INC" website within 30 days of signing the Program Agreement.
- b) In addition, each registrant will be required to issue a press release announcing the launch of their ".INC" Founder Website, concurrent with the launch of their .INC Founder Website, said press release must be approved by DOT Registry;
- c) Founder's websites should be kept good working order, with unique, meaningful content, user-friendly interfaces, and broad user appeal, for the duration of the License Term,
- d) Founders are expected to proactively market and promote ".INC" gTLD in a manner that is likely to produce widespread awareness of the unique advantages gained through the ".INC" string.
- e) Founders are expected to participate in reasonable joint marketing initiatives with DOT Registry or its Agents, these would be discussed and mutually agreed upon, given the unique circumstances of each marketing venture.
- f) Founders will allow DOT Registry to use in good faith Founder's name, likeness, trademarks, logos, and Application contents (other than Confidential Information,) as well as other Founder information and content as may be mutually agreed, in DOT Registry's marketing, promotional and communications materials.

DOT Registry will randomly verify compliance of the above listed expectations and have the right to revoke any Founder's site, should they be deemed non-compliant.

Additionally, DOT Registry may suspend or delete a Founder's site without prior notice to the Registrar or Registrant if the Founder's site is deemed in violation of any of DOT Registry's registration guidelines or policies.

Registrants participating in the Founders program will receive 25% off their initial registration fees, additional discounts may be offered to founders at the time of renewal, should DOT Registry choose to offer additional discounts to founders or term extensions (not to exceed 5 years) DOT Registry will seek advance approval from ICANN via the specified channels.

#### Landrush

Landrush is a limited time opportunity for companies that want to secure a high value ".INC" name for a small fee (above the basic registration cost). The landrush period will last 30 days. Applications will be accepted and evaluated to determine if they meet the requirements for registration. At the end of the Landrush period domain names with only one application will be awarded directly to the Applicant. Domain names with two or more applications will proceed to a closed mini auction, between the respective Applicants, where the highest bidder wins.

#### General Availability Period

Applicants must meet registration requirements.

Names will be awarded on a first-come, first serve basis which is determined as of the time of the initial request, not when authentication occurs.

#### Domain Name Contentions

Name contentions will arise when both a Sunrise A and Sunrise B application are submitted for the same name, the following actions will be taken to resolve the contention.

- a) Both Applicants will be notified of the contention and the Sunrise A Applicants will be given first right to either register their requested domain or withdraw their application. Since ".INC" is a sponsored community domain for registered Corporations, a domain applied for under Sunrise A will, all else being equal, receive priority over the identical domain applied for under Sunrise B. Sunrise A names get priority over Sunrise B names.
- b) If the Sunrise A Applicant chooses to register their name regardless of the contention, then the Sunrise B Applicant may choose to pursue further action independently of DOT Registry to contest the name.
- c) If two Sunrise A Applicants apply for the same domain name (i.e., Delta Airlines and Delta Faucet both seek to be awarded the use of DELTA.INC) then DOT Registry will notify both Applicants of the contention and proceed to an auction process as described in Section 9.
- d) If a Sunrise A Applicant and a Landrush Applicant apply for the same domain name, the Sunrise A Applicant, all else being equal will have priority over the Landrush Applicant.
- e) If two Sunrise B Applicants apply for the same domain name (i.e., Delta Airlines and Delta Faucet, both seek to block the use of DELTA. INC), then DOT Registry will accept both applications as valid and block the use of the indicated domain.

#### Appeal of Rejected Sunrise Applications

An Applicant can file a request for reconsideration within 10 days of the notification of DOT Registry's rejection. Reconsideration can be requested by completing a reconsideration form and filing a reconsideration fee with DOT Registry. Forms, fee information, and process documentation will be available on the DOT Registry website. Upon receipt of the reconsideration form and the corresponding fee, DOT Registry or its Agents will re-examine the application, and notify the Registrant of all findings or additional information needed. The Request for Reconsideration must be submitted through the Registrant's registrar, and a reconsideration fee must be paid to DOT Registry.

## Auctions

Sunrise A names found to be in contention as described above will result in Auction. DOT Registry plans to have a qualified third party conduct our auction processes, therefore the rules contained in this document are subject to change based on the selection of an auctioneer:

- a) When your auction account is created, it will be assigned a unique bidder alias in order to ensure confidential bidding. The bidder alias will not reflect any information about your account. You may change your bidder alias to a name of your choosing but once set, it cannot be changed again.
- b) All auction participants are expected to keep their account information current, throughout the auction process.
- c) Auction participants will receive up to date communication from the auctioneer as the auction progresses, bidding status changes, or issues arise.
- d) Bidding
  - i) Auctions will follow a standard process flow: scheduled (upcoming), open and closed.
  - ii) You will receive an "Auction Scheduled" notice at least ten (10) days prior to the scheduled auction start date. You will receive an "Auction Start" notice on the auction start date, which will indicate that you may begin placing bids through the interface. Once closed, the auction is complete and if you are the winning bidder, you will proceed to the payment process.
  - iii) If you choose to bid for a particular domain and you are the highest bidder at the end of an auction, you are obligated to complete the transaction and pay the Auctioneer the amount of your winning bid. Carefully consider your bids prior to placing them - bids are not retractable under any circumstances.
  - iv) If no bids are placed on a particular domain, the Registry will register the domain on behalf of the first customer (in the respective phase) to submit an application through a registrar.
- e) Extensions
  - i) A normal auction period is anticipated to last a minimum of 7 (seven) days. However, in the event of significant auction activity, an auction close may extend during the last twenty-four (24) hours of scheduled operation to better need the volume of the auction.
  - ii) Auction extensions are meant to provide a mechanism that is fair for bidders in all time zones to respond to being outbid.
  - iii) An auction extension will occur whenever the auction lead changes in the last twenty four (24) hours of the schedule of an auction. The close will be revised to reflect a new closing time set at twenty four (24) hours after the change in auction lead occurred. Essentially, this means that a winning maximum bid has to remain unchallenged for a period of twenty four (24) hours before the auction will close.
  - iv) It is important to note that extensions are not simply based on the auction value changing since this could occur as a result of proxy bidding where the same bidder retains their lead. In this case, the maximum bid has not changed, the leader has not changed and therefore no extension will occur.
- f) Payment Default

In the event that you as the winning bidder decide not to honor your payment obligations (or in the event of a reversal of payment or a charge back by a credit card company or other payment provider) on any outstanding balance, the Registry has the right to cancel any/all of your winning registrations for any .INC domain name, regardless of whether they have been paid for or not. You do not have the right to "pick and choose" the names you wish to keep or not keep. Winning an auction creates an obligation to remit payment. Failure to remit payment is a breach of your agreement. You will lose any previously won domains and will no longer be allowed to bid on any current or future auctions sponsored by DOT Registry. Participants are encouraged therefore to consider carefully each bid submitted as any bid could be a winning bid.

## Trademark Claims Service

DOT Registry will offer a Trademark Claims Service indefinitely to provide maximum protection and value to rights holders. The Trademark Claims Service will be monitored and operated by DOT Registry's RPM Team that will receive all communications regarding the Trademark Claims Service and catalog them. DOT Registry's registrar will review all domain name requests to determine if they are an identical match of a trademark filed with the Trademark Clearinghouse. A domain name will be considered an identical match when the domain name consists of the complete and identical textual elements of the mark, and includes domain names where (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) certain special characters contained within a trademark are spelled out with appropriate words describing it (e.g., @ and &); and (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name are either (i) omitted or (ii) replaced by spaces, hyphens or underscores. Domain names that are plural forms of a mark, or that merely contain a mark, will not qualify as an identical match.

If the registrar determines that a prospective domain name registration is identical to a mark registered in the Trademark Clearinghouse, the registrar will be required to email a "Trademark Claims Notice" (Notice) in English to the protective registrant of the domain name and copy DOT Registry's RPM Team. The Notice will provide the prospective registrant information regarding the trademark referenced in the Trademark Claims Notice to enhance understanding of the Trademark rights being claimed by the trademark holder. The Notice will be provided in real time without cost to the prospective registrant.

After receiving the notice, the registrar will provide the prospective registrant five (5) days to reply to the Trademark Claims Service with a signed document that specifically warrants that: (i) the prospective registrant has received notification that the mark is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge the registration and use of the requested domain name will not infringe on the rights that are the subject of the notice. If the warranty document satisfies these requirements, the registrar will effectuate the registration and notify DOT Registry's RPM Team.

After the effectuation of a registration that is identical to a mark listed in the Trademark Clearinghouse, the registrar will provide clear notice to the trademark owner consisting of the domain name that has been registered and copy DOT Registry's RPM Team. The trademark owner then has the option of filing a Complaint under the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS).

#### Uniform Rapid Suspension System (URS)

DOT Registry will specify in the Registry Agreement, all RRAs, and all Registration Agreements used in connection with the TLD that it and its registrars will abide by all decisions made by panels in accordance with the Uniform Rapid Suspension System (URS). DOT Registry's RPM Team will receive all URS Complaints and decisions, and will notify its registrar to suspend all registrations determined by a URS panel to be infringing within a commercially reasonable time of receiving the decision. DOT Registry's RPM Team will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Uniform Domain Name Dispute Resolution Policy (UDRP)

DOT Registry will specify in the Registry Agreement, all Registry-Registrar Agreements, and Registration Agreements used in connection with the TLD that it will promptly abide by all decisions made by panels in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP). DOT Registry's RPM Team will receive all UDRP Complaints and decisions, and will notify its registrar to cancel or transfer all registrations determined to by a UDRP

panel to be infringing within ten (10) business days of receiving the decision. DOT Registry's [RPM Team] will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Proven Registrars

In order to reduce abusive registrations and other activities that affect the legal rights of others, DOT Registry will only contract with ICANN-accredited registrars. The registrar, according to the RRA, will not be able to register any domain names, thus eliminating the possibility of front-running.

#### Pre-Authorization and Authentication

Registrant authentication shall occur in accordance with the registration eligibility criteria and the Anti-Abuse Policy for .INC as set forth in Question 28.

The verification process is designed to prevent a prospective registrant from providing inaccurate or incomplete data, such that, if necessary, the registrant can be readily contacted regarding an infringing use of its site; indeed, the process (including verification of a registrant's certificate of incorporation) is designed to ensure that only qualified members of the community are permitted to register in the TLD.

DOT Registry will not permit registrants to use proxy services.

#### Thick WhoIs

DOT Registry will include a thick WhoIs database as required in Specification 4 of the Registry agreement. A thick WhoIs provides numerous advantages including a centralized location of registrant information, the ability to more easily manage and control the accuracy of data, and a consistent user experience.

#### Grace Period

If a Registrant previously awarded a ".INC" domain is dissolved and/or forfeited for any reason, then such ".INC" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".INC" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".INC" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

#### Takedown Procedure

DOT Registry will provide a Takedown Procedure modeled after the Digital Millennium Copyright Act's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.INC contact information for receiving rights protection complaints (Complaint) from rights holders, including but not limited to trademark and copyright Complaints. Complaints will be addressed to and received by DOT Registry's RPM Team who will catalogue and ticket in DOT Registry's CRM software and review as outlined herein. DOT Registry will catalog all rights protection communications and only provide them to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any Complaint from a rights holder will be relayed to DOT Registry's RPM Team. A member of DOT Registry's RPM Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email, and that DOT Registry will notify the Complainant of the results of the Complaint within (10) days of receiving the Complaint.

After sending the confirmation email, DOT Registry's RPM Team will review the Complaint. If DOT Registry or its registrar determines that the registration was in bad faith, DOT Registry or its registrar may cancel or suspend the resolution of the domain name. Bad faith registration includes, but is not limited to, the registration of a domain identical to a registered trademark where the registrant has proceeded with registration after receipt of a Clearinghouse notice, as described above.

If the registrant responds within ten (10) business days, its response will be reviewed by the DOT Registry's RPM Team. If DOT Registry's RPM Team is satisfied by the registrant's response that the content has been taken down or is not infringing, DOT Registry's RPM Team will unsuspend the domain name. DOT Registry's RPM Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the registrant does not respond within ten (10) business days, DOT Registry or its registrar may cancel or suspend the resolution of the domain name.

This Takedown Procedure will not prejudice any party's election to pursue another dispute mechanism, such as URS or UDRP, as set forth in DOT Registry's response to Question 28.

## **30(a). Security Policy: Summary of the security policy for the proposed registry**

### **30.(a).1 Security Policies**

DOT Registry and our back-end operator, Neustar recognize the vital need to secure the systems and the integrity of the data in commercial solutions. The ".INC" registry solution will leverage industry-best security practices including the consideration of physical, network, server, and application elements.

Neustar's approach to information security starts with comprehensive information security policies. These are based on the industry best practices for security including SANS (SysAdmin, Audit, Network, Security) Institute, NIST (National Institute of Standards and Technology), and CIS (Center for Internet Security). Policies are reviewed annually by Neustar's information security team.

The following is a summary of the security policies that will be used in the ".INC" registry, including:

1. Summary of the security policies used in the registry operations
2. Description of independent security assessments

3. Description of security features that are appropriate for ".INC"
4. List of commitments made to registrants regarding security levels

All of the security policies and levels described in this section are appropriate for the ".INC" registry.

### 30.(a).2 Summary of Security Policies

Neustar has developed a comprehensive Information Security Program in order to create effective administrative, technical, and physical safeguards for the protection of its information assets, and to comply with Neustar's obligations under applicable law, regulations, and contracts. This Program establishes Neustar's policies for accessing, collecting, storing, using, transmitting, and protecting electronic, paper, and other records containing sensitive information.

-The policies for internal users and our clients to ensure the safe, organized and fair use of information resources.

-The rights that can be expected with that use.

-The standards that must be met to effectively comply with policy.

-The responsibilities of the owners, maintainers, and users of Neustar's information resources.

-Rules and principles used at Neustar to approach information security issues

The following policies are included in the Program:

#### 1. Acceptable Use Policy

The Acceptable Use Policy provides the rules of behavior covering all Neustar Associates for using Neustar resources or accessing sensitive information.

#### 2. Information Risk Management Policy

The Information Risk Management Policy describes the requirements for the on-going information security risk management program, including defining roles and responsibilities for conducting and evaluating risk assessments, assessments of technologies used to provide information security and monitoring procedures used to measure policy compliance.

### 3. Data Protection Policy

The Data Protection Policy provides the requirements for creating, storing, transmitting, disclosing, and disposing of sensitive information, including data classification and labeling requirements, the requirements for data retention. Encryption and related technologies such as digital certificates are also covered under this policy.

### 4. Third Party Policy

The Third Party Policy provides the requirements for handling service provider contracts, including specifically the vetting process, required contract reviews, and on-going monitoring of service providers for policy compliance.

### 5. Security Awareness and Training Policy

The Security Awareness and Training Policy provide the requirements for managing the on-going awareness and training program at Neustar. This includes awareness and training activities provided to all Neustar Associates.

### 6. Incident Response Policy

The Incident Response Policy provides the requirements for reacting to reports of potential security policy violations. This policy defines the necessary steps for identifying and reporting security incidents, remediation of problems, and conducting lessons learned post-mortem reviews in order to provide feedback on the effectiveness of this Program. Additionally, this policy contains the requirement for reporting data security breaches to the appropriate authorities and to the public, as required by law, contractual requirements, or regulatory bodies.

### 7. Physical and Environmental Controls Policy

The Physical and Environment Controls Policy provides the requirements for securely storing sensitive information and the supporting information technology equipment and infrastructure. This policy includes details on the storage of paper records as well as access to computer systems and equipment locations by authorized personnel and visitors.

### 8. Privacy Policy

Neustar supports the right to privacy, including the rights of individuals to control the dissemination and use of personal data that describes them, their personal choices, or life experiences. Neustar supports domestic and international laws and regulations that seek to protect the privacy rights of such individuals.

### 9. Identity and Access Management Policy



The Identity and Access Management Policy covers user accounts (login ID naming convention, assignment, authoritative source) as well as ID lifecycle (request, approval, creation, use, suspension, deletion, review), including provisions for system-application accounts, shared-group accounts, guest-public accounts, temporary-emergency accounts, administrative access, and remote access. This policy also includes the user password policy requirements.

#### 10. Network Security Policy

The Network Security Policy covers aspects of Neustar network infrastructure and the technical controls in place to prevent and detect security policy violations.

#### 11. Platform Security Policy

The Platform Security Policy covers the requirements for configuration management of servers, shared systems, applications, databases, middle-ware, and desktops and laptops owned or operated by Neustar Associates.

#### 12. Mobile Device Security Policy

The Mobile Device Policy covers the requirements specific to mobile devices with information storage or processing capabilities. This policy includes laptop standards, as well as requirements for PDAs, mobile phones, digital cameras and music players, and any other removable device capable of transmitting, processing or storing information.

#### 13. Vulnerability and Threat Management Policy

The Vulnerability and Threat Management Policy provides the requirements for patch management, vulnerability scanning, penetration testing, threat management (modeling and monitoring) and the appropriate ties to the Risk Management Policy.

#### 14. Monitoring and Audit Policy

The Monitoring and Audit Policy covers the details regarding which types of computer events to record, how to maintain the logs, and the roles and responsibilities for how to review, monitor, and respond to log information. This policy also includes the requirements for backup, archival, reporting, forensics use, and retention of audit logs.

#### 15. Project and System Development and Maintenance Policy

The System Development and Maintenance Policy covers the minimum security requirements for all software, application, and system development performed by or on behalf of Neustar and the minimum security requirements for maintaining information systems.

### 30.(a).3 Independent Assessment Reports

Neustar IT Operations is subject to yearly Sarbanes-Oxley (SOX), Statement on Auditing Standards #70 (SAS70) and ISO audits. Testing of controls implemented by Neustar management in the areas of access to programs and data, change management and IT Operations are subject to testing by both internal and external SOX and SAS70 audit groups. Audit Findings are communicated to process owners, Quality Management Group and Executive Management. Actions are taken to make process adjustments where required and remediation of issues is monitored by internal audit and QM groups.

External Penetration Test is conducted by a third party on a yearly basis. As authorized by Neustar, the third party performs an external Penetration Test to review potential security weaknesses of network devices and hosts and demonstrate the impact to the environment. The assessment is conducted remotely from the Internet with testing divided into four phases:

- A network survey is performed in order to gain a better knowledge of the network that was being tested
- Vulnerability scanning is initiated with all the hosts that are discovered in the previous phase
- Identification of key systems for further exploitation is conducted
- Exploitation of the identified systems is attempted.

Each phase of the audit is supported by detailed documentation of audit procedures and results. Identified vulnerabilities are classified as high, medium and low risk to facilitate management's prioritization of remediation efforts. Tactical and strategic recommendations are provided to management supported by reference to industry best practices.

### 30.(a).4 Augmented Security Levels and Capabilities

There are no increased security levels specific for ".INC". However, Neustar will provide the same high level of security provided across all of the registries it manages.

A key to Neustar's Operational success is Neustar's highly structured operations practices. The standards and governance of these processes:

- Include annual independent review of information security practices
- Include annual external penetration tests by a third party
- Conform to the ISO 9001 standard (Part of Neustar's ISO-based Quality Management System)

- Are aligned to Information Technology Infrastructure Library (ITIL) and CoBIT best practices
- Are aligned with all aspects of ISO IEC 17799
- Are in compliance with Sarbanes-Oxley (SOX) requirements (audited annually)
- Are focused on continuous process improvement (metrics driven with product scorecards reviewed monthly).

A summary view to Neustar's security policy in alignment with ISO 17799 can be found in section 30.(a).5 below.

### 30.(a).5 Commitments and Security Levels

The ".INC" registry commits to high security levels that are consistent with the needs of the TLD. These commitments include:

#### Compliance with High Security Standards

- Security procedures and practices that are in alignment with ISO 17799
- Annual SOC 2 Audits on all critical registry systems
- Annual 3rd Party Penetration Tests
- Annual Sarbanes Oxley Audits

#### Highly Developed and Document Security Policies

- Compliance with all provisions described in section 30.(b) and in the attached security policy document.
- Resources necessary for providing information security
- Fully documented security policies
- Annual security training for all operations personnel

#### High Levels of Registry Security

- Multiple redundant data centers
- High Availability Design
- Architecture that includes multiple layers of security
- Diversified firewall and networking hardware vendors
- Multi-factor authentication for accessing registry systems
- Physical security access controls
- A 24x7 manned Network Operations Center that monitors all systems and applications
- A 24x7 manned Security Operations Center that monitors and mitigates DDoS attacks
- DDoS mitigation using traffic scrubbing technologies

**© Internet Corporation For Assigned Names and Numbers.**



## New gTLD Application Submitted to ICANN by: Dot Registry LLC

**String: LLC**

**Originally Posted: 13 June 2012**

**Application ID: 1-880-17627**

### Applicant Information

#### 1. Full legal name

Dot Registry LLC

#### 2. Address of the principal place of business

6600 College BLVD  
Suite 125  
Overland Park Kansas 66211  
US

#### 3. Phone number

9136004088

#### 4. Fax number

8169947333

#### 5. If applicable, website or URL

### Primary Contact

#### 6(a). Name

Ms. Tess Pattison-Wade

#### 6(b). Title

Executive Director

#### 6(c). Address

#### 6(d). Phone Number

8168986598

#### 6(e). Fax Number

#### 6(f). Email Address

tpw5029@hotmail.com

## Secondary Contact

### 7(a). Name

Shaul Jolles

### 7(b). Title

CEO

### 7(c). Address

### 7(d). Phone Number

8162007080

### 7(e). Fax Number

### 7(f). Email Address

sjolles@gmail.com

## Proof of Legal Establishment

### 8(a). Legal form of the Applicant

Limited Liability Company

**8(b). State the specific national or other jurisdiction that defines the type of entity identified in 8(a).**

Kansas

**8(c). Attach evidence of the applicant's establishment.**

Attachments are not displayed on this form.

**9(a). If applying company is publicly traded, provide the exchange and symbol.**

**9(b). If the applying entity is a subsidiary, provide the parent company.**

**9(c). If the applying entity is a joint venture, list all joint venture partners.**

## Applicant Background

**11(a). Name(s) and position(s) of all directors**

Christopher Michael Parrott	Director of Finance
Paul Eugene Spurgeon	COO
Scott Adam Schactman	Director Law & Policy
Shaul Jolles	CEO

**11(b). Name(s) and position(s) of all officers and partners**

**11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares**



Ecyber Solutions Group Inc	not applicable
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**11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility**

## **Applied-for gTLD string**

**13. Provide the applied-for gTLD string. If an IDN, provide the U-label.**

LLC

**14(a). If an IDN, provide the A-label (beginning with "xn--").**

**14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.**

**14(c). If an IDN, provide the language of the label (in English).**

**14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).**

**14(d). If an IDN, provide the script of the label (in English).**

**14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).**

**14(e). If an IDN, list all code points contained in the U-label according to Unicode form.**

**15(a). If an IDN, Attach IDN Tables for the proposed registry.**

Attachments are not displayed on this form.

**15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.**

**15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.**

**16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.**

There are no known operational or rendering issues associated with our applied for string. We are relying on the proven capabilities of Neustar to troubleshoot and quickly eliminate these should they arise.

**17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>).**

## **Mission/Purpose**

## 18(a). Describe the mission/purpose of your proposed gTLD.

To build confidence, trust, reliance and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Companies. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Companies. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".LLC" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Community of Registered Limited Liability Companies.

## 18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

With the increased popularity of the Internet as a consumer marketplace and the ease with which individuals are able to access information online, it is essential that safeguards be put in place to validate and identify legitimate businesses.

Businesses representing themselves as Limited Liability Companies by including LLC in their business names create an expectation amongst consumers that they have the legal right, to conduct business as a Limited Liability Company. Unfortunately, consumers are currently unable to quickly verify the accuracy of this representation. Fraudulent business entities rely on this consumer assumption and the lack of available verification resources to prey on both businesses and consumers. As online commerce replaces the brick-and-mortar business model there has been a corresponding rise in business identity theft online, which in turn creates a lack of consumer confidence.

In the vast majority of states, the Secretary of State is responsible for overseeing business entity registrations for their state – from basic functions such as the registration of corporations or verification of business filings, to the administration of the Uniform Commercial Code, an act which provides for the uniform application of business contracts and practices across the United States. The Secretaries' role is critical to the chartering of businesses (including, but not limited to the formation of Limited Liability Companies) that wish to operate in their state. In this regard, the Secretaries of State maintain all records of business activities within the state, and in some states, the Secretary of State has wide-ranging regulatory authority over businesses as well. The ".LLC" gTLD will be exclusively available to members of the Community of Registered Limited Liability Companies, as verified through each applicant's Secretary of States Office. By verifying that an applicant is a registered Limited Liability Company, DOT Registry will be able to bring unprecedented clarity and security to consumers and business owners, assuring internet users, registry applicants, and others that web addresses ending in ".LLC" are a hallmark of a valid Limited Liability Company recognized by a governmental authority of the United States. This process will decrease the possibility of identity misrepresentation in a cyber setting and assist lesser-known businesses in legitimizing their services to consumers.

In January 2012 after many public forums and contributions from consumer advocates, the Business Services Committee of the National Association of Secretary of States (NASS) released the NASS White Paper on Business Identity Theft, indicating that at least 26 states have reported business identity theft cases resulting from fraudulent business representations online. North Carolina Secretary of State Elaine Marshall, who serves as Co-Chair of the NASS Business Services Committee, indicates that the primary function of

the White Paper is to, "Harness new technology to develop cost-effective solutions, and ultimately make it harder for identity thieves to prey upon state-based businesses."

With the implementation of the ".LLC" gTLD, consumers would have the ability to quickly identify the presented business as a valid US Limited Liability Company. As ".LLC" registrations grow, we will see a reduction in the ease with which criminals are able to hide behind fictitious entities because consumers will be conditioned to look for the appropriate gTLD ending before conducting business online. This simple gTLD extension would provide an efficient and cost effective solution to a growing economic concern in the United States by creating a verifiable online business community network. Through this innovative concept, the DNS system will help to build a stronger more resilient business platform for members of the Community of Registered Limited Liability Companies, while fostering user confidence, by ensuring accurate business representation.

It is our goal to provide an efficient and secure application process by minimizing the input required by the registrant and creating a streamlined, efficient evaluation process. We will accomplish this by reviewing the applicant's proof of business registration with their state. Registry Applicants will only be awarded a domain through DOT Registry if the Registrant is an active member of the Community of Registered Limited Liability Companies. "Active" in this context can be defined as any Limited Liability Company registered with a Secretary of State in the United States and its territories, that is determined to be authorized to conduct business within the state at the time of registration. Registrants "Active" status will be verified on an annual basis to ensure the reputation and validity of the ".LLC" gTLD

DOT Registry will also ensure that registrants are represented by a web address that is both simple and intuitive allowing for easy recognition by search engines and Internet users. Awarded addresses will identify the registrants company and may be presented in the shortest most memorable way.

At DOT Registry, we believe in complete transparency, consistent with the Secretary of State's Policy with regard to "Active" members of the Community of Registered Limited Liability Companies becoming publicly recorded upon completion of their entity registration process. Further, DOT Registry is informed by the position of the Task Force for Financial Integrity and Economic Development, which was created to advocate for improved levels of transparency and accountability in regards to beneficial ownership, control, and accounts of companies. Over the last decade the Task Force has focused specifically on combatting fraudulent business registrations which result in "fake" entities absorbing, hiding and transferring wealth outside the reach of law enforcement agencies. Because of this DOT Registry will not allow private or proxy registrations.

All approved domain registrants will be made public and available, so as to further validate DOT Registry's mission of fostering consumer peace of mind by creating a gTLD string dedicated solely to valid members of the Community of Registered Limited Liability Companies. These transparency mechanisms will also serve as a deterrent for fraudulent entities by creating an expectation among consumers as to who they are conducting business with.

The social implications of business identity theft and consumer confusion are a paramount concern to DOT Registry. In our currently unstable economy, stimulating economic growth is vital. One means to such growth is by defusing the rampant, legitimate fear caused by online crimes and abuse, which leads to curtailed consumer behavior. By introducing the ".LLC" domain into the DNS, DOT Registry will attempt to reduce the social impact of identity theft on business owners which will in turn reduce consumer fears related to spending and ultimately boost economic growth in regards to consumption and purchase power.

Further, the ".LLC" gTLD will strive to foster competition by presenting members of the

Community of Registered Limited Liability Companies with a highly valued customized domain name that not only represents their business, but also their validity in the marketplace. Within the current existing top-level domains it is hard for businesses to find naming options that appropriately represent them. One advantage of the ".LLC" gTLD is that it will drive the "right" kind of online registrations by offering a valued alternative to the currently overcrowded and often unrestricted name space. Registrants will be inspired to pursue ".LLC" domains not only because they will be guaranteed a name representative to their business, but also because of the increased validity for their business operations brought about by the ".LLC" verification process. DOT Registry anticipates that the security offered through a ".LLC" extension will increase consumer traffic to websites which in turn will boost advertising revenue online and consumer purchasing. Successful implementation of the ".LLC" domain will require two registration goals: 1) Capture newly formed corporations and assist them in securing a ".LLC" domain appropriate to their legal business name, and 2) converting existing online members of our community to a ".LLC" domain appropriate to their legal business name. These goals will be accomplished by the following practices:

1) Through our Founders Program, DOT Registry will secure key community tenants in the name space who will act as innovative leaders to assist us in changing the online culture of business representation, by promoting the benefits of the ".LLC" gTLD and shaping economic growth through increased consumer confidence.

2) DOT Registry will work closely with companies such as Legalzoom and CSC (both companies assist in the formation of entities and their registration processes), as well as individual Secretary of State's offices to capture newly admitted members of the community.

3) DOT Registry will educate members of the Community of Registered Limited Liability Companies on the benefits and importance of using a ".LLC" gTLD by building a strong relationship with organizations like the Small Business Administration and the Better Business Bureau, which promote business validation and consumer insight. By working closely with these well-known and highly regarded entities DOT Registry will be able to reach a larger majority of community members and enhance our message's validity.

4) DOT Registry will strive to create consumer and Internet user awareness through a strong Internet marketing presence and by developing a relationship with the National Association of Consumer Advocates, which was formed with the intention of curbing consumer abuse through predatory business practices.

At DOT Registry, we strive to meet the exact needs of our registrants and the internet users who patronize them. This will be accomplished by the creation of a seamless connection and strong communication channel between our organization and the governmental authority charged with monitoring the creation and good standing of Limited Liability Companies. DOT Registry will work closely with each Secretary of State's office to tailor our validation process to compliment each office's current information systems and to maximize the benefits of accurate information reporting. These processes are essential in fully assisting consumers in making educated decisions in regards to what businesses to patronize. The reach of the ".LLC" gTLD will not only impact online consumerism, but also offer an additional validation process for consumers to research contractors, businesses, and solicitors before choosing to do business with them in person.

The guidelines listed below were developed through collaborations with both NASS and individual Secretary of State's offices in order to ensure the integrity of the ".LLC" domain. All policies comply with ICANN-developed consensus policies.

In order to maintain the integrity of our mission statement and our relationship with each Secretary of State's office we will implement Registration Guidelines. In order to apply for a domain name ending in ".LLC", a Registrant must be registered with one of the Secretary of State's offices in the United States, the District of Columbia, or any of the U.S. possessions or territories as a limited liability company pursuant to that jurisdiction's laws on valid business registration. In addition, DOT Registry will implement the following Registration Guidelines and naming conventions:

1) A Registrant will only be awarded the ".LLC" domain that matches or includes a

substantial part of the Registrant's legal name. For example, Blue Star Partners, LLC. would be able to purchase either BlueStarPartners.LLC or BlueStar.LLC.

2) Registrants will not be allowed to register product line registrations, regardless of the products affiliation to the limited liability company. All awarded domains must match or include a substantial part of the Registrant's legal name.

3) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".LLC" domain will be awarded on a first-come, first-served basis to the first registrant.

4) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".LLC" domain.

5) If a registrant's requested ".LLC" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a ".LLC" domain with a distinctive denominator including but not limited to a tag, company describer, or name abbreviation. For example, if BlueStar.LLC was awarded to Blue Star Partners, LLC. of California, then Blue Star Partners, LLC. of Kansas would be offered the opportunity to use BlueStarPartners.LLC.

6) DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its' domain names. DOT Registry will utilize the Secretary of States' data resources to confirm that companies applying for their ".LLC" domain are in fact registered businesses.

7) All registrants that are awarded the ".LLC" domain will agree to a one-year minimum contract for their domain names that will automatically renew for an additional year on an annual basis if such contract is not terminated prior to the expiration of the renewal date.

8) DOT Registry or it's designated agent will annually verify each registrants community status in order to determine whether or not the entity is still an "Active" member of the community. Verification will occur in a process similar to the original registration process for each registrant, in which each registrant's "Active" Status and registration information will be validated through the proper state authority. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".LLC" domain:

(a) If a registrant previously awarded the ".LLC" domain ceases to be registered with the State.

(b) If a registrant previously awarded a ".LLC" domain is dissolved and/or forfeits the domain for any reason.

(c) If a registrant previously awarded the ".LLC" domain is administratively dissolved by the State.

Any registrant found to be "Inactive," or which falls into scenarios (a) through (c) above, will be issued a probationary warning by DOT Registry, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLC" will be forfeited. DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State.

9) If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".LLC" domain, then such ".LLC" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Limited Liability Companies, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other computers or networks, and domain kiting-tasting).

10) In the case of domain forfeiture due to any of the above described options, all

payments received by the Registrant for registration services to date or in advance payment will be non-refundable.

11) All registration information will be made publicly available. DOT Registry will not accept blind registration or registration by proxy. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.llc](http://www.whois.llc). The WHOIS Web application will be an intuitive and easy to use application. A complete description of these services can be found in Question 26 below.

12) Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed to maintain the previously awarded ".LLC" domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a ".LLC" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry's guidelines, the awarded domain will be revoked.

13) If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid.

14) DOT Registry will implement a reserved names policy consisting of both names DOT Registry wishes to reserve for our own purposes as the registry operator and names protected by ICANN. DOT Registry will respect all ICANN reserved names including, but not limited to, two letter country codes and existing TLD's. Additionally, DOT Registry will seek ICANN approval on any additional names we plan to reserve in order to appropriately secure them prior to the opening of general availability.

In addition to DOT Registry's comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM), including but not limited to: Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; and stringent take down policies and all required dispute resolution policies.

## 18(c). What operating rules will you adopt to eliminate or minimize social costs?

.LLC was proposed for the sole purpose of eliminating business and consumer vulnerability in a cyber setting. In order to maintain the integrity of that mission and minimize the negative consequences to consumers and business owners the following policies will be adhered to:

- a) No information collected from any registrant will be used for marketing purposes.
- b) Data collected will not be traded or sold.
- c) All data collected on any registrant will be available to the registrant free of charge.
- d) Registrants will be allowed to correct data inaccuracies as needed.
- e) All data will be kept secure.

DOT Registry will strictly uphold the rules set forth in their registration guidelines in order to accurately service the Community of Registered Limited Liability Companies and mitigate any negative consequences to consumers or Internet users. Price structures for the ".LLC" gTLD are designed to reflect the cost of verification within our community requirements and the ongoing cost of operations. Price escalation will only occur to accommodate rising business costs or fees implemented by the Secretaries of State with regard to verifying the "Active" status of a Registrant. Any price increases would be submitted to ICANN as required in our Registry Agreement and will be compiled in a thoughtful and responsible manner, in order to best reduce the affects on both the registrants and the overall retail market. DOT Registry does not plan to offer registrations to registrants directly therefore our pricing commitments will be made within our Registry-Registrar Agreements. It is our intention that these commitments will percolate down to registrants directly and that the contractual commitments contained within our Registry-Registrar Agreements will be reflected in the retail sale process of our gTLD, thus minimizing the negative consequences that might be imposed on registrants via the retail process. DOT Registry plans to offer bulk registration benefits to Registrars during the first 6 months of operation. Registrars wishing to purchase bulk registrations of 1,000 names or more would be offered a 5% discount at the time of purchase. With regard to Registrars, DOT Registry shall provide financial incentives for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database

Additionally, DOT Registry , through our founders program will provide a 25% discount to founders participants as a participation incentive. It is possible that DOT Registry would offer additional pricing benefits from time to time as relative to the market. All future pricing discounts not detailed in this application will be submitted through the appropriate ICANN channels for approval prior to introduction to the market.

## Community-based Designation

### 19. Is the application for a community-based TLD?

Yes

### 20(a). Provide the name and full description of the community that the applicant is committing to serve.

DOT Registry plans to serve the Community of Registered Limited Liability Companies. Members of the community are defined as businesses registered as limited liability companies with the United States or its territories. Limited Liability Companies or (LLC's) as they are commonly abbreviated, represent one of the most popular business entity structures in the US. LLC's commonly participate in acts of commerce, public services, and product creation.

Limited Liability Companies (LLC) are a relatively new business structure for the United



States, the first LLC was validated in the state of Wyoming in 1977 and in 1996 the National Conference of Commissioners on Uniform State Laws adopted the Uniform Limited Liability Company Act; providing for both the definition of an LLC and the governmental standards under which an LLC may be formed. It was through the Uniform Limited Liability Company Act that a standard set of policies were created to define, validate, and monitor the operations of LLC's, thus creating a unique and accountable business community in the United States.

An LLC is defined as a flexible form of enterprise that blends elements of partnership and corporate structures. It is a legal form of company that provides limited liability to its owners in the vast majority of United States jurisdictions. LLC's are a unique entity type because they are considered a hybrid, having certain characteristics of both a corporation and a partnership or sole proprietorship. LLC's are closely related to corporations in the sense that they participate in similar activities and provide limited liability to their partners. Additionally, LLC's share a key characteristic with partnerships through the availability of pass-through income taxation. LLC's are a more flexible entity type than a corporation and are often well suited for businesses owned by a single owner.

Common advantages to forming an LLC include:

- 1) Flexibility in tax reporting, LLC's may choose if they would like to be taxed as a sole proprietorship, partnership, S Corporation, or C Corporation. This is the only business entity form in the United States that allows for taxation flexibility.
- 2) LLC's have much less administrative paperwork and reporting requirements than corporations.
- 3) Unless the LLC elects to be taxed as a C Corp, LLC's enjoy pass through taxation.
- 4) Limited liability, meaning that owners of an LLC, called "members" are protected from some or all liability acts and debts of the LLC.

LLC's have become increasingly popular in the United States because their formation provides owners with the protection of a corporation and the flexibility of a partnership.

With the number of registered LLC's in the United States totaling over five million in 2010 (as reported by the International Association of Commercial Administrators) it is hard for the average consumer to not conduct business with an LLC (popular LLC's in the United States include: AOL and BMW). Through the creation of DOT Registry's .LLC string, consumers can quickly validate that they are working with a member of the Community of Registered Limited Liability Companies, providing consumers with brand reassurance and peace of mind. DOT Registry believes that it is essential to identify limited liability companies online in order to expand on their creditability and further highlight their privilege to conduct business in the US. Proper representation of this community would allow consumers to make educated choices in choosing businesses to patronize and support.

LLC's can be formed through any jurisdiction of the United States. Therefore members of this community exist in all 50 US states and its territories. LLC formation guidelines are dictated by state law and can vary based on each state's regulations. Persons form an LLC by filing required documents with the appropriate state authority, usually the Secretary of State. Most states require the filing of Articles of Organization. These are considered public documents and are similar to articles of incorporation, which establish a corporation as a legal entity. At minimum, the articles of organization give a brief description of the intended business purposes, the registered agent, and registered business address.

LLC's are expected to conduct business in conjunction with the policies of the state in which they are formed, and the Secretary of State periodically evaluates a LLC's level of good standing based on their commercial interactions with both the state and consumers. DOT Registry or its designated agents would verify membership to the Community of Registered Limited Liability Companies by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to maintain the reputation

of the ".LLC" string and accurately delineate the member to consumers, Registrants would only be awarded a domain that accurately represents their registered legal business name. Additionally, DOT Registry will not allow blind registrations or registration by proxy, therefore DOT Registry's WHOIS service will tie directly back to each member's state registration information and will be publicly available in order to provide complete transparency for consumers.

Entities are required to comply with formation practices in order to receive the right to conduct business in the US. Once formed an LLC must be properly maintained. LLC's are expected to comply with state regulations, submit annual filings, and pay specific taxes and fees. Should an LLC fail to comply with state statutes it could result in involuntary dissolution by the state in addition to imposed penalties, taxes and fees. While state statutes vary, the majority of states have adopted the following guidelines in regards to the formation of LLC's:

(1) The name of each limited liability company must contain the words "Limited Liability Company" or the abbreviation "L.L.C." or the designation "LLC".

(2) In order to form a limited liability company, one or more authorized persons must execute the Articles of Organization. Which shall contain: the name of the limited liability company; the address of the registered office and the name and address of the registered agent for service of process required to be maintained; and any other matters the members determine to include therein.

(3) A Limited Liability Company may be organized to conduct or promote any lawful business or purposes, except as may otherwise be provided by the Constitution or other law of this State.

All entities bearing the abbreviation LLC in their business name create the assumption that they have been awarded the privileges associated to that title such as: the ability to conduct commerce transactions within US borders or territories, the ability to market products, solicit consumers and provide reputable services in exchange for monetary values, and finally to provide jobs or employment incentives to other citizens.

Membership in the Community of Registered Limited Liability Companies is established through your business entity registration. In order to maintain your membership to this community you must remain an "Active" member of the community. "Active" in this context can be defined as any LLC registered with a Secretary of State in the United States and its territories, that is determined to be authorized to conduct business within that State at the time of their registration. Registrant's "Active" status will be verified on an annual basis as described above in question 18 in order to ensure the reputation and validity of the ".LLC" gTLD.

Since LLC's are not currently delineated on the Internet, the creation of this string would mark a unique advancement in consumer security and confidence in the United States. Essentially, this will create the first ever, clear delineator for the Community of Registered Limited Liability Companies.

## **20(b). Explain the applicant's relationship to the community identified in 20(a).**

DOT Registry is a registered LLC in the State of Kansas as defined by the Kansas LLC Statute: Kan. Stat. Ann. §§ 17-7662 through 17-76,142. By becoming a verifiable US LLC, DOT Registry becomes a member of the community it serves. In addition, DOT Registry is a corporate affiliate of the National Association of Secretaries of State (NASS), an organization which acts as a medium for the exchange of information between states and fosters cooperation in the development of public policy, and is working to develop individual relationships with each Secretary of State's office in order to ensure our continued commitment to honor and respect the authorities of each state. DOT Registry is acutely aware of our responsibility to uphold our mission statement of:

building confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Companies .DOT Registry has also specifically pledged to various Secretaries of State to responsibly manage this gTLD in a manner that will both protect and promote business development in the US. Further our policies were developed through direct collaboration with the state offices so as to mitigate any possibility of misrepresenting their regulations. In order to ensure that we accomplish our goal and preserve the credibility of our operations DOT Registry has taken the following advance actions to ensure compliance and community protection:

- 1) Developed registration policies that are currently reflective of common state law dictating the creation and retention of LLC's in the United States.
- 2) Created a strong partnership with CSC (an ICANN approved registrar also specializing in corporate formation services). Through this partnership DOT Registry was able to develop a streamlined verification process to validate potential Registrants as members of the community and ensure that continued annual verifications are completed in a time sensitive and efficient manner. This process will ensure that consumers are not misled by domains registered with the ".LLC" gTLD. Additionally, this process will create peace of mind amongst community members by ensuring that their integrity is not diminished by falsely identified corporations being represented by a ".LLC" extension.
- 3) Built a strong relationship with several Secretaries of State in order to receive and give consistent input on policy implementation and state regulation updates. DOT Registry has also notified NASS that we have designed our registration policies and procedures to address NASS' concerns about verification requirements in the TLD.
- 4) Established an in-house legal and policy director to review, enhance, and ensure compliance and consistency with all registration guidelines and community representations. As indicated in many of the attached letters, DOT Registry will be held specifically accountable for protecting the integrity of its restrictions and of the members of this community. DOT Registry will consult directly with NASS and policy advisors in the state offices consistently in order to continue to accurately represent the Community of Registered Limited Liability Companies and live up to the vast standards associated to the ".LLC" gTLD.

In furtherance of this goal, DOT Registry has attached letters from critical advocates for and representatives of the proposed community, including:

- 1) Various Secretary of States Offices: Specifically The Secretary of State of Delaware which is widely regarded as a leader in entity formation and policy in the United States and The Secretary of State of South Dakota, which is working towards combatting business identity theft and fictitious business registration.
- 2) Various members of the community that are interested in utilizing the ".LLC" gTLD

DOT Registry can be viewed as an exemplary community representative not only through its pledged commitment to excellence, but also through its continued commitment to build relationships with the state offices charged with registering members of this community. DOT Registry pledges through its registry policies to uphold a common standard of evaluation for all applicants and to add increased integrity to the Community of Limited Liability Companies. These pledges are further enforced by the endorsement letters from the above organizations, which call the authentication/verification measures proposed by DOT Registry critical to the success of the proposed community.

Similarly, DOT Registry will adhere to all standards of business operations as described in the Kansas state business statutes and will be equally accountable to consumers to deliver continuously accurate findings and valid registrations.

## **20(c). Provide a description of the community-based purpose of the applied-for gTLD.**

.The goal of the ".LLC" gTLD is to build confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Companies. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Companies. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".LLC" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Registered Community of Limited Liability Companies. The creation of the ".LLC" gTLD will bring innovation and unprecedented coordination of this valuable service of verification, a purpose endorsed by many individual Secretary of States and NASS. Additionally, ".LLC" will further promote the importance of accurate business registrations in the US, while assisting in combatting business identity theft by increasing registration visibility through our WHOIS services and strict abuse policies.

The intended registrants of the ".LLC" gTLD would consist of members of the Community of Registered Limited Liability Companies. This would be verified by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to ensure that this process is accomplished in a secure and time effective manner DOT Registry will develop partnerships with each Secretary of State's office in order to create the applicable applications to securely verify registrant data. End-users for this TLD would include everyday consumers, members of the community, businesses within the community, and consumers looking for more accurate information with regards to those with whom they may conduct business. DOT Registry plans to initiate a robust marketing campaign geared towards the proposed end-users in order to ensure that consumers are aware of what ".LLC" stands for and its significance throughout the Community of Registered Limited Liability Companies. In addition to the vast consumer benefits from the creation of the ".LLC" gTLD, DOT Registry believes that ".LLC" domains would be considerably beneficial to business end users. Since DOT Registry will not allow blind registration or registration by proxy businesses viewing ".LLC" sites would be able to instantly ascertain what businesses operate under the blanket of parent companies, are subsidiaries of other businesses, and of course where an LLC is domiciled. This easily identifiable information not only assists businesses in accurately identifying who they are doing business with, it would also assist in locating sales and use tax information, identifying applicable state records, and tracking an entity's history. These factors could help to determine the outcome of sales, mergers, contract negotiations, and business relationships. Ensuring that this kind of transparency and accountability – qualities previously not attainable in a TLD – shall be at the fingertips of potential business partners or investors.

Our registry policies will be adapted to match any changing state statutes in relation to the definition and creation of LLC's in the U.S., ensuring the longevity and reputation of our registry services and our commitment to consumers to only represent valid U.S. limited liability companies. Much like the perpetuity of the members of the Community of Registered Limited Liability Companies, the ".LLC" gTLD will enjoy a similar immortality, for as long as LLC entities continue to exist in the United States the ".LLC" relevance will not diminish. As awareness of the gTLD's mission becomes more widely recognized by end-users expectations to understand who you choose to do business with will increase, making the need for the ".LLC" gTLD more prominent.

In addition, it is our concern that the implementation of the gTLD string ".LLC" as a generic string, without the restrictions and community delineations described in this application and endorsed by NASS and the various Secretaries of State, could promote confusion among consumers and provide clever criminal enthusiasts the tools necessary to misrepresent themselves as a U.S.-based LLC. There is an expectation amongst consumers that entities using the words Limited Liability Company in their business name have the legal right and ability to conduct business in the United States. This representation by non-members of the Community of Registered Limited Liability Companies is not only fraudulent, but a great disservice to consumers.

## 20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).

".LLC" was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language Limited Liability Company is primarily shortened to LLC when used to delineate business entity types. For example Red Bridge, LLC. could additionally be referred to Red Bridge Limited Liability Company. Since all of our community members are limited liability companies we believed that ".LLC" would be the simplest, most straight forward way to accurately represent our community.

LLC is a recognized abbreviation in all 50 states and US territories denoting the registration type of a business entity. Our research indicates that while other jurisdictions use LLC as a corporate identifier, their definitions are quite different and there are no other known associations or definitions of LLC in the English language.

## 20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

In order to accurately protect the integrity of our domain name and serve the proposed community the following safeguards will be adapted:

- 1) All Registrants will be required to submit a minimum of: Their registered business address, State of formation, name and contact information of responsible party, and legally registered business name. DOT Registry or its agents will use this information to cross-reference the applicable state's registration records in order to verify the accuracy of the Registrant's application. Should DOT Registry be unable to verify the legitimacy of the Registrants application additional information might be requested in order to award a domain name.
- 2) A Registrant will only be awarded the ".LLC" domain that matches or includes a substantial part of the Registrant's legal name. For example, Blue Star Partners, LLC. would be able to purchase either BlueStarPartners.LLC or BlueStar.LLC.
- 3) Registrants will not be allowed to register product line registrations, regardless of the products affiliation to the limited liability company. All awarded domains must match or include a substantial part of the Registrant's legal name.
- 4) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".LLC" domain will be awarded on a first-come, first-served basis to the first registrant.
- 5) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".LLC" domain.
- 6) If a registrant's ".LLC" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a ".LLC" domain with a distinctive denominator including but not limited to a tag, company describer, or name abbreviation. For example, if BlueStar.LLC was awarded to Blue Star Partners, LLC. of California, then Blue Star Partners, LLC. of Kansas would be offered the

opportunity to use BlueStarPartners.LLC.

7) DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its domain names. DOT Registry will utilize the Secretary of States' data resources to confirm that companies applying for their ".LLC" domain are in fact registered businesses.

8) DOT Registry or it's designated agent will annually verify each registrants community status in order to determine whether or not the entity is still an "Active" member of the community. Verification will occur in a process similar to the original registration process for each registrant, in which each registrant's "Active" Status and registration information will be validated through the proper state authority. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".LLC" domain:

- (a) If a registrant previously awarded the ".LLC" domain ceases to be registered with the State.
- (b) If a registrant previously awarded a ".LLC" domain is dissolved and/or forfeits the domain for any reason.
- (c) If a registrant previously awarded the ".LLC" domain is administratively dissolved by the State.

Any registrant found to be "Inactive," or which falls into scenarios (a) through (c) above, will be issued a probationary warning by DOT Registry, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLC" will be forfeited. DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State.

9) If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".LLC" domain, then such ".LLC" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Limited Liability Companies, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other computers or networks, and domain kiting-tasting).

10) All registration information will be made publicly available. DOT Registry will not accept blind registration or registration by proxy. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.llc](http://www.whois.llc). The WHOIS Web application will be an intuitive and easy to use application. A complete description of these services can be found in Question 26 below.

11) Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed to maintain the previously awarded ".LLC" domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a ".LLC" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry's guidelines, the awarded domain will be revoked.

12) If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid.

In addition to Applicant's comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM), including but not limited to: Support for and interaction with the Trademark Clearinghouse

("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; stringent take down policies in order to properly operate the registry; and Applicant shall comply with any RRDRP decision, further reinforcing the fact that Applicant is committed to acting in best interest of the community. DOT Registry will employ an in house Rights Protection Mechanism Team consisting of our Director of Legal and Policy and two additional support personnel. The RPM team will work to mitigate any RPM complaints, while protecting the general rights and integrity of the ".LLC" gTLD. The RPM team will strictly enforce the rights protection mechanisms described in this application. Membership verification will be performed via DOT Registry's designated agents that which have software systems in place to efficiently interface with each state's data records. By utilizing the resources of industry leaders in this field, DOT Registry will ensure accurate and timely verification in addition to our ability to meet the needs of such a vast community. "Active" status will be specifically verified by cross referencing an applicant's registration data with state records. If this process is unable to be automated at any given time DOT Registry's agents will manually verify the information by contacting the applicable state agencies. While manual verification will obviously employ a larger pool of resources, DOT Registry believes that its industry partners are sufficiently able to accomplish this task based on their employee pool and past business accomplishments. Registrants will be expected to provide a minimum of their legal registered name, state of organization, registered business address, and administrative contact. All additional information required such as proof of incorporation or "active" status verification will be the sole responsibility of DOT Registry or its designated agents and will be acquired through the processes described herein. DOT Registry will not restrict the content of ".LLC" sites other than through the enforcement of our Abuse Mitigation practices or Rights Protection Mechanisms as described in question 28 and 29 of this application. All ".LLC" sites will be expected to adhere to the content restrictions described in DOT Registry's abuse policies. Any sites infringing on the legal rights of other individuals or companies, trademarks, or participating in the practice and promotion of illegal activities will be subject to Applicant's take down procedures. ".LLC" domains are designed for the sole use of community members with the intention of promoting their specific business activities. Any Registrants falsely identifying themselves as a community members or inaccurately representing their intentions could be deemed in non-compliance with our registry policies resulting in the revocation of their awarded domain.

**20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## Geographic Names

## 21(a). Is the application for a geographic name?

No

## Protection of Geographic Names

### 22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

DOT Registry has thoroughly reviewed ISO 3166-1 and ISO 3166-2, relevant UN documents on the standardization of geographic names, GAC correspondence relating to the reservation of geographic names in the .INFO TLD, and understands its obligations under Specification 5 of the draft Registry Agreement. Applicant shall implement measures similar to those used to protect geographic names in the .INFO TLD by reserving and registering to itself all the geographic place names found in ISO-3166 and official country names as specified by the UN. Applicant has already discussed this proposed measure of protecting geographic names with its registry services provider, Neustar, and has arranged for such reservation to occur as soon after delegation as is technically possible.

As with the .INFO TLD, only if a potential second-level domain registrant makes a proper showing of governmental support for country or territorial names will Applicant then relay this request to ICANN. At this point, Applicant would wait for the approval of the GAC and of ICANN before proceeding to delegate the domain at issue.

## Registry Services

### 23. Provide name and full description of all the Registry Services to be provided.

#### 23.1 Introduction

DOT Registry has elected to partner with NeuStar, Inc (Neustar) to provide back-end services for the ".LLC" registry. In making this decision, DOT Registry recognized that Neustar already possesses a production-proven registry system that can be quickly deployed and smoothly operated over its robust, flexible, and scalable world-class infrastructure. The existing registry services will be leveraged for the ".LLC" registry. The following section describes the registry services to be provided.



## 23.2 Standard Technical and Business Components

Neustar will provide the highest level of service while delivering a secure, stable and comprehensive registry platform. DOT Registry will use Neustar's Registry Services platform to deploy the ".LLC" registry, by providing the following Registry Services (none of these services are offered in a manner that is unique to ".LLC"):

- Registry-Registrar Shared Registration Service (SRS)
- Extensible Provisioning Protocol (EPP)
- Domain Name System (DNS)
- WHOIS
- DNSSEC
- Data Escrow
- Dissemination of Zone Files using Dynamic Updates
- Access to Bulk Zone Files
- Dynamic WHOIS Updates
- IPv6 Support
- Rights Protection Mechanisms
- Internationalized Domain Names (IDN). [Optional should be deleted if not being offered].

The following is a description of each of the services.

### 23.2.1 SRS

Neustar's secure and stable SRS is a production-proven, standards-based, highly reliable, and high-performance domain name registration and management system. The SRS includes an EPP interface for receiving data from registrars for the purpose of provisioning and managing domain names and name servers. The response to Question 24 provides specific SRS information.

### 23.2.2 EPP

The ".LLC" registry will use the Extensible Provisioning Protocol (EPP) for the provisioning of domain names. The EPP implementation will be fully compliant with all RFCs. Registrars are provided with access via an EPP API and an EPP based Web GUI. With more than 10 gTLD, ccTLD, and private TLDs implementations, Neustar has extensive experience building EPP-based registries. Additional discussion on the EPP approach is presented in the response to Question 25.

#### 23.2.3 DNS

DOT Registry will leverage Neustar's world-class DNS network of geographically distributed nameserver sites to provide the highest level of DNS service. The service utilizes Anycast routing technology, and supports both IPv4 and IPv6. The DNS network is highly proven, and currently provides service to over 20 TLDs and thousands of enterprise companies. Additional information on the DNS solution is presented in the response to Questions 35.

#### 23.2.4 WHOIS

Neustar's existing standard WHOIS solution will be used for the ".LLC". The service provides supports for near real-time dynamic updates. The design and construction is agnostic with regard to data display policy is flexible enough to accommodate any data model. In addition, a searchable WHOIS service that complies with all ICANN requirements will be provided. The following WHOIS options will be provided:

Standard WHOIS (Port 43)

Standard WHOIS (Web)

Searchable WHOIS (Web)

#### 23.2.5 DNSSEC

An RFC compliant DNSSEC implementation will be provided using existing DNSSEC capabilities. Neustar is an experienced provider of DNSSEC services, and currently manages signed zones for three large top level domains: .biz, .us, and .co. Registrars are provided with the ability to submit and manage DS records using EPP, or through a web GUI. Additional information on DNSSEC, including the management of security extensions is found in the response to Question 43.

#### 23.2.6 Data Escrow

Data escrow will be performed in compliance with all ICANN requirements in conjunction with an approved data escrow provider. The data escrow service will:

- Protect against data loss
- Follow industry best practices
- Ensure easy, accurate, and timely retrieval and restore capability in the event of a hardware failure
- Minimizes the impact of software or business failure.

Additional information on the Data Escrow service is provided in the response to Question 38.

#### 23.2.7 Dissemination of Zone Files using Dynamic Updates

Dissemination of zone files will be provided through a dynamic, near real-time process. Updates will be performed within the specified performance levels. The proven technology ensures that updates pushed to all nodes within a few minutes of the changes being received by the SRS. Additional information on the DNS updates may be found in the response to Question 35.

#### 23.2.8 Access to Bulk Zone Files

DOT Registry will provide third party access to the bulk zone file in accordance with specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider.

#### 23.2.9 Dynamic WHOIS Updates

Updates to records in the WHOIS database will be provided via dynamic, near real-time updates. Guaranteed delivery message oriented middleware is used to ensure each individual WHOIS server is refreshed with dynamic updates. This component ensures that all WHOIS servers are kept current as changes occur in the SRS, while also decoupling WHOIS from the SRS. Additional information on WHOIS updates is presented in response to Question 26.

#### 23.2.10 IPv6 Support

The ".LLC" registry will provide IPv6 support in the following registry services: SRS, WHOIS, and DNS-DNSSEC. In addition, the registry supports the provisioning of IPv6 AAAA records. A detailed description on IPv6 is presented in the response to Question 36.

#### 23.2.11 Required Rights Protection Mechanisms

DOT Registry, will provide all ICANN required Rights Mechanisms, including:

- Trademark Claims Service
- Trademark Post-Delegation Dispute Resolution Procedure (PDDRP)
- Registration Restriction Dispute Resolution Procedure (RRDRP)
- UDRP
- URS
- Sunrise service.

More information is presented in the response to Question 29.

#### 23.2.12 Internationalized Domain Names (IDN)

IDN registrations are provided in full compliance with the IDNA protocol. Neustar possesses extensive experience offering IDN registrations in numerous TLDs, and its IDN implementation uses advanced technology to accommodate the unique bundling needs of certain languages. Character mappings are easily constructed to block out characters that may be deemed as confusing to users. A detailed description of the IDN implementation is presented in response to Question 44.

#### 23.3 Unique Services

DOT Registry will not be offering services that are unique to ".LLC".

#### 23.4 Security or Stability Concerns

All services offered are standard registry services that have no known security or stability concerns. Neustar has demonstrated a strong track record of security and stability within the industry.

## Demonstration of Technical & Operational Capability

### 24. Shared Registration System (SRS) Performance

#### 24.1 Introduction

DOT Registry has partnered with NeuStar, Inc ("Neustar"), an experienced TLD registry operator, for the operation of the ".LLC" Registry. The applicant is confident that the plan in place for the operation of a robust and reliable Shared Registration System (SRS) as currently provided by Neustar will satisfy the criterion established by ICANN.

Neustar built its SRS from the ground up as an EPP based platform and has been operating it reliably and at scale since 2001. The software currently provides registry services to five TLDs (.BIZ, .US, TEL, .CO and .TRAVEL) and is used to provide gateway services to the .CN and .TW registries. Neustar's state of the art registry has a proven track record of being secure, stable, and robust. It manages more than 6 million domains, and has over 300 registrars connected today.

The following describes a detailed plan for a robust and reliable SRS that meets all ICANN requirements including compliance with Specifications 6 and 10.

#### 24.2 The Plan for Operation of a Robust and Reliable SRS

##### 24.2.1 High-level SRS System Description

The SRS to be used for ".LLC" will leverage a production-proven, standards-based, highly reliable and high-performance domain name registration and management system that fully meets or exceeds the requirements as identified in the new gTLD Application Guidebook.

The SRS is the central component of any registry implementation and its quality,

reliability and capabilities are essential to the overall stability of the TLD. Neustar has a documented history of deploying SRS implementations with proven and verifiable performance, reliability and availability. The SRS adheres to all industry standards and protocols. By leveraging an existing SRS platform, DOT Registry is mitigating the significant risks and costs associated with the development of a new system. Highlights of the SRS include:

- State-of-the-art, production proven multi-layer design
- Ability to rapidly and easily scale from low to high volume as a TLD grows
- Fully redundant architecture at two sites
- Support for IDN registrations in compliance with all standards
- Use by over 300 Registrars
- EPP connectivity over IPv6
- Performance being measured using 100% of all production transactions (not sampling).

#### 24.2.2 SRS Systems, Software, Hardware, and Interoperability

The systems and software that the registry operates on are a critical element to providing a high quality of service. If the systems are of poor quality, if they are difficult to maintain and operate, or if the registry personnel are unfamiliar with them, the registry will be prone to outages. Neustar has a decade of experience operating registry infrastructure to extremely high service level requirements. The infrastructure is designed using best of breed systems and software. Much of the application software that performs registry-specific operations was developed by the current engineering team and as a result the team is intimately familiar with its operations.

The architecture is highly scalable and provides the same high level of availability and performance as volumes increase. It combines load balancing technology with scalable server technology to provide a cost effective and efficient method for scaling.

The Registry is able to limit the ability of any one registrar from adversely impacting other registrars by consuming too many resources due to excessive EPP transactions. The system uses network layer 2 level packet shaping to limit the number of simultaneous connections registrars can open to the protocol layer.

All interaction with the Registry is recorded in log files. Log files are generated at each layer of the system. These log files record at a minimum:

- The IP address of the client
- Timestamp
- Transaction Details
- Processing Time.

In addition to logging of each and every transaction with the SRS Neustar maintains audit records, in the database, of all transformational transactions. These audit records allow the Registry, in support of the applicant, to produce a complete history of changes for any domain name.

#### 24.2.3 SRS Design

The SRS incorporates a multi-layer architecture that is designed to mitigate risks and easily scale as volumes increase. The three layers of the SRS are:

- Protocol Layer
- Business Policy Layer
- Database.

Each of the layers is described below.

#### 24.2.4 Protocol Layer

The first layer is the protocol layer, which includes the EPP interface to registrars. It consists of a high availability farm of load-balanced EPP servers. The servers are designed to be fast processors of transactions. The servers perform basic validations and then feed information to the business policy engines as described below. The protocol layer is horizontally scalable as dictated by volume.

The EPP servers authenticate against a series of security controls before granting service, as follows:

- The registrar's host exchanges keys to initiates a TLS handshake session with the EPP

server.

-The registrar's host must provide credentials to determine proper access levels.

-The registrar's IP address must be preregistered in the network firewalls and traffic-shapers.

#### 24.2.5 Business Policy Layer

The Business Policy Layer is the brain of the registry system. Within this layer, the policy engine servers perform rules-based processing as defined through configurable attributes. This process takes individual transactions, applies various validation and policy rules, persists data and dispatches notification through the central database in order to publish to various external systems. External systems fed by the Business Policy Layer include backend processes such as dynamic update of DNS, WHOIS and Billing.

Similar to the EPP protocol farm, the SRS consists of a farm of application servers within this layer. This design ensures that there is sufficient capacity to process every transaction in a manner that meets or exceeds all service level requirements. Some registries couple the business logic layer directly in the protocol layer or within the database. This architecture limits the ability to scale the registry. Using a decoupled architecture enables the load to be distributed among farms of inexpensive servers that can be scaled up or down as demand changes.

The SRS today processes over 30 million EPP transactions daily.

#### 24.2.6 Database

The database is the third core components of the SRS. The primary function of the SRS database is to provide highly reliable, persistent storage for all registry information required for domain registration services. The database is highly secure, with access limited to transactions from authenticated registrars, trusted application-server processes, and highly restricted access by the registry database administrators. A full description of the database can be found in response to Question 33.

Figure 24-1 attached depicts the overall SRS architecture including network components.

#### 24.2.7 Number of Servers



As depicted in the SRS architecture diagram above Neustar operates a high availability architecture where at each level of the stack there are no single points of failures. Each of the network level devices run with dual pairs as do the databases. For the ".LLC" registry, the SRS will operate with 8 protocol servers and 6 policy engine servers. These expand horizontally as volume increases due to additional TLDs, increased load, and through organic growth. In addition to the SRS servers described above, there are multiple backend servers for services such as DNS and WHOIS. These are discussed in detail within those respective response sections.

#### 24.2.8 Description of Interconnectivity with Other Registry Systems

The core SRS service interfaces with other external systems via Neustar's external systems layer. The services that the SRS interfaces with include:

- WHOIS
- DNS
- Billing
- Data Warehouse (Reporting and Data Escrow).

Other external interfaces may be deployed to meet the unique needs of a TLD. At this time there are no additional interfaces planned for ".LLC".

The SRS includes an external notifier concept in its business policy engine as a message dispatcher. This design allows time-consuming backend processing to be decoupled from critical online registrar transactions. Using an external notifier solution, the registry can utilize control levers that allow it to tune or to disable processes to ensure optimal performance at all times. For example, during the early minutes of a TLD launch, when unusually high volumes of transactions are expected, the registry can elect to suspend processing of one or more back end systems in order to ensure that greater processing power is available to handle the increased load requirements. This proven architecture has been used with numerous TLD launches, some of which have involved the processing of over tens of millions of transactions in the opening hours. The following are the standard three external notifiers used the SRS:

#### 24.2.9 WHOIS External Notifier

The WHOIS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on WHOIS. It is important to note that, while the WHOIS external notifier feeds the WHOIS system, it intentionally does not have visibility into the actual contents of the WHOIS system. The WHOIS external notifier serves just as a tool to send a

signal to the WHOIS system that a change is ready to occur. The WHOIS system possesses the intelligence and data visibility to know exactly what needs to change in WHOIS. See response to Question 26 for greater detail.

#### 24.2.10 DNS External Notifier

The DNS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on DNS. Like the WHOIS external notifier, the DNS external notifier does not have visibility into the actual contents of the DNS zones. The work items that are generated by the notifier indicate to the dynamic DNS update sub-system that a change occurred that may impact DNS. That DNS system has the ability to decide what actual changes must be propagated out to the DNS constellation. See response to Question 35 for greater detail.

#### 24.2.11 Billing External Notifier

The billing external notifier is responsible for sending all billable transactions to the downstream financial systems for billing and collection. This external notifier contains the necessary logic to determine what types of transactions are billable. The financial systems use this information to apply appropriate debits and credits based on registrar.

#### 24.2.12 Data Warehouse

The data warehouse is responsible for managing reporting services, including registrar reports, business intelligence dashboards, and the processing of data escrow files. The Reporting Database is used to create both internal and external reports, primarily to support registrar billing and contractual reporting requirement. The data warehouse databases are updated on a daily basis with full copies of the production SRS data.

#### 24.2.13 Frequency of Synchronization between Servers

The external notifiers discussed above perform updates in near real-time, well within the prescribed service level requirements. As transactions from registrars update the core SRS, update notifications are pushed to the external systems such as DNS and WHOIS. These updates are typically live in the external system within 2-3 minutes.

#### 24.2.14 Synchronization Scheme (e.g., hot standby, cold standby)

Neustar operates two hot databases within the data center that is operating in primary mode. These two databases are kept in sync via synchronous replication. Additionally, there are two databases in the secondary data center. These databases are updated real time through asynchronous replication. This model allows for high performance while also ensuring protection of data. See response to Question 33 for greater detail.

#### 24.2.15 Compliance with Specification 6 Section 1.2

The SRS implementation for ".LLC" is fully compliant with Specification 6, including section 1.2. EPP Standards are described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. Extensible Provisioning Protocol or EPP is defined by a core set of RFCs that standardize the interface that make up the registry-registrar model. The SRS interface supports EPP 1.0 as defined in the following RFCs shown in Table 24-1 attached.

Additional information on the EPP implementation and compliance with RFCs can be found in the response to Question 25.

#### 24.2.16 Compliance with Specification 10

Specification 10 of the New TLD Agreement defines the performance specifications of the TLD, including service level requirements related to DNS, RDDS (WHOIS), and EPP. The requirements include both availability and transaction response time measurements. As an experienced registry operator, Neustar has a long and verifiable track record of providing registry services that consistently exceed the performance specifications stipulated in ICANN agreements. This same high level of service will be provided for the ".LLC" Registry. The following section describes Neustar's experience and its capabilities to meet the requirements in the new agreement.

To properly measure the technical performance and progress of TLDs, Neustar collects data on key essential operating metrics. These measurements are key indicators of the performance and health of the registry. Neustar's current .biz SLA commitments are among the most stringent in the industry today, and exceed the requirements for new TLDs. Table 24-2 compares the current SRS performance levels compared to the requirements for new TLDs, and clearly demonstrates the ability of the SRS to exceed those requirements.

Their ability to commit and meet such high performance standards is a direct result of their philosophy towards operational excellence. See response to Question 31 for a full description of their philosophy for building and managing for performance.

### 24.3 Resourcing Plans

The development, customization, and on-going support of the SRS are the responsibility of a combination of technical and operational teams, including:

- Development/Engineering
- Database Administration
- Systems Administration
- Network Engineering.

Additionally, if customization or modifications are required, the Product Management and Quality Assurance teams will be involved in the design and testing. Finally, the Network Operations and Information Security play an important role in ensuring the systems involved are operating securely and reliably.

The necessary resources will be pulled from the pool of operational resources described in detail in the response to Question 31. Neustar's SRS implementation is very mature, and has been in production for over 10 years. As such, very little new development related to the SRS will be required for the implementation of the ".LLC" registry. The following resources are available from those teams:

- Development/Engineering 19 employees
- Database Administration- 10 employees
- Systems Administration 24 employees
- Network Engineering 5 employees

The resources are more than adequate to support the SRS needs of all the TLDs operated by Neustar, including the ".LLC" registry.

## 25. Extensible Provisioning Protocol (EPP)

### 25.1 Introduction

DOT Registry's back-end registry operator, Neustar, has over 10 years of experience operating EPP based registries. They deployed one of the first EPP registries in 2001 with the launch of .biz. In 2004, they were the first gTLD to implement EPP 1.0. Over the last ten years Neustar has implemented numerous extensions to meet various unique TLD requirements. Neustar will leverage its extensive experience to ensure DOT Registry is provided with an unparalleled EPP based registry. The following discussion explains the EPP interface which will be used for the ".LLC" registry. This interface exists within the protocol farm layer as described in Question 24 and is depicted in Figure 25-1 attached.

## 25.2 EPP Interface

Registrars are provided with two different interfaces for interacting with the registry. Both are EPP based, and both contain all the functionality necessary to provision and manage domain names. The primary mechanism is an EPP interface to connect directly with the registry. This is the interface registrars will use for most of their interactions with the registry.

However, an alternative web GUI (Registry Administration Tool) that can also be used to perform EPP transactions will be provided. The primary use of the Registry Administration Tool is for performing administrative or customer support tasks.

The main features of the EPP implementation are:

**-Standards Compliance:** The EPP XML interface is compliant to the EPP RFCs. As future EPP RFCs are published or existing RFCs are updated, Neustar makes changes to the implementation keeping in mind of any backward compatibility issues.

**-Scalability:** The system is deployed keeping in mind that it may be required to grow and shrink the footprint of the Registry system for a particular TLD.

**-Fault-tolerance:** The EPP servers are deployed in two geographically separate data centers to provide for quick failover capability in case of a major outage in a particular data center. The EPP servers adhere to strict availability requirements defined in the SLAs.

**-Configurability:** The EPP extensions are built in a way that they can be easily configured to turn on or off for a particular TLD.

**-Extensibility:** The software is built ground up using object oriented design. This allows for easy extensibility of the software without risking the possibility of the change

rippling through the whole application.

-Auditable: The system stores detailed information about EPP transactions from provisioning to DNS and WHOIS publishing. In case of a dispute regarding a name registration, the Registry can provide comprehensive audit information on EPP transactions.

-Security: The system provides IP address based access control, client credential-based authorization test, digital certificate exchange, and connection limiting to the protocol layer.

### 25.3 Compliance with RFCs and Specifications

The registry-registrar model is described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. As shown in Table 25-1 attached, EPP is defined by the core set of RFCs that standardize the interface that registrars use to provision domains with the SRS. As a core component of the SRS architecture, the implementation is fully compliant with all EPP RFCs.

Neustar ensures compliance with all RFCs through a variety of processes and procedures. Members from the engineering and standards teams actively monitor and participate in the development of RFCs that impact the registry services, including those related to EPP. When new RFCs are introduced or existing ones are updated, the team performs a full compliance review of each system impacted by the change. Furthermore, all code releases include a full regression test that includes specific test cases to verify RFC compliance.

Neustar has a long history of providing exceptional service that exceeds all performance specifications. The SRS and EPP interface have been designed to exceed the EPP specifications defined in Specification 10 of the Registry Agreement and profiled in Table 25-2 attached. Evidence of Neustar's ability to perform at these levels can be found in the .biz monthly progress reports found on the ICANN website.

#### 25.3.1 EPP Toolkits

Toolkits, under open source licensing, are freely provided to registrars for interfacing with the SRS. Both Java and C++ toolkits will be provided, along with the accompanying documentation. The Registrar Tool Kit (RTK) is a software development kit (SDK) that supports the development of a registrar software system for registering domain names in the registry using EPP. The SDK consists of software and documentation as described below.

The software consists of working Java and C++ EPP common APIs and samples that implement the EPP core functions and EPP extensions used to communicate between the registry and registrar. The RTK illustrates how XML requests (registration events) can be assembled and forwarded to the registry for processing. The software provides the registrar with the basis for a reference implementation that conforms to the EPP registry-registrar protocol. The software component of the SDK also includes XML schema definition files for all Registry EPP objects and EPP object extensions. The RTK also includes a dummy server to aid in the testing of EPP clients.

The accompanying documentation describes the EPP software package hierarchy, the object data model, and the defined objects and methods (including calling parameter lists and expected response behavior). New versions of the RTK are made available from time to time to provide support for additional features as they become available and support for other platforms and languages.

#### 25.4 Proprietary EPP Extensions

[Default Response]

The ".LLC" registry will not include proprietary EPP extensions. Neustar has implemented various EPP extensions for both internal and external use in other TLD registries. These extensions use the standard EPP extension framework described in RFC 5730. Table 25-3 attached provides a list of extensions developed for other TLDs. Should the ".LLC" registry require an EPP extension at some point in the future, the extension will be implemented in compliance with all RFC specifications including RFC 3735.

The full EPP schema to be used in the ".LLC" registry is attached in the document titled EPP Schema Files.

#### 25.5 Resourcing Plans

The development and support of EPP is largely the responsibility of the Development, Engineering and Quality Assurance teams. As an experienced registry operator with a fully developed EPP solution, on-going support is largely limited to periodic updates to the standard and the implementation of TLD specific extensions.

The necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

-Development/Engineering 19 employees

-Quality Assurance - 7 employees.

These resources are more than adequate to support any EPP modification needs of the ".LLC" registry.

## 26. Whois

DOT Registry, LLC recognizes the importance of an accurate, reliable, and up-to-date WHOIS database to governments, law enforcement, intellectual property holders, and the public as a whole, and is firmly committed to complying with all of the applicable WHOIS specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 10 to the Registry Agreement and relevant RFCs.

DOT Registry, LLC's back-end registry services provider, Neustar, has extensive experience providing ICANN and RFC-compliant WHOIS services for each of the TLDs that it operates both as a Registry Operator for gTLDs, ccTLDs, and back-end registry services provider. As one of the first "thick" registry operators in the gTLD space, the WHOIS service provided by DOT Registry, LLC's registry services operator has been designed from the ground up to display as much information as required by ICANN and respond to a very stringent availability and performance requirement.

Some of the key features of DOT Registry, LLC's WHOIS services will include:

- Fully compliant with all relevant RFCs including 3912;
- Production proven, highly flexible, and scalable (DOT Registry, LLC's back-end registry services provider has a track record of 100% availability over the past 10 years);
- Exceeds current and proposed performance specifications;
- Supports dynamic updates with the capability of doing bulk updates;
- Geographically distributed sites to provide greater stability and performance; and
- Search capabilities (e.g., IDN, registrant data) that mitigate potential forms of abuse as discussed below.

DOT Registry, LLC's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement.

DOT Registry, LLC's WHOIS service will support port 43 queries, and will be optimized for speed using an in-memory database and a master-slave architecture between SRS and WHOIS slaves. RFC 3912 is a simple text based protocol over TCP that describes the interaction between the server and client on port 43. DOT Registry, LLC's registry services operator currently processes millions of WHOIS queries per day.

In addition to the WHOIS Service on port 43, DOT Registry, LLC will provide a Web-based WHOIS application, which will be located at [www.whois.llc](http://www.whois.llc). This WHOIS Web application will be an intuitive and easy to use application for the general public to use. The WHOIS Web application provides all of the features available in the port 43 WHOIS. This includes



full and partial search on:

- Domain names
- Nameservers
- Registrant, Technical and Administrative Contacts
- Registrars

The WHOIS web application will also provide features not available on the port 43 service. These include:

- Extensive support for international domain names (IDN)
- Ability to perform WHOIS lookups on the actual Unicode IDN
- Display of the actual Unicode IDN in addition to the ACE-encoded name
- A Unicode to Punycode and Punycode to Unicode translator
- An extensive FAQ
- A list of upcoming domain deletions

DOT Registry, LLC will also provide a searchable web-based WHOIS service in accordance with Specification 4 Section 1.8 The application will enable users to search the WHOIS directory to find exact or partial matches using any one or more of the following fields:

- Domain name
- Contacts and registrant's name
- Contact and registrant's postal address, including all the sub-fields described in EPP (e.g., street, city, state or province, etc.)

- Registrar ID
- Name server name and IP address
- Internet Protocol addresses
- The system will also allow search using non-Latin character sets which are compliant with IDNA specification

The WHOIS user will be able to choose one or more search criteria, combine them by Boolean operators (AND, OR, NOT) and provide partial or exact match regular expressions for each of the criterion name-value pairs. The domain names matching the search criteria and their WHOIS information will quickly be returned to the user.

In order to reduce abuse for this feature, only authorized users will have access to the Whois search features after providing a username and password. DOT Registry, LLC will provide third party access to the bulk zone file in accordance with Specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider, which will make access to the zone files in bulk via FTP to any person or organization that signs and abides by a Zone File Access (ZFA) Agreement with the registry. Contracted gTLD registries will provide this access daily and at no charge.

DOT Registry, LLC will also provide ICANN and any emergency operators with up-to-date Registration Data on a weekly basis (the day to be designated by ICANN). Data will include data committed as of 00:00:00 UTC on the day previous to the one designated for retrieval by ICANN. The file(s) will be made available for download by SFTP, unless ICANN requests other means in the future.

DOT Registry, LLC's Legal Team consisting of 3 dedicated employees, will regularly monitor the registry service provider to ensure that they are providing the services as described above. This will entail random monthly testing of the WHOIS port 43 and Web-based services to ensure that they meet the ICANN Specifications and RFCs as outlined above, if not, to follow up with the registry services provider to ensure that they do. As the relevant WHOIS will only contain DOT Registry, LLC's information, DOT Registry, LLC's WHOIS services will necessarily be in compliance with any applicable privacy laws or policies.

## 27. Registration Life Cycle

### 27.1 Registration Life Cycle

### 27.1.1 Introduction

".LLC" will follow the lifecycle and business rules found in the majority of gTLDs today. Our back-end operator, Neustar, has over ten years of experience managing numerous TLDs that utilize standard and unique business rules and lifecycles. This section describes the business rules, registration states, and the overall domain lifecycle that will be use for ".LLC".

### 27.1.2 Domain Lifecycle - Description

The registry will use the EPP 1.0 standard for provisioning domain names, contacts and hosts. Each domain record is comprised of three registry object types: domain, contacts, and hosts.

Domains, contacts and hosts may be assigned various EPP defined statuses indicating either a particular state or restriction placed on the object. Some statuses may be applied by the Registrar; other statuses may only be applied by the Registry. Statuses are an integral part of the domain lifecycle and serve the dual purpose of indicating the particular state of the domain and indicating any restrictions placed on the domain. The EPP standard defines 17 statuses, however only 14 of these statuses will be used in the ".LLC" registry per the defined ".LLC" business rules.

The following is a brief description of each of the statuses. Server statuses may only be applied by the Registry, and client statuses may be applied by the Registrar.

-OK Default status applied by the Registry.

-Inactive Default status applied by the Registry if the domain has less than 2 nameservers.

-PendingCreate Status applied by the Registry upon processing a successful Create command, and indicates further action is pending. This status will not be used in the ".LLC" registry.

-PendingTransfer Status applied by the Registry upon processing a successful Transfer request command, and indicates further action is pending.

-PendingDelete Status applied by the Registry upon processing a successful Delete command that does not result in the immediate deletion of the domain, and indicates further action is pending.

-PendingRenew Status applied by the Registry upon processing a successful Renew command that does not result in the immediate renewal of the domain, and indicates further action

is pending. This status will not be used in the ".LLC" registry.

-PendingUpdate Status applied by the Registry if an additional action is expected to complete the update, and indicates further action is pending. This status will not be used in the ".LLC" registry.

-Hold Removes the domain from the DNS zone.

-UpdateProhibited Prevents the object from being modified by an Update command.

-TransferProhibited Prevents the object from being transferred to another Registrar by the Transfer command.

-RenewProhibited Prevents a domain from being renewed by a Renew command.

-DeleteProhibited Prevents the object from being deleted by a Delete command.

The lifecycle of a domain begins with the registration of the domain. All registrations must follow the EPP standard, as well as the specific business rules described in the response to Question 18 above. Upon registration a domain will either be in an active or inactive state. Domains in an active state are delegated and have their delegation information published to the zone. Inactive domains either have no delegation information or their delegation information is not published in the zone. Following the initial registration of a domain, one of five actions may occur during its lifecycle:

-Domain may be updated

-Domain may be deleted, either within or after the add-grace period

-Domain may be renewed at anytime during the term

-Domain may be auto-renewed by the Registry

-Domain may be transferred to another registrar.

Each of these actions may result in a change in domain state. This is described in more detail in the following section. Every domain must eventually be renewed, auto-renewed, transferred, or deleted. A registrar may apply EPP statuses described above to prevent specific actions such as updates, renewals, transfers, or deletions.

## 27.2 Registration States

### 27.2.1 Domain Lifecycle Registration States

As described above the ".LLC" registry will implement a standard domain lifecycle found in

most gTLD registries today. There are five possible domain states:

- Active
- Inactive
- Locked
- Pending Transfer
- Pending Delete.

All domains are always in either an Active or Inactive state, and throughout the course of the lifecycle may also be in a Locked, Pending Transfer, and Pending Delete state. Specific conditions such as applied EPP policies and registry business rules will determine whether a domain can be transitioned between states. Additionally, within each state, domains may be subject to various timed events such as grace periods, and notification periods.

#### 27.2.2 Active State

The active state is the normal state of a domain and indicates that delegation data has been provided and the delegation information is published in the zone. A domain in an Active state may also be in the Locked or Pending Transfer states.

#### 27.2.3 Inactive State

The Inactive state indicates that a domain has not been delegated or that the delegation data has not been published to the zone. A domain in an Inactive state may also be in the Locked or Pending Transfer states. By default all domain in the Pending Delete state are also in the Inactive state.

#### 27.2.4 Locked State

The Locked state indicates that certain specified EPP transactions may not be performed to the domain. A domain is considered to be in a Locked state if at least one restriction has been placed on the domain; however up to eight restrictions may be applied simultaneously. Domains in the Locked state will also be in the Active or Inactive, and under certain conditions may also be in the Pending Transfer or Pending Delete states.

### 27.2.5 Pending Transfer State

The Pending Transfer state indicates a condition in which there has been a request to transfer the domain from one registrar to another. The domain is placed in the Pending Transfer state for a period of time to allow the current (losing) registrar to approve (ack) or reject (nack) the transfer request. Registrars may only nack requests for reasons specified in the Inter-Registrar Transfer Policy.

### 27.2.6 Pending Delete State

The Pending Delete State occurs when a Delete command has been sent to the Registry after the first 5 days (120 hours) of registration. The Pending Delete period is 35-days during which the first 30-days the name enters the Redemption Grace Period (RGP) and the last 5-days guarantee that the domain will be purged from the Registry Database and available to public pool for registration on a first come, first serve basis.

## 27.3 Typical Registration Lifecycle Activities

### 27.3.1 Domain Creation Process

The creation (registration) of domain names is the fundamental registry operation. All other operations are designed to support or compliment a domain creation. The following steps occur when a domain is created.

1. Contact objects are created in the SRS database. The same contact object may be used for each contact type, or they may all be different. If the contacts already exist in the database this step may be skipped.
2. Nameservers are created in the SRS database. Nameservers are not required to complete the registration process; however any domain with less than 2 name servers will not be resolvable.
3. The domain is created using the each of the objects created in the previous steps. In addition, the term and any client statuses may be assigned at the time of creation.

The actual number of EPP transactions needed to complete the registration of a domain name can be as few as one and as many as 40. The latter assumes seven distinct contacts and 13

nameservers, with Check and Create commands submitted for each object.

### 27.3.2 Update Process

Registry objects may be updated (modified) using the EPP Modify operation. The Update transaction updates the attributes of the object.

For example, the Update operation on a domain name will only allow the following attributes to be updated:

- Domain statuses
- Registrant ID
- Administrative Contact ID
- Billing Contact ID
- Technical Contact ID
- Nameservers
- AuthInfo
- Additional Registrar provided fields.

The Update operation will not modify the details of the contacts. Rather it may be used to associate a different contact object (using the Contact ID) to the domain name. To update the details of the contact object the Update transaction must be applied to the contact itself. For example, if an existing registrant wished to update the postal address, the Registrar would use the Update command to modify the contact object, and not the domain object.

### 27.3.4 Renew Process

The term of a domain may be extended using the EPP Renew operation. ICANN policy general establishes the maximum term of a domain name to be 10 years, and Neustar recommends not deviating from this policy. A domain may be renewed/extended at any point time, even immediately following the initial registration. The only stipulation is that the overall term of the domain name may not exceed 10 years. If a Renew operation is performed with a term value will extend the domain beyond the 10 year limit, the Registry will reject the transaction entirely.

### 27.3.5 Transfer Process

The EPP Transfer command is used for several domain transfer related operations:

- Initiate a domain transfer
- Cancel a domain transfer
- Approve a domain transfer
- Reject a domain transfer.

To transfer a domain from one Registrar to another the following process is followed:

1. The gaining (new) Registrar submits a Transfer command, which includes the AuthInfo code of the domain name.
2. If the AuthInfo code is valid and the domain is not in a status that does not allow transfers the domain is placed into pendingTransfer status
3. A poll message notifying the losing Registrar of the pending transfer is sent to the Registrar's message queue
4. The domain remains in pendingTransfer status for up to 120 hours, or until the losing (current) Registrar Acks (approves) or Nack (rejects) the transfer request
5. If the losing Registrar has not Acked or Nacked the transfer request within the 120 hour timeframe, the Registry auto-approves the transfer
6. The requesting Registrar may cancel the original request up until the transfer has been completed.

A transfer adds an additional year to the term of the domain. In the event that a transfer will cause the domain to exceed the 10 year maximum term, the Registry will add a partial term up to the 10 year limit. Unlike with the Renew operation, the Registry will not reject

a transfer operation.

#### 27.3.6 Deletion Process

A domain may be deleted from the SRS using the EPP Delete operation. The Delete operation will result in either the domain being immediately removed from the database or the domain being placed in pendingDelete status. The outcome is dependent on when the domain is deleted. If the domain is deleted within the first five days (120 hours) of registration, the domain is immediately removed from the database. A deletion at any other time will result in the domain being placed in pendingDelete status and entering the Redemption Grace Period (RGP). Additionally, domains that are deleted within five days (120) hours of any billable (add, renew, transfer) transaction may be deleted for credit.

#### 27.4 Applicable Time Elements

The following section explains the time elements that are involved.

##### 27.4.1 Grace Periods

There are six grace periods:

- Add-Delete Grace Period (AGP)
- Renew-Delete Grace Period
- Transfer-Delete Grace Period
- Auto-Renew-Delete Grace Period
- Auto-Renew Grace Period
- Redemption Grace Period (RGP).

The first four grace periods listed above are designed to provide the Registrar with the ability to cancel a revenue transaction (add, renew, or transfer) within a certain period of time and receive a credit for the original transaction.

The following describes each of these grace periods in detail.



#### 27.4.2 Add-Delete Grace Period

The APG is associated with the date the Domain was registered. Domains may be deleted for credit during the initial 120 hours of a registration, and the Registrar will receive a billing credit for the original registration. If the domain is deleted during the Add Grace Period, the domain is dropped from the database immediately and a credit is applied to the Registrar's billing account.

#### 27.4.3 Renew-Delete Grace Period

The Renew-Delete Grace Period is associated with the date the Domain was renewed. Domains may be deleted for credit during the 120 hours after a renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly renewed. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP (see below).

#### 27.4.4 Transfer-Delete Grace Period

The Transfer-Delete Grace Period is associated with the date the Domain was transferred to another Registrar. Domains may be deleted for credit during the 120 hours after a transfer. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP. A deletion of domain after a transfer is not the method used to correct a transfer mistake. Domains that have been erroneously transferred or hijacked by another party can be transferred back to the original registrar through various means including contacting the Registry.

#### 27.4.5 Auto-Renew-Delete Grace Period

The Auto-Renew-Delete Grace Period is associated with the date the Domain was auto-renewed. Domains may be deleted for credit during the 120 hours after an auto-renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly auto-renewed. It should be noted that domains that are deleted during the auto-renew delete grace period will be placed into pendingDelete and will enter the RGP.

#### 27.4.6 Auto-Renew Grace Period

The Auto-Renew Grace Period is a special grace period intended to provide registrants with an extra amount of time, beyond the expiration date, to renew their domain name. The grace period lasts for 45 days from the expiration date of the domain name. Registrars are not

required to provide registrants with the full 45 days of the period.

#### 27.4.7 Redemption Grace Period

The RGP is a special grace period that enables Registrars to restore domains that have been inadvertently deleted but are still in pendingDelete status within the Redemption Grace Period. All domains enter the RGP except those deleted during the AGP.

The RGP period is 30 days, during which time the domain may be restored using the EPP RenewDomain command as described below. Following the 30day RGP period the domain will remain in pendingDelete status for an additional five days, during which time the domain may NOT be restored. The domain is released from the SRS, at the end of the 5 day non-restore period. A restore fee applies and is detailed in the Billing Section. A renewal fee will be automatically applied for any domain past expiration.

Neustar has created a unique restoration process that uses the EPP Renew transaction to restore the domain and fulfill all the reporting obligations required under ICANN policy. The following describes the restoration process.

#### 27.5 State Diagram

Figure 27-1 attached provides a description of the registration lifecycle.

The different states of the lifecycle are active, inactive, locked, pending transfer, and pending delete. Please refer to section 27.2 for detailed descriptions of each of these states. The lines between the states represent triggers that transition a domain from one state to another.

The details of each trigger are described below:

- Create: Registry receives a create domain EPP command.
- WithNS: The domain has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.
- WithoutNS: The domain has not met the minimum number of nameservers required by registry policy. The domain will not be in the DNS zone.
- Remove Nameservers: Domain's nameserver(s) is removed as part of an update domain EPP

command. The total nameserver is below the minimum number of nameservers required by registry policy in order to be published in the DNS zone.

-Add Nameservers: Nameserver(s) has been added to domain as part of an update domain EPP command. The total number of nameservers has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.

-Delete: Registry receives a delete domain EPP command.

-DeleteAfterGrace: Domain deletion does not fall within the add grace period.

-DeleteWithinAddGrace: Domain deletion falls within add grace period.

-Restore: Domain is restored. Domain goes back to its original state prior to the delete command.

-Transfer: Transfer request EPP command is received.

-Transfer Approve/Cancel/Reject: Transfer requested is approved or cancel or rejected.

-TransferProhibited: The domain is in clientTransferProhibited and/or serverTransferProhibited status. This will cause the transfer request to fail. The domain goes back to its original state.

-DeleteProhibited: The domain is in clientDeleteProhibited and/or serverDeleteProhibited status. This will cause the delete command to fail. The domain goes back to its original state.

Note: the locked state is not represented as a distinct state on the diagram as a domain may be in a locked state in combination with any of the other states: inactive, active, pending transfer, or pending delete.

### 27.5.1 EPP RFC Consistency

As described above, the domain lifecycle is determined by ICANN policy and the EPP RFCs. Neustar has been operating ICANN TLDs for the past 10 years consistent and compliant with all the ICANN policies and related EPP RFCs.

### 27.6 Resources

The registration lifecycle and associated business rules are largely determined by policy and business requirements; as such the Product Management and Policy teams will play a critical role in working Applicant to determine the precise rules that meet the requirements of the TLD. Implementation of the lifecycle rules will be the responsibility of Development/Engineering team, with testing performed by the Quality Assurance team. Neustar's SRS implementation is very flexible and configurable, and in many case development is not required to support business rule changes.

The ".LLC" registry will be using standard lifecycle rules, and as such no customization is anticipated. However should modifications be required in the future, the necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

-Development/Engineering 19 employees

-Registry Product Management 4 employees

These resources are more than adequate to support the development needs of all the TLDs operated by Neustar, including the ".LLC" registry.

## 28. Abuse Prevention and Mitigation

### General Statement of Policy

Abuse within the registry will not be tolerated. DOT Registry will implement very strict policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. DOT Registry's homepages will provide clear contact information for its Abuse Team, and in accordance with ICANN policy DOT Registry shall host NIC.LLC, providing access to .LLC's WhoIs services, the Abuse Policy, and contact information for the Abuse Team.

### Anti-Abuse Policy

DOT Registry will implement in its internal policies and its Registry-Registrar Agreements (RRAs) that all registered domain names in the TLD will be subject to a Domain Name Anti-Abuse Policy ("Abuse Policy").

The Abuse Policy will provide DOT Registry with broad power to suspend, cancel, or transfer domain names that violate the Abuse Policy. DOT Registry will publish the Abuse Policy on its home website at NIC.LLC and clearly provide DOT Registry's Point of Contact ("Abuse Contact") and its contact information. This information shall consist of, at a minimum, a valid e-mail address dedicated solely to the handling of abuse complaints, and a telephone number and mailing address for the primary contact. DOT Registry will ensure that this information will be kept accurate and up to date and will be provided to ICANN if and when changes are made.

In addition, with respect to inquiries from ICANN-Accredited registrars, the Abuse Contact shall handle requests related to abusive domain name practices.

Inquiries addressed to the Abuse Contact will be routed to DOT Registry's Legal Team who will review and if applicable remedy any Complaint regarding an alleged violation of the Abuse Policy as described in more detail below. DOT Registry will catalog all abuse

communications in its CRM software using a ticketing system that maintains records of all abuse complaints indefinitely. Moreover, DOT Registry shall only provide access to these records to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

The Abuse Policy will state, at a minimum, that DOT Registry reserves the right to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary to ; (1) to protect the integrity and stability of the registry; (2) to comply with applicable laws, government rules or requirements, or court orders; (3) to avoid any liability, civil or criminal, on the part of DOT Registry, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) to correct mistakes made by the DOT Registry, registry services provider, or any registrar in connection with a domain name registration; (5) during resolution of any dispute regarding the domain; and (6) if a Registrant's pre-authorization or payment fails; or (7) to prevent the bad faith use of a domain name that is identical to a registered trademark and being used to confuse users.

The Abuse Policy will define the abusive use of domain names to include, but not be limited to, the following activities:

- **Illegal or fraudulent actions:** use of the DOT Registry's or Registrar's services to violate the laws or regulations of any country, state, or infringe upon the laws of any other jurisdiction, or in a manner that adversely affects the legal rights of any other person;
- **Spam:** use of electronic messaging systems from email addresses from domains in the TLD to send unsolicited bulk messages. The term applies to e-mail spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of Web sites and Internet forums;
- **Trademark and Copyright Infringement:** DOT Registry will take great care to ensure that trademark and copyright infringement does not occur within the .LLC TLD. DOT Registry will employ notice and takedown procedures based on the provisions of the Digital Millennium Copyright Act (DMCA) ;
- **Phishing:** use of counterfeit Web pages within the TLD that are designed to trick recipients into divulging sensitive data such as usernames, passwords, or financial data;
- **Pharming:** redirecting of unknowing users to fraudulent Web sites or services, typically through DNS hijacking or poisoning;
- **Willful distribution of malware:** dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and trojan horses.
- **Fast flux hosting:** use of fast-flux techniques to disguise the location of Web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities. Fast-flux techniques use DNS to frequently change the location on the Internet to which the domain name of an Internet host or name server resolves. Fast flux hosting may be used only with prior permission of DOT Registry;
- **Botnet command and control:** services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct denial-of-service attacks (DDoS attacks);
- **Distribution of pornography;**
- **Illegal Access to Other Computers or Networks:** illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity);
- **Domain Kiting/Tasting:** registration of domain names to test their commercial viability before returning them during a Grace Period;
- **High Volume Registrations/Surveying:** registration of multiple domain names in order to warehouse them for sale or pay-per-click websites in a way that can impede DOT Registry

from offering them to legitimate users or timely services to other subscribers;

- **Geographic Name:** registering a domain name that is identical to a Geographic Name, as defined by Specification 5 of the Registry Agreement;
- **Inadequate Security:** registering and using a domain name to host a website that collects third-party information but does not employ adequate security measures to protect third-party information in accordance with that geographic area's data and financial privacy laws;
- **Front Running:** registrars mining their own web and WhoIs traffic to obtain insider information with regard to high-value second-level domains, which the registrar will then register to itself or an affiliated third party for sale or to generate advertising revenue;
- **WhoIs Accuracy:** Intentionally inserting false or misleading Registrant information into the TLD's WhoIs database in connection with the bad faith registration and use of the domain in question;
- **WhoIs Misuse:** abusing access to the WhoIs database by using Registrant information for data mining purposes or other malicious purposes;
- **Fake Renewal Notices;** misusing WhoIs Registrant information to send bogus renewal notices to Registrants on file with the aim of causing the Registrant to spend unnecessary money or steal or redirect the domain at issue.

#### Domain Anti-Abuse Procedure

DOT Registry will provide a domain name anti-abuse procedure modeled after the DMCA's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.LLC the Abuse Policy and the contact information for the Abuse Contact. Inquiries addressed to the Point of Contact will be addressed to and received by DOT Registry's Legal Team, who will review and if applicable remedy any Complaint regarding an alleged violation of the Abuse Policy. DOT Registry will catalog all abuse communications and provide them to third parties only under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any correspondence ("Complaint") from a complaining party ("Complainant") to the Abuse Contact will be ticketed in DOT Registry's CRM software and relayed to DOT Registry's Abuse Team. A member of DOT Registry's Abuse Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email and that DOT Registry will notify the Complainant of the results of the Complaint within ten (10) days of receiving the Complaint.

DOT Registry's Abuse Team will review the Complaint and give it a "quick look" to see if the Complaint reasonably falls within an abusive use as defined by the Abuse Policy. If not, the Contact will write an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated abusive uses as defined by the Abuse Policy and that DOT Registry considers the matter closed.

If the quick look does not resolve the matter, DOT Registry's Abuse Team will give the Complaint a full review. Any Registrant that has been determined to be in violation of DOT Registry policies shall be notified of the violation of such policy and their options to cure the violation.

Such notification shall state:

- 1) the nature of the violation;
- 2) the proposed remedy to the violation;
- 3) the time frame to cure the violation; and
- 4) the Registry's options to take subsequent action if the Registrant does not cure the violation.

If an abusive use is determined DOT Registry's Abuse Team will alert it's Registry services team to immediately cancel the resolution of the domain name. DOT Registry's Abuse Team will immediately notify the Registrant of the suspension of the domain name, the nature of the complaint, and provide the Registrant with the option to respond within ten (10) days or the domain will be canceled.

If the Registrant responds within ten (10) business days, it's response will be reviewed by the DOT Registry's Abuse Team for further review. If DOT Registry's Abuse Team is satisfied by the Registrant's response that the use is not abusive, DOT Registry's Abuse Team will submit a request by the registry services provider to reactivate the domain name. DOT Registry's Abuse Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the Registrant does not respond within ten (10) business days, DOT Registry will notify the registry services team to cancel the abusive domain name.

This Anti-Abuse Procedure will not prejudice either party's election to pursue another dispute mechanism, such as URS or UDRP.

With the resources of DOT Registry's registry services personnel, DOT Registry can meet its obligations under Section 2.8 of the Registry Agreement where required to take reasonable steps to investigate and respond to reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of its TLD. The Registry will respond to legitimate law enforcement inquiries within one (1) business day from receiving the request. Such response shall include, at a minimum, an acknowledgement of receipt of the request, questions, or comments concerning the request, and an outline of the next steps to be taken by Application for rapid resolution of the request.

In the event such request involves any of the activities which can be validated by DOT Registry and involves the type of activity set forth in the Abuse Policy, the sponsoring registrar is then given forty-eight (48) hours to investigate the activity further and either take down the domain name by placing the domain name on hold or by deleting the domain name in its entirety or providing a compelling argument to the registry to keep the name in the zone. If the registrar has not taken the requested action after the 48-hour period (i.e., is unresponsive to the request or refuses to take action), DOT Registry will place the domain on "serverHold".

#### Maintenance of Registration Criteria

If a Registrant previously awarded the ".LLC" domain ceases to be registered with a Secretary of State or legally applicable jurisdiction, such Registrant will be required to forfeit the assigned ".LLC" domain at their designated renewal date.

If DOT Registry discovers that a Registrant wrongfully applied for and was awarded a ".LLC" domain, then such ".LLC" will be immediately forfeited to DOT Registry.

If a Registrant previously awarded a ".LLC" domain is dissolved and/or forfeited for any reason, then such ".LLC" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".LLC" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".LLC" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

A Registrant's "Active" Status will be verified annually. Any Registrant not considered "Active" by the definition listed above in question 18 will be given a probationary warning, allowing time for the Registrant to restore itself to "Active" Status. If the Registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLC" will be forfeited. In addition, DOT Registry's definition of "Active" may change in accordance with the policies of the Secretaries of State.

## Orphan Glue Removal

As the Security and Stability Advisory Committee of ICANN (SSAC) rightly acknowledges, although orphaned glue records may be used for abusive or malicious purposes, the "dominant use of orphaned glue supports the correct and ordinary operation of the DNS." See <http://www.icann.org/en/committees/security/sac048.pdf>.

While orphan glue often supports correct and ordinary operation of the DNS, we understand that such glue records can be used maliciously to point to name servers that host domains used in illegal phishing, bot-nets, malware, and other abusive behaviors. Problems occur when the parent domain of the glue record is deleted but its children glue records still remain in the DNS. Therefore, when DOT Registry has written evidence of actual abuse of orphaned glue, DOT Registry will take action to remove those records from the zone to mitigate such malicious conduct.

DOT Registry's registry service operator will run a daily audit of entries in its DNS systems and compare those with its provisioning system. This serves as an umbrella protection to make sure that items in the DNS zone are valid. Any DNS record that shows up in the DNS zone but not in the provisioning system will be flagged for investigation and removed if necessary. This daily DNS audit serves to not only prevent orphaned hosts but also other records that should not be in the zone.

In addition, if either DOT Registry or its registry services operator becomes aware of actual abuse on orphaned glue after receiving written notification by a third party through its Abuse Contact or through its customer support, such glue records will be removed from the zone.

## WhoIs Accuracy

DOT Registry will provide WhoIs accessibility in a reliable, consistent, and predictable fashion in order to promote Whois accuracy. The Registry will adhere to port 43 WhoIs Service Level Agreements (SLAs), which require that port 43 WHOIS service be highly accessible and fast.

DOT Registry will offer thick WhoIs services, in which all authoritative WhoIs data—including contact data—is maintained at the registry. DOT Registry will maintain timely, unrestricted, and public access to accurate and complete WhoIs information, including all data objects as specified in Specification 4. Moreover, prior to the release of any domain names, DOT Registry's registrar will provide DOT Registry with an authorization code to verify eligible Registrants provide accurate Registrant contact information.

In order to further promote WhoIs accuracy, DOT Registry will offer a mechanism whereby third parties can submit complaints directly to the DOT Registry (as opposed to ICANN or the sponsoring Registrar) about inaccurate or incomplete WhoIs data. Such information shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the inaccuracies, DOT Registry reserves the right to cancel or suspend the applicable domain name(s) should DOT Registry determine that the domains are being used in a manner contrary to DOT Registry's abuse policy.

DOT Registry shall also require authentication and verification of all Registrant data. DOT Registry shall verify the certificates of incorporation, whether a Limited Liability Company is in active status, contact information, e-mail address, and, to the best of its



abilities, determine whether address information supplied is accurate. Second-level domains in the TLD shall not be operational unless two (2) out of three (3) of the above authentication methods have been satisfied.

With regard to registrars, DOT Registry shall provide financial incentives for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database.

DOT Registry will also maintain historical databases of Registrants and associated information which have provided inaccurate WhoIs information. DOT Registry will endeavor to use this database to uncover patterns of suspicious registrations which DOT Registry shall then flag for further authentication or for review of the Registrant's use of the domain in question to ensure Registrant's use is consonant with DOT Registry's abuse policy.

In addition, DOT Registry's Abuse Team shall on its own initiative, no less than twice per year, perform a manual review of a random sampling of domain names within the applied-for TLD to test the accuracy of the WhoIs information. Although this will not include verifying the actual information in the WHOIS record, DOT Registry will be examining the WHOIS data for prima facie evidence of inaccuracies. In the event that such evidence exists, it shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, the DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the inaccuracies, DOT Registry reserves the right to suspend the applicable domain name(s) should DOT Registry determine that the Registrant is using the domain in question in a manner contrary to DOT Registry's abuse policy. DOT Registry shall also reserve the right to report such recalcitrant registrar activities directly to ICANN.

#### Abuse Prevention and Mitigation – Domain Name Access

All domain name Registrants will have adequate controls to ensure proper access to domain functions.

In addition to the above, all domain name Registrants in the applied-for TLD will be required to name at least two (2) unique points of contact who are authorized to request and/or approve update, transfer, and deletion requests. The points of contact must establish strong passwords with the registrar that must be authenticated before a point of contact will be allowed to process updates, transfer, and deletion requests. Once a process update, transfer, or deletion request is entered, the points of contact will automatically be notified when a domain has been updated, transferred, or deleted through an automated system run by DOT Registry's registrar. Authentication of modified Registrant information shall be accomplished (48) hours.

## 29. Rights Protection Mechanisms

DOT Registry is committed to implementing strong and integrated Rights Protection Mechanisms (RPM). Use of domain names that infringe upon the legal rights of others in the TLD will not be tolerated. The nature of such uses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in

general. DOT Registry will protect the legal rights of others by implementing RPMs and anti-abuse policies backed by robust responsiveness to complaints and requirements of DOT Registry's registrars.

#### Trademark Clearinghouse

Each new gTLD Registry will be required to implement support for, and interaction with, the Trademark Clearinghouse ("Clearinghouse"). The Clearinghouse is intended to serve as a central repository for information to be authenticated, stored, and disseminated pertaining to the rights of trademark holders. The data maintained in the Clearinghouse will support and facilitate other RPMs, including the mandatory Sunrise Period and Trademark Claims service.

Utilizing the Clearinghouse, all operators of new gTLDs must offer: (i) a Sunrise registration service for at least 30 days during the pre-launch phase giving eligible trademark owners an early opportunity to register second-level domains in new gTLDs; and (ii) a Trademark Claims Service for at least the first 60 days that second-level registrations are open. The Trademark Claims Service is intended to provide clear notice to a potential registrant of the rights of a trademark owner whose trademark is registered in the Clearinghouse.

#### Sunrise A Period

DOT Registry will offer segmented Sunrise Periods. The initial Sunrise Period will last [minimum 30 days] for owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks. All domain names registered during the Sunrise Period will be subject to DOT Registry's domain name registration policy, namely, that all registrants be validly registered limited liability companies and all applied-for domains will only be awarded the ".LLC" domain that matches or includes a substantial part of the Registrant's legal name. DOT Registry will assign its Rights Protection Team; which is lead by our Director of Legal and Policy and further supported by two dedicated employees to receive and authenticate all Sunrise Registrations.

DOT Registry's registrar will ensure that all Sunrise Registrants meet sunrise eligibility requirements (SERs), which will be verified by Clearinghouse data. The proposed SERs include: (i) ownership of a mark that is (a) nationally or regionally registered and for which proof of use, such as a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse; or (b) that have been court-validated; or (c) that are specifically protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008, (ii) optional registry elected requirements concerning international classes of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

Upon receipt of the Sunrise application, DOT Registry will issue a unique tracking number to the Registrar, which will correspond to that particular application. All applications will receive tracking numbers regardless of whether they are complete. Applications received during the Sunrise period will be accepted on a first-come, first-served basis and must be active limited liability companies in good standing before they may be awarded the requested domain, or able to proceed to auction. Upon submission of all of the required information and documentation, registrar will forward the information to DOT Registry's [RPM Team] for authentication. DOT Registry's [RPM Team] will review the information and documentation and verify the trademark information, and notify the potential registrant of any deficiencies. If a registrant does not cure any trademark-related deficiencies and/or respond by the means listed within one (1) week, DOT Registry will notify its registrar and the domain name will be released for registration.

DOT Registry will incorporate a Sunrise Dispute Resolution Policy (SDRP). The SDRP will

allow challenges to Sunrise Registrations by third parties for a ten-day period after acceptance of the registration based on the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national or regional effect or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

After receiving a Sunrise Complaint, DOT Registry's [RPM Team] will review the Complaint to see if the Complaint reasonably asserts a legitimate challenge as defined by the SDRP. If not, DOT Registry's [RPM Team] will send an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated grounds as defined by the SDRP and that DOT Registry considers the matter closed.

If the domain name is not found to have adequately met the SERs, DOT Registry's [RPM Team] will alert the registrar and registry services provider to immediately suspend the resolution of the domain name. Thereafter, DOT Registry's [RPM Team] will immediately notify the Sunrise Registrant of the suspension of the domain name, the nature of the complaint, and provide the registrant with the option to respond within ten (10) days to cure the SER deficiencies or the domain name will be canceled.

If the registrant responds within ten (10) business days, its response will be reviewed by DOT Registry's [RPM Team] to determine if the SERs are met. If DOT Registry's [RPM Team] is satisfied by the registrant's response, DOT Registry's [RPM Team] will submit a request to the registrar and the registry services provider to unsuspend the domain name. DOT Registry's [RPM Team] will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial.

Names secured as described through the Sunrise AT-AD processes will result in the registration of resolving domain names at the registry. Names reserved through the Sunrise B process will not result in resolving domain name at DOT Registry. Rather, these names will be reserved and blocked from live use. The applied for string will resolve to an informational page informing visitors that the name is unavailable for registration and reserved from use.

Applications that fit the following criteria will be considered during the Sunrise A period: Applicant owns and operates an existing domain name in another gTLD or ccTLD, in connection with eligible commerce and satisfies the registration requirements described in Section 1.

#### Sunrise B

Applications that fit the following criteria will be considered during the Sunrise B period:

- a) Applicant holds valid trademark registrations or owns rights to a particular name and wishes to block the use of such name.
- b) The Applicant must seek to block a name that corresponds to the entire text of its trademark or the complete textual component of a graphical or compound trademark. Certain variances are permitted for trademarks containing spaces or special characters that are not available for domain names.

Any entity, applying for blocks under Sunrise B as a non-member of the sponsored community cannot apply for names in the TLD.

#### Founder's Program

Applications for the Founder's Program will be accepted after the close of the Sunrise

Periods. Potential registrants should understand that certain expectations, as described herein will accompany the issuance of a domain name under the Founder's Program and all registrations resulting from this program will be required to follow the below listed guidelines, which will be further described in their Program Agreement:

- a) Registrants awarded a domain through the Founder's Program must use their best efforts to launch a ".LLC" website within 30 days of signing the Program Agreement.
  - b) In addition, each registrant will be required to issue a press release announcing the launch of their ".LLC" Founder Website, concurrent with the launch of their .INC Founder Website, said press release must be approved by DOT Registry;
  - c) Founder's websites should be kept good working order, with unique, meaningful content, user-friendly interfaces, and broad user appeal, for the duration of the License Term,
  - d) Founders are expected to proactively market and promote ".LLC" gTLD in a manner that is likely to produce widespread awareness of the unique advantages gained through the ".LLC" string.
  - e) Founders are expected to participate in reasonable joint marketing initiatives with DOT Registry or its Agents, these would be discussed and mutually agreed upon, given the unique circumstances of each marketing venture.
  - f) Founders will allow DOT Registry to use in good faith Founder's name, likeness, trademarks, logos, and Application contents (other than Confidential Information,) as well as other Founder information and content as may be mutually agreed, in DOT Registry's marketing, promotional and communications materials.
- DOT Registry will randomly verify compliance of the above listed expectations and have the right to revoke any Founder's site, should they be deemed non-compliant.

Additionally, DOT Registry may suspend or delete a Founder's site without prior notice to the Registrar or Registrant if the Founder's site is deemed in violation of any of DOT Registry's registration guidelines or policies.

Registrants participating in the Founders program will receive 25% off their initial registration fees, additional discounts may be offered to founders at the time of renewal, should DOT Registry choose to offer additional discounts to founders or term extensions (not to exceed 5 years) DOT Registry will seek advance approval from ICANN via the specified channels.

#### Landrush

Landrush is a limited time opportunity for companies that want to secure a high value ".LLC" name for a small fee (above the basic registration cost). The landrush period will last 30 days. Applications will be accepted and evaluated to determine if they meet the requirements for registration. At the end of the Landrush period domain names with only one application will be awarded directly to the Applicant. Domain names with two or more applications will proceed to a closed mini auction, between the respective Applicants, where the highest bidder wins.

#### General Availability Period

Applicant must meet registration requirements.

Names will be awarded on a first-come, first serve basis which is determined as of the time of the initial request, not when authentication occurs.

#### Domain Name Contentions

Name contentions will arise when both a Sunrise A and Sunrise B application are submitted for the same name, the following actions will be taken to resolve the contention.

- a) Both Applicants will be notified of the contention and the Sunrise A Applicant will be given first right to either register their requested domain or withdraw their application. Since ".LLC" is a sponsored community domain for registered limited liability companies, a domain applied for under Sunrise A will, all else being equal, receive priority over the identical domain applied for under Sunrise B. Sunrise A names get priority over Sunrise B names.
- b) If the Sunrise A Applicant chooses to register their name regardless of the

contention, then the Sunrise B Applicant may choose to pursue further action independently of Applicant to contest the name.

c) If two Sunrise A Applicant's apply for the same domain name (i.e., Delta Airlines and Delta Faucet both seek to be awarded the use of DELTA.LLC) then DOT Registry will notify both Applicants of the contention and proceed to an auction process as described in Section 9.

d) If a Sunrise A Applicant and a Landrush Applicant apply for the same domain name, the Sunrise A Applicant, all else being equal will have priority over the Landrush Applicant.

e) If two Sunrise B Applicants apply for the same domain name (i.e., Delta Airlines and Delta Faucet, both seek to block the use of DELTA.LLC), then DOT Registry will accept both applications as valid and block the use of the indicated domain.

#### Appeal of Rejected Sunrise Applications

An Applicant can file a request for reconsideration within 10 days of the notification of DOT Registry's rejection. Reconsideration can be requested by completing a reconsideration form and filing a reconsideration fee with DOT Registry. Forms, fee information, and process documentation will be available on the DOT Registry website. Upon receipt of the reconsideration form and the corresponding fee, DOT Registry or its Agents will re-examine the application, and notify the Registrant of all findings or additional information needed. The Request for Reconsideration must be submitted through the Registrant's registrar, and a reconsideration fee must be paid to DOT Registry.

#### Auctions

Sunrise A names found to be in contention as described above will result in Auction. DOT Registry plans to have a qualified third party conduct our auction processes, therefore the rules contained in this document are subject to change based on the selection of an auctioneer:

a) When your auction account is created, it will be assigned a unique bidder alias in order to ensure confidential bidding. The bidder alias will not reflect any information about your account. You may change your bidder alias to a name of your choosing but once set, it cannot be changed again.

b) All auction participants are expected to keep their account information current, throughout the auction process.

c) Auction participants will receive up to date communication from the auctioneer as the auction progresses, bidding status changes, or issues arise.

d) Bidding

i) Auctions will follow a standard process flow: scheduled (upcoming), open and closed.

ii) You will receive an "Auction Scheduled" notice at least ten (10) days prior to the scheduled auction start date. You will receive an "Auction Start" notice on the auction start date, which will indicate that you may begin placing bids through the interface. Once closed, the auction is complete and if you are the winning bidder, you will proceed to the payment process.

iii) If you choose to bid for a particular domain and you are the highest bidder at the end of an auction, you are obligated to complete the transaction and pay the Auctioneer the amount of your winning bid. Carefully consider your bids prior to placing them - bids are not retractable under any circumstances.

iv) If no bids are placed on a particular domain, the Registry will register the domain on behalf of the first customer (in the respective phase) to submit an application through a registrar.

e) Extensions

i) A normal auction period is anticipated to last a minimum of 7 (seven) days. However, in the event of significant auction activity, an auction close may extend during the last twenty-four (24) hours of scheduled operation to better need the volume of the auction.

ii) Auction extensions are meant to provide a mechanism that is fair for bidders in all time zones to respond to being outbid.

iii) An auction extension will occur whenever the auction lead changes in the last twenty four (24) hours of the schedule of an auction. The close will be revised to reflect a new closing time set at twenty four (24) hours after the change in auction lead occurred. Essentially, this means that a winning maximum bid has to remain unchallenged for a period of twenty four (24) hours before the auction will close.

iv) It is important to note that extensions are not simply based on the auction value changing since this could occur as a result of proxy bidding where the same bidder retains their lead. In this case, the maximum bid has not changed, the leader has not changed and therefore no extension will occur.

f) Payment Default

In the event that you as the winning bidder decide not to honor your payment obligations (or in the event of a reversal of payment or a charge back by a credit card company or other payment provider) on any outstanding balance, the Registry has the right to cancel any/all of your winning registrations for any .LLC domain name, regardless of whether they have been paid for or not. You do not have the right to "pick and choose" the names you wish to keep or not keep. Winning an auction creates an obligation to remit payment. Failure to remit payment is a breach of your agreement.. You will lose any previously won domains and will no longer be allowed to bid on any current or future auctions sponsored by DOT Registry. Participants are encouraged therefore to consider carefully each bid submitted as any bid could be a winning bid.

#### Trademark Claims Service

DOT Registry will offer a Trademark Claims Service indefinitely to provide maximum protection and value to rights holders. The Trademark Claims Service will be monitored and operated by DOT Registry's RPM Team that will receive all communications regarding the Trademark Claims Service and catalog them. DOT Registry's registrar will review all domain name requests to determine if they are an identical match of a trademark filed with the Trademark Clearinghouse. A domain name will be considered an identical match when the domain name consists of the complete and identical textual elements of the mark, and includes domain names where (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) certain special characters contained within a trademark are spelled out with appropriate words describing it (e.g., @ and &); and (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name are either (i) omitted or (ii) replaced by spaces, hyphens or underscores. Domain names that are plural forms of a mark, or that merely contain a mark, will not qualify as an identical match.

If the registrar determines that a prospective domain name registration is identical to a mark registered in the Trademark Clearinghouse, the registrar will be required to email a "Trademark Claims Notice" (Notice) in English to the protective registrant of the domain name and copy DOT Registry's RPM Team. The Notice will provide the prospective registrant information regarding the trademark referenced in the Trademark Claims Notice to enhance understanding of the Trademark rights being claimed by the trademark holder. The Notice will be provided in real time without cost to the prospective registrant.

After receiving the notice, the registrar will provide the prospective registrant five (5) days to reply to the Trademark Claims Service with a signed document that specifically warrants that: (i) the prospective registrant has received notification that the mark is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge the registration and use of the requested domain name will not infringe on the rights that are the subject of the notice. If the warranty document satisfies these requirements, the registrar will effectuate the registration and notify DOT Registry's RPM Team.

After the effectuation of a registration that is identical to a mark listed in the Trademark Clearinghouse, the registrar will provide clear notice to the trademark owner

consisting of the domain name that has been registered and copy DOT Registry's RPM Team. The trademark owner then has the option of filing a Complaint under the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS).

#### Uniform Rapid Suspension System (URS)

DOT Registry will specify in the Registry Agreement, all RRAs, and all Registration Agreements used in connection with the TLD that it and its registrars will abide by all decisions made by panels in accordance with the Uniform Rapid Suspension System (URS). DOT Registry's RPM Team will receive all URS Complaints and decisions, and will notify its registrar to suspend all registrations determined by a URS panel to be infringing within a commercially reasonable time of receiving the decision. DOT Registry's RPM Team will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Uniform Domain Name Dispute Resolution Policy (UDRP)

DOT Registry will specify in the Registry Agreement, all Registry-Registrar Agreements, and Registration Agreements used in connection with the TLD that it will promptly abide by all decisions made by panels in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP). DOT Registry's RPM Team will receive all UDRP Complaints and decisions, and will notify its registrar to cancel or transfer all registrations determined to be infringing within ten (10) business days of receiving the decision. DOT Registry's [RPM Team] will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Proven Registrars

In order to reduce abusive registrations and other activities that affect the legal rights of others, DOT Registry will only contract with ICANN-accredited registrars. The registrar, according to the RRA, will not be able to register any domain names, thus eliminating the possibility of front-running.

#### Pre-Authorization and Authentication

Registrant authentication shall occur in accordance with the registration eligibility criteria and the Anti-Abuse Policy for .LLC as set forth in Question 28.

The verification process is designed to prevent a prospective registrant from providing inaccurate or incomplete data, such that, if necessary, the registrant can be readily contacted regarding an infringing use of its site; indeed, the process (including verification of a registrant's certificate of incorporation) is designed to ensure that only qualified members of the community are permitted to register in the TLD.

DOT Registry will not permit registrants to use proxy services.

#### Thick WhoIs

DOT Registry will include a thick WhoIs database as required in Specification 4 of the Registry agreement. A thick WhoIs provides numerous advantages including a centralized location of registrant information, the ability to more easily manage and control the accuracy of data, and a consistent user experience.

#### Grace Period

If a Registrant previously awarded a ".LLC" domain is dissolved and/or forfeited for any reason, then such ".LLC" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".LLC" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".LLC" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

#### Takedown Procedure

DOT Registry will provide a Takedown Procedure modeled after the Digital Millennium Copyright Act's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.LLC contact information for receiving rights protection complaints (Complaint) from rights holders, including but not limited to trademark and copyright Complaints. Complaints will be addressed to and received by DOT Registry's RPM Team who will catalogue and ticket in DOT Registry's CRM software and review as outlined herein. DOT Registry will catalog all rights protection communications and only provide them to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any Complaint from a rights holder will be relayed to DOT Registry's RPM Team. A member of DOT Registry's RPM Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email, and that DOT Registry will notify the Complainant of the results of the Complaint within (10) days of receiving the Complaint.

After sending the confirmation email, DOT Registry's RPM Team will review the Complaint. If DOT Registry or its registrar determines that the registration was in bad faith, DOT Registry or its registrar may cancel or suspend the resolution of the domain name. Bad faith registration includes, but is not limited to, the registration of a domain identical to a registered trademark where the registrant has proceeded with registration after receipt of a Clearinghouse notice, as described above.

If the registrant responds within ten (10) business days, its response will be reviewed by the DOT Registry's RPM Team. If DOT Registry's RPM Team is satisfied by the registrant's response that the content has been taken down or is not infringing, DOT Registry's RPM Team will unsuspend the domain name. DOT Registry's RPM Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the registrant does not respond within ten (10) business days, DOT Registry or its registrar may cancel or suspend the resolution of the domain name.

This Takedown Procedure will not prejudice any party's election to pursue another dispute mechanism, such as URS or UDRP, as set forth in DOT Registry's response to Question 28.

## 30(a). Security Policy: Summary of the security policy for the proposed registry

### 29.1 Rights Protection Mechanisms



DOT Registry is firmly committed to the protection of Intellectual Property rights and to implementing the mandatory rights protection mechanisms contained in the Applicant Guidebook and detailed in Specification 7 of the Registry Agreement. ".LLC" recognizes that although the New gTLD program includes significant protections beyond those that were mandatory for a number of the current TLDs, a key motivator for ".LLC"'s selection of Neustar as its registry services provider is Neustar's experience in successfully launching a number of TLDs with diverse rights protection mechanisms, including many the ones required in the Applicant Guidebook. More specifically, ".LLC" will implement the following rights protection mechanisms in accordance with the Applicant Guidebook as further described below:

- Trademark Clearinghouse: a one-stop shop so that trademark holders can protect their trademarks with a single registration.
- Sunrise and Trademark Claims processes for the TLD.
- Implementation of the Uniform Dispute Resolution Policy to address domain names that have been registered and used in bad faith in the TLD.
- Uniform Rapid Suspension: A quicker, more efficient and cheaper alternative to the Uniform Dispute Resolution Policy to deal with clear cut cases of cybersquatting.
- Implementation of a Thick WHOIS making it easier for rights holders to identify and locate infringing parties

#### 29.1.1 Trademark Clearinghouse Including Sunrise and Trademark Claims

The first mandatory rights protection mechanism (RPM) required to be implemented by each new gTLD Registry is support for, and interaction with, the trademark clearinghouse. The trademark clearinghouse is intended to serve as a central repository for information to be authenticated, stored and disseminated pertaining to the rights of trademark holders. The data maintained in the clearinghouse will support and facilitate other RPMs, including the mandatory Sunrise Period and Trademark Claims service. Although many of the details of how the trademark clearinghouse will interact with each registry operator and registrars, ".LLC" is actively monitoring the developments of the Implementation Assistance Group (IAG) designed to assist ICANN staff in firming up the rules and procedures associated with the policies and technical requirements for the trademark clearinghouse. In addition, ".LLC"'s back-end registry services provider is actively participating in the IAG to ensure that the protections afforded by the clearinghouse and associated RPMs are feasible and implementable.

Utilizing the trademark clearinghouse, all operators of new gTLDs must offer: (i) a sunrise registration service for at least 30 days during the pre-launch phase giving eligible trademark owners an early opportunity to register second-level domains in new gTLDs; and (ii) a trademark claims service for at least the first 60 days that second-level registrations are open. The trademark claim service is intended to provide clear notice" to a potential registrant of the rights of a trademark owner whose trademark is registered in the clearinghouse.

<TLD's> registry service provider, Neustar, has already implemented Sunrise and/or Trademark Claims programs for numerous TLDs including .biz, .us, .travel, .tel and .co and will implement the both of these services on behalf of ".LLC".

#### 29.1.1.1 Neustar's Experience in Implementing Sunrise and Trademark Claims Processes

In early 2002, Neustar became the first registry operator to launch a successful authenticated Sunrise process. This process permitted qualified trademark owners to pre-register their trademarks as domain names in the .us TLD space prior to the opening of the space to the general public. Unlike any other Sunrise plans implemented (or proposed before that time), Neustar validated the authenticity of Trademark applications and registrations with the United States Patent and Trademark Office (USPTO).

Subsequently, as the back-end registry operator for the .tel gTLD and the .co ccTLD, Neustar launched validated Sunrise programs employing processes. These programs are very similar to those that are to be employed by the Trademark Clearinghouse for new gTLDs.

Below is a high level overview of the implementation of the .co Sunrise period that demonstrates Neustar's experience and ability to provide a Sunrise service and an overview of Neustar's experience in implementing a Trademark Claims program to trademark owners for the launch of .BIZ. Neustar's experience in each of these rights protection mechanisms will enable it to seamlessly provide these services on behalf of ".LLC" as required by ICANN.

##### a) Sunrise and .co

The Sunrise process for .co was divided into two sub-phases:

-Local Sunrise giving holders of eligible trademarks that have obtained registered status from the Colombian trademark office the opportunity apply for the .CO domain names corresponding with their marks

-Global Sunrise program giving holders of eligible registered trademarks of national effect, that have obtained a registered status in any country of the world the opportunity apply for the .CO domain names corresponding with their marks for a period of time before registration is open to the public at large.

Like the new gTLD process set forth in the Applicant Guidebook, trademark owners had to have their rights validated by a Clearinghouse provider prior to the registration being

accepted by the Registry. The Clearinghouse used a defined process for checking the eligibility of the legal rights claimed as the basis of each Sunrise application using official national trademark databases and submitted documentary evidence.

Applicants and/or their designated agents had the option of interacting directly with the Clearinghouse to ensure their applications were accurate and complete prior to submitting them to the Registry pursuant to an optional Pre-validation Process. Whether or not an applicant was pre-validated, the applicant had to submit its corresponding domain name application through an accredited registrar. When the Applicant was pre-validated through the Clearinghouse, each was given an associated approval number that it had to supply the registry. If they were not pre-validated, applicants were required to submit the required trademark information through their registrar to the Registry.

As the registry level, Neustar, subsequently either delivered the:

-Approval number and domain name registration information to the Clearinghouse

-When there was no approval number, trademark information and the domain name registration information was provided to the

Clearinghouse through EPP (as is currently required under the Applicant Guidebook).

Information was then used by the Clearinghouse as either further validation of those pre-validated applications, or initial validation of those that did not go through pre-validation. If the applicant was validated and their trademark matched the domain name applied-for, the Clearinghouse communicated that fact to the Registry via EPP.

When there was only one validated sunrise application, the application proceeded to registration when the .co launched. If there were multiple validated applications (recognizing that there could be multiple trademark owners sharing the same trademark), those were included in the .co Sunrise auction process. Neustar tracked all of the information it received and the status of each application and posted that status on a secure Website to enable trademark owners to view the status of its Sunrise application.

Although the exact process for the Sunrise program and its interaction between the trademark owner, Registry, Registrar, and IP Clearinghouse is not completely defined in the Applicant Guidebook and is dependent on the current RFI issued by ICANN in its selection of a Trademark Clearinghouse provider, Neustar's expertise in launching multiple Sunrise processes and its established software will implement a smooth and compliant Sunrise process for the new gTLDs.

b) Trademark Claims Service Experience

With Neustar's biz TLD launched in 2001, Neustar became the first TLD with a Trademark Claims service. Neustar developed the Trademark Claim Service by enabling companies to stake claims to domain names prior to the commencement of live .biz domain registrations.

During the Trademark Claim process, Neustar received over 80,000 Trademark Claims from entities around the world. Recognizing that multiple intellectual property owners could have trademark rights in a particular mark, multiple Trademark Claims for the same string were accepted. All applications were logged into a Trademark Claims database managed by Neustar.

The Trademark Claimant was required to provide various information about their trademark rights, including the:

- Particular trademark or service mark relied on for the trademark Claim
- Date a trademark application on the mark was filed, if any, on the string of the domain name
- Country where the mark was filed, if applicable
- Registration date, if applicable
- Class or classes of goods and services for which the trademark or service mark was registered
- Name of a contact person with whom to discuss the claimed trademark rights.

Once all Trademark Claims and domain name applications were collected, Neustar then compared the claims contained within the Trademark Claims database with its database of collected domain name applications (DNAs). In the event of a match between a Trademark Claim and a domain name application, an e-mail message was sent to the domain name applicant notifying the applicant of the existing Trademark Claim. The e-mail also stressed that if the applicant chose to continue the application process and was ultimately selected as the registrant, the applicant would be subject to Neustar's dispute proceedings if challenged by the Trademark Claimant for that particular domain name.

The domain name applicant had the option to proceed with the application or cancel the application. Proceeding on an application meant that the applicant wanted to go forward and have the application proceed to registration despite having been notified of an existing Trademark Claim. By choosing to cancel, the applicant made a decision in light of an existing Trademark Claim notification to not proceed.

If the applicant did not respond to the e-mail notification from Neustar, or elected to cancel the application, the application was not processed. This resulted in making the applicant ineligible to register the actual domain name. If the applicant affirmatively elected to continue the application process after being notified of the claimant's (or claimants') alleged trademark rights to the desired domain name, Neustar processed the

application.

This process is very similar to the one ultimately adopted by ICANN and incorporated in the latest version of the Applicant Guidebook. Although the collection of Trademark Claims for new gTLDs will be by the Trademark Clearinghouse, many of the aspects of Neustar's Trademark Claims process in 2001 are similar to those in the Applicant Guidebook. This makes Neustar uniquely qualified to implement the new gTLD Trademark Claims process.

#### 29.1.2 Uniform Dispute Resolution Policy (UDRP) and Uniform Rapid Suspension (URS)

##### 29.1.2.1 UDRP

Prior to joining Neustar, Mr. Neuman was a key contributor to the development of the Uniform Dispute Resolution Policy (UDRP) in 1998. This became the first Consensus Policy of ICANN and has been required to be implemented by all domain name registries since that time. The UDRP is intended as an alternative dispute resolution process to transfer domain names from those that have registered and used domain names in bad faith. Although there is not much of an active role that the domain name registry plays in the implementation of the UDRP, Neustar has closely monitored UDRP decisions that have involved the TLDs for which it supports and ensures that the decisions are implemented by the registrars supporting its TLDs. When alerted by trademark owners of failures to implement UDRP decisions by its registrars, Neustar either proactively implements the decisions itself or reminds the offending registrar of its obligations to implement the decision.

##### 29.1.2.2 URS

In response to complaints by trademark owners that the UDRP was too cost prohibitive and slow, and the fact that more than 70 percent of UDRP cases were clear cut cases of cybersquatting, ICANN adopted the IRT's recommendation that all new gTLD registries be required, pursuant to their contracts with ICANN, to take part in a Uniform Rapid Suspension System (URS). The purpose of the URS is to provide a more cost effective and timely mechanism for brand owners than the UDRP to protect their trademarks and to promote consumer protection on the Internet.

The URS is not meant to address Questionable cases of alleged infringement (e.g., use of terms in a generic sense) or for anti-competitive purposes or denial of free speech, but rather for those cases in which there is no genuine contestable issue as to the infringement and abuse that is taking place.

Unlike the UDRP which requires little involvement of gTLD registries, the URS envisages much more of an active role at the registry-level. For example, rather than requiring the

registrar to lock down a domain name subject to a UDRP dispute, it is the registry under the URS that must lock the domain within 24 hours of receipt of the complaint from the URS Provider to restrict all changes to the registration data, including transfer and deletion of the domain names.

In addition, in the event of a determination in favor of the complainant, the registry is required to suspend the domain name. This suspension remains for the balance of the registration period and would not resolve the original website. Rather, the nameservers would be redirected to an informational web page provided by the URS Provider about the URS.

Additionally, the WHOIS reflects that the domain name will not be able to be transferred, deleted, or modified for the life of the registration. Finally, there is an option for a successful complainant to extend the registration period for one additional year at commercial rates.

".LLC" is fully aware of each of these requirements and will have the capability to implement these requirements for new gTLDs. In fact, during the IRT's development of the URS, Neustar began examining the implications of the URS on its registry operations and provided the IRT with feedback on whether the recommendations from the IRT would be feasible for registries to implement.

Although there have been a few changes to the URS since the IRT recommendations, Neustar continued to participate in the development of the URS by providing comments to ICANN, many of which were adopted. As a result, Neustar is committed to supporting the URS for all of the registries that it provides back-end registry services.

#### 29.1.3 Implementation of Thick WHOIS

The ".LLC" registry will include a thick WHOIS database as required in Specification 4 of the Registry agreement. A thick WHOIS provides numerous advantages including a centralized location of registrant information, the ability to more easily manage and control the accuracy of data, and a consistent user experience.

#### 29.1.4 Policies Handling Complaints Regarding Abuse

In addition to the Rights Protection mechanisms addressed above, DOT Registry will implement a number of measures to handle complaints regarding the abusive registration of domain names in its TLD as described in <TLD's> response to Question 28.

##### 29.1.4.1 Registry Acceptable Use Policy

One of the key policies each new gTLD registry is the need to have is an Acceptable Use Policy that clearly delineates the types of activities that constitute abuse and the repercussions associated with an abusive domain name registration. The policy must be incorporated into the applicable Registry-Registrar Agreement and reserve the right for the registry to take the appropriate actions based on the type of abuse. This may include locking down the domain name preventing any changes to the contact and nameserver information associated with the domain name, placing the domain name on hold rendering the domain name non-resolvable, transferring to the domain name to another registrar, and/or in cases in which the domain name is associated with an existing law enforcement investigation, substituting name servers to collect information about the DNS queries to assist the investigation. ".LLC"'s Acceptable Use Policy, set forth in our response to Question 28, will include prohibitions on phishing, pharming, dissemination of malware, fast flux hosting, hacking, and child pornography. In addition, the policy will include the right of the registry to take action necessary to deny, cancel, suspend, lock, or transfer any registration in violation of the policy.

#### 29.1.4.2 Monitoring for Malicious Activity

".LLC" is committed to ensuring that those domain names associated with abuse or malicious conduct in violation of the Acceptable Use Policy are dealt with in a timely and decisive manner. These include taking action against those domain names that are being used to threaten the stability and security of the TLD, or is part of a real-time investigation by law enforcement.

Once a complaint is received from a trusted source, third-party, or detected by the Registry, the Registry will use commercially reasonable efforts to verify the information in the complaint. If that information can be verified to the best of the ability of the Registry, the sponsoring registrar will be notified and be given 12 hours to investigate the activity and either take down the domain name by placing the domain name on hold or by deleting the domain name in its entirety or providing a compelling argument to the Registry to keep the name in the zone. If the registrar has not taken the requested action after the 12-hour period (i.e., is unresponsive to the request or refuses to take action), the Registry will place the domain on ServerHold. Although this action removes the domain name from the TLD zone, the domain name record still appears in the TLD WHOIS database so that the name and entities can be investigated by law enforcement should they desire to get involved.

#### 29.2 Safeguards against Unqualified Registrations

IN THE EVENT, ".LLC" IS VERIFYING INFORMATION SUPPLIED BY REGISTRANTS TO ENSURE THAT A REGISTRANT IS QUALIFIED TO REGISTER A DOMAIN, INFORMATION FROM THE APPLICANT SHOULD BE INSERTED IN THIS SECTION. IT IS NOT REQUIRED BY ICANN IN ORDER TO SCORE A 1 MEETS REQUIREMENTS, BUT MAY BE REQUIRED TO GET A SCORE OF 2 ON THIS QUESTION. THIS IS NOT PART OF NEUSTAR'S REGISTRY SERVICES OFFERING.

### 29.3 Resourcing Plans

The rights protection mechanisms described in the response above involve a wide range of tasks, procedures, and systems. The responsibility for each mechanism varies based on the specific requirements. In general the development of applications such as sunrise and IP claims is the responsibility of the Engineering team, with guidance from the Product Management team. Customer Support and Legal play a critical role in enforcing certain policies such as the rapid suspension process. These teams have years of experience implementing these or similar processes.

The necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

~~-Development-En~~

**© Internet Corporation For Assigned Names and Numbers.**





## New gTLD Application Submitted to ICANN by: Dot Registry LLC

**String:** llp

**Originally Posted:** 13 June 2012

**Application ID:** 1-880-35508

### Applicant Information

#### 1. Full legal name

Dot Registry LLC

#### 2. Address of the principal place of business

6600 College BLVD  
Suite 125  
Overland Park Kansas 66211  
US

#### 3. Phone number

9136004088

#### 4. Fax number

8169947333

#### 5. If applicable, website or URL

### Primary Contact

#### 6(a). Name

Ms. Tess Pattison-Wade

#### 6(b). Title

Executive Director

#### 6(c). Address

#### 6(d). Phone Number

8168986598

#### 6(e). Fax Number

#### 6(f). Email Address

tpw5029@hotmail.com

## Secondary Contact

### 7(a). Name

Shaul Jolles

### 7(b). Title

CEO

### 7(c). Address

### 7(d). Phone Number

8162007080

### 7(e). Fax Number

### 7(f). Email Address

sjolles@gmail.com

## Proof of Legal Establishment

### 8(a). Legal form of the Applicant

Limited Liability Company

**8(b). State the specific national or other jurisdiction that defines the type of entity identified in 8(a).**

Kansas

**8(c). Attach evidence of the applicant's establishment.**

Attachments are not displayed on this form.

**9(a). If applying company is publicly traded, provide the exchange and symbol.**

**9(b). If the applying entity is a subsidiary, provide the parent company.**

**9(c). If the applying entity is a joint venture, list all joint venture partners.**

## Applicant Background

**11(a). Name(s) and position(s) of all directors**

Christopher Michael Parrott	Director of Finance
Paul Eugene Spurgeon	COO
Scott Adam Schactman	Director Law & Policy
Shaul Jolles	CEO

**11(b). Name(s) and position(s) of all officers and partners**

**11(c). Name(s) and position(s) of all shareholders holding at least 15% of shares**

Ecyber Solutions Group Inc	not applicable
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**11(d). For an applying entity that does not have directors, officers, partners, or shareholders: Name(s) and position(s) of all individuals having legal or executive responsibility**

## **Applied-for gTLD string**

**13. Provide the applied-for gTLD string. If an IDN, provide the U-label.**

llp

**14(a). If an IDN, provide the A-label (beginning with "xn--").**

**14(b). If an IDN, provide the meaning or restatement of the string in English, that is, a description of the literal meaning of the string in the opinion of the applicant.**

**14(c). If an IDN, provide the language of the label (in English).**

**14(c). If an IDN, provide the language of the label (as referenced by ISO-639-1).**

**14(d). If an IDN, provide the script of the label (in English).**

**14(d). If an IDN, provide the script of the label (as referenced by ISO 15924).**

**14(e). If an IDN, list all code points contained in the U-label according to Unicode form.**

**15(a). If an IDN, Attach IDN Tables for the proposed registry.**

Attachments are not displayed on this form.

**15(b). Describe the process used for development of the IDN tables submitted, including consultations and sources used.**

**15(c). List any variant strings to the applied-for gTLD string according to the relevant IDN tables.**

**16. Describe the applicant's efforts to ensure that there are no known operational or rendering problems concerning the applied-for gTLD string. If such issues are known, describe steps that will be taken to mitigate these issues in software and other applications.**

There are no known operational or rendering issues associated with our applied for string. We are relying on the proven capabilities of Neustar to troubleshoot and quickly eliminate these should they arise.

**17. (OPTIONAL) Provide a representation of the label according to the International Phonetic Alphabet (<http://www.langsci.ucl.ac.uk/ipa/>).**

## **Mission/Purpose**

## 18(a). Describe the mission/purpose of your proposed gTLD.

To build confidence, trust, reliance and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Partnerships. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Partnerships. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".LLP" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Community of Registered Limited Liability Partnerships

## 18(b). How do you expect that your proposed gTLD will benefit registrants, Internet users, and others?

With the increased popularity of the Internet as a consumer marketplace and the ease with which individuals are able to access information online, it is essential that safeguards be put in place to validate and identify legitimate businesses.

Businesses representing themselves at Limited Liability Partnerships by including LLP in their business names create an expectation amongst consumers that they have the legal right, to conduct business as a Limited Liability Partnership. Unfortunately, consumers are currently unable to quickly verify the accuracy of this representation. Fraudulent business entities rely on this consumer assumption and the lack of available verification resources to prey on both businesses and consumers. As online commerce replaces the brick-and-mortar businesses there has been a corresponding rise in business identity theft online, which in turn creates a lack of consumer confidence.

In the vast majority of states, the Secretary of State is responsible for overseeing the registration of business entities – from the registration of corporations or the verification of business filings, to the administration of the Uniform Commercial Code, an act which provides for the uniform application of business contracts and practices across the United States. The Secretaries' role is critical to the chartering of businesses (including, but not limited to the formation of Limited Liability Partnerships) that wish to operate in their state. In this regard, the Secretaries of State maintain all records of business activities within the state, and in some states, the Secretary of State has wide-ranging regulatory authority over businesses as well.

The ".LLP" gTLD will be exclusively available to members of the Community of Registered Limited Liability Partnerships, as verified through each applicant's Secretary of States Office. By verifying that an applicant is a registered Limited Liability Partnership, DOT Registry will be able to bring unprecedented clarity and security to consumers and business owners, assuring internet users, registry applicants, and others that web addresses ending in ".LLP" are a hallmark of a valid Limited Liability Partnership recognized by a governmental authority of the United States. This process will decrease the possibility of identity misrepresentation in a cyber setting and assist lesser-known businesses in legitimizing their services to consumers.

In January 2012 after many public forums and contributions from consumer advocates, the Business Services Committee of the National Association of Secretary of States (NASS) released the NASS White Paper on Business Identity Theft, indicating that at least 26 states have reported business identity theft cases resulting from fraudulent business representations online. North Carolina Secretary of State Elaine Marshall, who serves as Co-Chair of the NASS Business Services Committee, indicates that the primary function of

the White Paper is to, "Harness new technology to develop cost-effective solutions, and ultimately make it harder for identity thieves to prey upon state-based businesses."

With the implementation of the ".LLP" gTLD, consumers would have the ability to quickly identify the presented business as a valid US Limited Liability Partnership. As ".LLP" registrations grow, we will see a reduction in the ease with which criminals are able to hide behind fictitious entities because consumers will be conditioned to look for the appropriate gTLD ending before conducting business online. This simple gTLD extension would provide an efficient and cost effective solution to a growing economic concern in the United States by creating the first ever verifiable online business community network. Through this innovative concept, the DNS system will help to build a stronger more resilient business platform for members of the Community of Registered Limited Liability Partnerships, while fostering user confidence, by ensuring accurate business representation.

It is our goal to provide an efficient and secure application process by minimizing the input required by the registrant and creating a streamlined, efficient evaluation process. We will accomplish this by reviewing the applicant's proof of business registration with their state. Registry Applicants will only be awarded a domain through DOT Registry if the Registrant is an active member of the Community of Registered Limited Liability Partnerships. "Active" in this context can be defined as any Limited Liability Partnership registered with a Secretary of State in the United States and it's territories, that is determined to be authorized to conduct business within the state at the time of registration. Registrants "Active" status will be verified on an annual basis to ensure the reputation and validity of the ".LLP" gTLD.

DOT Registry will also ensure that registrants are represented by a web address that is both simple and intuitive allowing for easy recognition by search engines and Internet users. Awarded addresses will identify the registrants company and may be presented in the shortest most memorable way.

At DOT Registry, we believe in complete transparency, consistent with the Secretary of State's Policy with regard to "Active" members of the Community of Registered Limited Liability Partnerships becoming publicly recorded upon completion of their entity registration process. Further, DOT Registry is informed by the position of the Task Force for Financial Integrity and Economic Development, which was created to advocate for improved levels of transparency and accountability in regards to beneficial ownership, control, and accounts of companies. Over the last decade the Task Force has focused specifically on combatting fraudulent business registrations which result in "fake" entities absorbing, hiding and transferring wealth outside the reach of law enforcement agencies. Because of this DOT Registry will not allow private or proxy registrations.

All approved domain registrants will be made public and available, so as to further validate DOT Registry's mission of fostering consumer peace of mind by creating a gTLD string dedicated solely to valid members of the Community of Registered Limited Liability Partnerships. These transparency mechanisms will also serve as a deterrent for fraudulent entities by creating an expectation among consumers as to who they are conducting business with.

The social implications of business identity theft and consumer confusion are a paramount concern to DOT Registry. In our currently unstable economy, stimulating economic growth is vital. One means to such growth is by defusing the rampant, legitimate fear caused by online crimes and abuse, which leads to curtailed consumer behavior. By introducing the ".LLP" domain into the DNS, DOT Registry will attempt to reduce the social impact of identity theft on business owners which will in turn reduce consumer fears related to spending and ultimately boost economic growth in regards to consumption and purchase power.



Further, the ".LLP" gTLD will strive to foster competition by presenting members of the Community of Registered Limited Liability Partnerships with a highly valued customized domain name that not only represents their business, but also their validity in the marketplace. Within the current existing top-level domains it is hard for businesses to find naming options that appropriately represent them. One advantage of the ".LLP" gTLD is that it will drive the "right" kind of online registrations by offering a valued alternative to the currently overcrowded and often unrestricted name space. Registrants will be inspired to pursue ".LLP" domains not only because they will be guaranteed a name representative to their business, but also because of the increased validity for their business operations brought about by the ".LLP" verification process. DOT Registry anticipates that the security offered through a ".LLP" extension will increase consumer traffic to websites which in turn will boost advertising revenue online and consumer purchasing.

Successful implementation of the ".LLP" domain will require two registration goals: 1) Capture newly formed corporations and assist them in securing a ".LLP" domain appropriate to their legal business name, and 2) converting existing online members of our community to a ".LLP" domain appropriate to their legal business name. These goals will be accomplished by the following practices:

1) Through our Founders Program, DOT Registry will secure key community tenants in the name space who will act as innovative leaders to assist us in changing the online culture of business representation, by promoting the benefits of the ".LLP" gTLD and shaping economic growth through increased consumer confidence.

2) DOT Registry will work closely with companies such as Legalzoom and CSC (both companies assist in the formation of entities and their registration processes), as well as individual Secretary of State's offices to capture newly admitted members of the community.

3) DOT Registry will educate members of the Community of Registered Limited Liability Partnerships on the benefits and importance of using a ".LLP" gTLD by building a strong relationship with organizations like the Small Business Administration and the Better Business Bureau, which promote business validation and consumer insight. By working closely with these well-known and highly regarded entities DOT Registry will be able to reach a larger majority of community members and enhance our message's validity.

4) DOT Registry will strive to create consumer and Internet user awareness through a strong Internet marketing presence and by developing a relationship with the National Association of Consumer Advocates, which was formed with the intention of curbing consumer abuse through predatory business practices.

At DOT Registry, we strive to meet the exact needs of our registrants and the Internet users who patronize them. This will be accomplished by the creation of a seamless connection and strong communication channel between our organization and the governmental authority charged with monitoring the creation and good standing of Limited Liability Partnerships. DOT Registry will work closely with each Secretary of State's office to tailor our validation process to compliment each office's current information systems and to maximize the benefits of accurate information reporting. These processes are essential in fully assisting consumers in making educated decisions in regards to what businesses to patronize. The reach of the ".LLP" gTLD will not only impact online consumerism, but also offer an additional validation process for consumers to research contractors, businesses, and solicitors before choosing to do business with them in person.

The guidelines listed below were developed through collaborations with both NASS and individual Secretary of State's offices in order to ensure the integrity of the ".LLP" domain. All policies comply with ICANN-developed consensus policies.

In order to maintain the integrity of our mission statement and our relationship with each Secretary of State's office we will implement Registration Guidelines. In order to apply for a domain name ending in ".LLP", a Registrant must be registered with one of the Secretary of State's offices in the United States, the District of Columbia, or any of the U.S. possessions or territories as a Limited Liability Partnership pursuant to that jurisdiction's laws on valid corporate registration. In addition, Applicant will implement

the following Registration Guidelines and naming conventions:

- 1) A Registrant will only be awarded the ".LLP" domain that matches or includes a substantial part of the Registrant's legal name. For example, Blue Star Partners, LLP. would be able to purchase either BlueStarPartners.LLP or BlueStar.LLP.
- 2) Registrants will not be allowed to register product line registrations, regardless of the products affiliation to the Limited Liability Partnership. All awarded domains must match or include a substantial part of the Registrant's legal name.
- 3) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".LLP" domain will be awarded on a first-come, first-served basis to the first registrant.
- 4) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".LLP" domain.
- 5) If a registrant's ".LLP" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a ".LLP" domain with a distinctive denominator including but not limited to a tag, company describer, or name abbreviation. For example, if BlueStar.LLP was awarded to Blue Star Partners, LLP. of California, then Blue Star Partners, LLC. of Kansas would be offered the opportunity to use BlueStarPartners.LLP.
- 6) DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its domain names. DOT Registry will utilize the Secretary of States' data resources to confirm that companies applying for their ".LLP" domain are in fact registered businesses.
- 7) All registrants that are awarded the ".LLP" domain will agree to a one-year minimum contract for their domain names that will automatically renew for an additional year on an annual basis if such contract is not terminated prior to the expiration of the renewal date.
- 8) DOT Registry or it's designated agent will annually verify each registrant's community status in order to determine whether or not the entity is still an "Active" member of the community. Verification will occur in a process similar to the original registration process for each registrant, in which each registrant's "Active" Status and registration information will be validated through the proper state authority. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".LLP" domain:
  - (a) If a registrant previously awarded the ".LLP" domain ceases to be registered with the State.
  - (b) If a registrant previously awarded a ".LLP" domain is dissolved and/or forfeits the domain for any reason.
  - (c) If a registrant previously awarded the ".LLP" domain is administratively dissolved by the State.Any registrant found to be "Inactive," or which falls into scenarios (a) through (c) above, will be issued a probationary warning by DOT Registry, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLP" will be forfeited. DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State.
- 9) If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".LLP" domain, then such ".LLP" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Limited Liability Partnerships, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other

computers or networks, and domain kiting<del>tasting).

10) In the case of domain forfeiture due to any of the above described options, all payments received by the Registrant for registration services to date or in advance payment will be non-refundable.

11) All registration information will be made publicly available. DOT Registry will not accept blind registration or registration by proxy. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.LLP](http://www.whois.LLP). The WHOIS Web application will be an intuitive and easy to use application. A complete description of these services can be found in Question 26 below.

12) Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed to maintain the previously awarded ".LLP" domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a ".LLP" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry's guidelines, the awarded domain will be revoked.

13) If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid.

14) DOT Registry, LLC will implement a reserved names policy consisting of both names DOT Registry wishes to reserve for our own purposes as the registry operator and names protected by ICANN. DOT Registry will respect all ICANN reserved names including, but not limited to, two letter country codes and existing TLD's. Additionally, DOT Registry LLC will seek ICANN approval on any additional names we plan to reserve in order to appropriately secure them prior to the opening of general availability.

In addition to Applicant's comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM), including but not limited to: Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; and stringent take down policies and all required dispute resolution policies.

## 18(c). What operating rules will you adopt to eliminate or minimize social costs?

.LLP was proposed for the sole purpose of eliminating business and consumer vulnerability in a cyber setting. In order to maintain the integrity of that mission and minimize the negative consequences to consumers and business owners the following policies will be adhered to:

- a) No information collected from any registrant will be used for marketing purposes.
- b) Data collected will not be traded or sold.
- c) All data collected on any registrant will be available to the registrant free of charge.
- d) Registrants will be allowed to correct data inaccuracies as needed.

e) All data will be kept secure. DOT Registry will strictly uphold the rules set forth in their registration guidelines in order to accurately service the Community of Registered Limited Liability Partnerships and mitigate any negative consequences to consumers or Internet users. Price structures for the ".LLP" gTLD are designed to reflect the cost of verification within our community requirements and the ongoing cost of operations. Price escalation will only occur to accommodate rising business costs or fees implemented by the Secretaries of State with regard to verifying the "Active" status of a Registrant. Any price increases would be submitted to ICANN as required in our Registry Agreement and will be compiled in a thoughtful and responsible manner, in order to best reduce the affects on both the registrants and the overall retail market. DOT Registry does not plan to offer registrations to registrants directly therefore our pricing commitments will be made within our Registry-Registrar Agreements. It is our intention that these commitments will percolate down to registrants directly and that the contractual commitments contained within our Registry-Registrar Agreements will be reflected in the retail sale process of our gTLD, thus minimizing the negative consequences that might be imposed on registrants via the retail process. DOT Registry plans to offer bulk registration benefits to Registrars during the first 6 months of operation. Registrars wishing to purchase bulk registrations of 1,000 names or more would be offered a 5% discount at the time of purchase. With regard to Registrars, DOT Registry shall provide financial incentives for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database. Additionally, DOT Registry , through our founders program will provide a 25% discount to founders participants as a participation incentive. It is possible that DOT Registry would offer additional pricing benefits from time to time as relative to the market. All future pricing discounts not detailed in this application will be submitted through the appropriate ICANN channels for approval prior to introduction to the market.

## Community-based Designation

### 19. Is the application for a community-based TLD?

Yes

### 20(a). Provide the name and full description of the community that the applicant is committing to serve.

DOT Registry plans to serve the Community of Registered Limited Liability Partnerships. Members of the community are defined as businesses registered as Limited Liability Partnerships with the United States or its territories. Limited Liability Partnerships or (LLP's) as they are commonly abbreviated, are specifically designed to represent professional service businesses in the US . Limited Liability Partnerships are commonly adopted by businesses which focus on: accounting, attorneys, architects, dentists, doctors and other fields treated as professionals under each state's law.

Limited Liability Partnerships (LLP) are a relatively new business structure for the United States. LLP's were first recognized in the state of Texas in the 1980's to offer increased protections to individual partners of businesses and combat potential business losses due to mal-practice claims. In 1996 the National Conference of Commissioners on Uniform State Laws adopted the Revised Uniform Partnership Act; providing for both the definition of an LLP and the governmental standards under which an LLP may be formed. It was through the Revised Uniform Partnership Act that a standard set of policies were created to define, validate, and monitor the operations of LLP's, thus creating a unique and accountable business community in the United States.

A Limited Liability Partnership is defined as a partnership in which some or all partners (depending on jurisdiction) have limited liability. LLP's therefore exhibit qualities of both partnerships and corporations. In an LLP, one partner is not responsible or liable for another partner's misconduct or negligence. This distinction is why the LLP is a popular business entity amongst accountants, doctors, and lawyers; which deal heavily with issues that could inspire mal-practice lawsuits.

Common advantages to forming an LLC include:

- 1) Pass through income taxation to partners, which avoids the "double taxation" often associated with corporations.
- 2) Limited Liability to individual members. This feature protects individual partners from being responsible for another partners' misconduct or negligence.
- 3) Unlike a corporation shareholders can actively participate in managing the business.

LLP's represent a small but prestigious sector of business in the United States. DOT Registry believes that due to the specifically personal nature of business operations conducted by LLP's it is essential for consumers to be able to appropriately identify legitimate LLP's prior to using their services. Through the creation of DOT Registry's .LLP string, consumers can quickly validate that they are working with a member of the Community of Registered Limited Liability Partnerships, providing consumers with brand reassurance and peace of mind. DOT Registry believes that it is essential to identify Limited Liability Partnerships online in order to expand on their creditability and further highlight their privilege to conduct business in the US. Proper representation of this community would allow consumers to make educated choices in choosing businesses to patronize and support.

Limited Liability Partnerships can be formed through all but ten states in the United States. Therefore members of this community exist in close to forty US states. LLP formation guidelines are dictated by state law and can vary based on each state's regulations. Persons form an LLP by filing required documents with the appropriate state authority, usually the Secretary of State. Most states require the filing of Articles of Organization. These are considered public documents and are similar to articles of incorporation, which establish a corporation as a legal entity. At minimum, the articles of organization give a brief description of the intended business purposes, the registered agent, and registered business address. Additionally, many states restrict LLP registrations to professional service companies, making the LLP specifically applicable to industries such as architects, accountants, lawyers, and doctors.

LLP's are expected to conduct business in conjunction with the policies of the state in which they are formed, and the Secretary of State periodically evaluates a LLP's level of good standing based on their commercial interactions with both the state and consumers. DOT Registry or its designated agents would verify membership to the Community of Registered Limited Liability Partnerships by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to maintain the reputation of the ".LLP" string and accurately delineate the member to consumers, Registrants would only be awarded a domain that accurately represents their registered legal business name. Additionally, DOT Registry will not allow private or proxy

registrations, therefore DOT Registry's WHOIS service will tie directly back to each member's state registration information and will be publicly available in order to provide complete transparency for consumers.

Entities are required to comply with formation practices in order to receive the right to conduct business in the US. Once formed an LLP must be properly maintained. LLP's are expected to comply with state regulations, submit annual filings, and pay specific taxes and fees. Should a Limited Liability Partnership fail to comply with state statutes it could result in involuntary dissolution by the state in addition to imposed penalties, taxes and fees.

While state statutes vary, the majority of states have adopted the following guidelines in regards to the formation of LLP's:

(1) The name of each Limited Liability Partnership must contain the words "Limited Liability Partnership" or the abbreviation "L.L.P" or the designation "LLP".

(2) In order to form a Limited Liability Partnership, two or more authorized persons must execute the Articles of Organization. Which shall contain: the name of the Limited Liability Partnership; the address of the registered office and the name and address of the registered agent for service of process required to be maintained; and any other matters the members determine to include therein.

(3) A Limited Liability Partnership may be organized to conduct or promote any lawful business or purposes, except as may otherwise be provided by the Constitution or other law of this State.

All entities bearing the abbreviation LLP in their business name create the assumption that they have been awarded the privileges associated to that title such as: the ability to conduct commerce transactions within US borders or territories, the ability to market products, solicit consumers and provide reputable services in exchange for monetary values, and finally to provide jobs or employment incentives to other citizens.

Membership in the Community of Registered Limited Liability Partnerships is established through your business entity registration. In order to maintain your membership to this community you must remain an "Active" member of the community. "Active" in this context can be defined as any LLP registered with a Secretary of State in the United States and its territories, that is determined to be authorized to conduct business within that State at the time of their registration. Registrant's "Active" status will be verified on an annual basis as described above in question 18 in order to ensure the reputation and validity of the ".LLP" gTLD.

Since LLP's are not currently delineated on the Internet, the creation of this string would mark a unique advancement in consumer security and confidence in the United States. Essentially, this will create the first ever, clear delineator for the Community of Registered Limited Liability Partnerships.

## **20(b). Explain the applicant's relationship to the community identified in 20(a).**

DOT Registry is a corporate affiliate of the National Association of Secretaries of State (NASS), an organization which acts as a medium for the exchange of information between states and fosters cooperation in the development of public policy, and is working to develop individual relationships with each Secretary of State's office in order to ensure our continued commitment to honor and respect the authorities of each state.

DOT Registry is acutely aware of our responsibility to uphold our mission statement of: building confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Partnerships. DOT Registry has also specifically pledged to various Secretaries of State to responsibly manage this gTLD in a manner that will both protect and promote business development in the US. Further our policies were developed through direct

collaboration with the state offices so as to mitigate any possibility of misrepresenting their regulations.

In order to ensure that we accomplish this goal and preserve the credibility of our operations DOT Registry has taken the following advance actions to ensure compliance and community protection:

- 1) Developed registration policies that are currently reflective of common state law dictating the creation and retention of Limited Liability Partnerships in the United States.
- 2) Created a strong partnership with CSC (an ICANN approved registrar also specializing in corporate formation services). Through this partnership DOT Registry was able to develop a streamlined verification process to validate potential Registrants as members of the community and ensure that continued annual verifications are completed in a time sensitive and efficient manner. This process will ensure that consumers are not misled by domains registered with the ".LLP" gTLD. Additionally, this process will create peace of mind amongst community members by ensuring that their integrity is not diminished by falsely identified corporations being represented by a ".LLP" extension.
- 3) Built a strong relationship with several Secretaries of State in order to receive and give consistent input on policy implementation and state regulation updates. DOT Registry has also notified NASS that we have designed our registration policies and procedures to address NASS' concerns about verification requirements in the TLD.
- 4) Established an in-house legal and policy director to review, enhance, and ensure compliance and consistency with all registration guidelines and community representations. As indicated in many of the attached endorsement letters, DOT Registry will be held specifically accountable for protecting the integrity of its restrictions and of the members of this community. DOT Registry will consult directly with NASS and policy advisors in the state offices consistently in order to continue to accurately represent the Community of Registered Limited Liability Partnerships and live up to the vast standards associated to the ".LLP" gTLD.

In furtherance of this goal, DOT Registry has attached letters from critical advocates for and representatives of the proposed community, including:

- 1) Various Secretary of States Offices: Specifically The Secretary of State of Delaware which is widely regarded as a leader in entity formation and policy in the United States and The Secretary of State of South Dakota, which is working towards combatting business identity theft and fictitious business registration.
- 2) Members of the community including but not limited to Drinker Biddle & Reath, LLP a national law firm specializing in corporate law. Specifically, partners at Drinker Biddle have consulted on many relevant business protection issues and collaborated with organizations such as NASS to form policy and programs to protect businesses in the United States.

DOT Registry can be viewed as an exemplary community representative not only through its pledged commitment to excellence, but also through its continued commitment to build relationships with the state offices charged with registering and overseeing members of this community. DOT Registry pledges through its registry policies to uphold a common standard of evaluation for all applicants and to add increased integrity to the Community of Limited Liability Partnerships. These pledges are further enforced by the endorsement letters from the above organizations, which call the authentication/verification measures proposed by DOT Registry critical to the success of the proposed community. Similarly, DOT Registry will adhere to all standards of business operations as described in the Kansas state business statutes and will be equally accountable to consumers to deliver continuously accurate findings and valid registrations.

## **20(c). Provide a description of the community-based purpose of the applied-for gTLD.**

The goal of the ".LLP" gTLD is to build confidence, trust, reliance, and loyalty for consumers and business owners alike by creating a dedicated gTLD to specifically serve the Community of Registered Limited Liability Partnerships. Through our registry service, we will foster consumer peace of mind with confidence by ensuring that all domains bearing our gTLD string are members of the Community of Registered Limited Liability Partnerships. Our verification process will create an unprecedented level of security for online consumers by authenticating each of our registrant's right to conduct business in the United States. The ".LLP" gTLD will fill a unique void in the current DNS and assist in decreasing the burden on existing domain names by identifying members of the Registered Community of Limited Liability Partnerships. The creation of the "LLC" gTLD will bring innovation and unprecedented coordination of this valuable service of verification, a purpose endorsed by many individual Secretary of States and NASS. Additionally, ".LLP" will further promote the importance of accurate business registrations in the US, while assisting in combatting business identity theft by increasing registration visibility through our WHOIS services and strict abuse policies.

The intended registrants of the ".LLP" gTLD would consist of members of the Community of Registered Limited Liability Partnerships. This would be verified by collecting data on each Registrant and cross-referencing the information with their applicable registration state. In order to ensure that this process is accomplished in a secure and time effective manner DOT Registry will develop partnerships with each Secretary of State's office in order to create the applicable applications to securely verify registrant data. DOT Registry or it's agents will be solely responsible for managing the verification process in order to decrease the burden on our registrar partners.

End-users for this TLD would include everyday consumers, members of the community, businesses within the community, and consumers looking for more accurate information with regards to those with whom they may conduct business. DOT Registry plans to initiate a robust marketing campaign geared towards the proposed end-users in order to ensure that consumers are aware of what ".LLP" stands for and its significance throughout the Community of Registered Limited Liability Partnerships. In addition to the vast consumer benefits from the creation of the ".LLP" gTLD, DOT Registry believes that ".LLP" domains would be considerably beneficial to business end users. Since DOT Registry will not allow private or proxy registrations businesses viewing ".LLP" sites would be able to instantly ascertain what businesses operate under the blanket of parent companies, are subsidiaries of other businesses, and of course where a corporation is domiciled. This easily identifiable information not only assists businesses in accurately identifying who they are doing business with, it would also assist in locating sales and use tax information, identifying applicable state records, and tracking an entity's history. These factors could help to determine the outcome of sales, mergers, contract negotiations, and business relationships. Ensuring that this kind of transparency and accountability – qualities previously not attainable in a TLD – shall be at the fingertips of potential business partners or investors.

Our registry policies will be adapted to match any changing state statutes in relation to the definition and creation of Limited Liability Partnerships in the U.S., ensuring the longevity and reputation of our registry services and our commitment to consumers to only represent valid U.S. Limited Liability Partnerships. Much like the perpetuity of the members of the Community of Registered Limited Liability Partnerships, the ".LLP" gTLD will enjoy a similar immortality, for as long as LLP entities continue to exist in the United States the ".LLP" relevance will not diminish. As awareness of the gTLD's mission becomes more widely recognized by end-users expectations to understand who you choose to do business with will increase, making the need for the ".LLP" gTLD more prominent. In addition, it is our concern that the implementation of the gTLD string ".LLP" as a generic string, without the restrictions and community delineations described in this application and endorsed by NASS and the various Secretaries of State, could promote confusion among consumers and provide clever criminal enthusiasts the tools necessary to misrepresent themselves as a U.S.-based corporation. There is an expectation amongst consumers that entities using the words Limited Liability Partnership in their business name have the legal right and ability to conduct business in the United States. This



representation by non-members of the Community of Registered Limited Liability Partnerships is not only fraudulent, but a great disservice to consumers.

## **20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).**

".LLP" was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language Limited Liability Partnership is primarily shortened to LLP when used to delineate business entity types. For example Red Bridge, LLP could additionally be referred to Red Bridge Limited Liability Partnership. Since all of our community members are Limited Liability Partnerships we believed that ".LLP" would be the simplest, most straight forward way to accurately represent our community.

LLP is a recognized abbreviation in all 50 states and US territories denoting the registration type of a business entity. Our research indicates that LLP, as corporate identifier is used in eleven other jurisdictions (Canada, China, Germany, Greece, India, Japan, Kazakhstan, Poland, Romania, Singapore, and the United Kingdom) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our community definition.

## **20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.**

In order to accurately protect the integrity of our domain name and serve the proposed community the following safeguards will be adapted:

- 1) All Registrants will be required to submit a minimum of: Their registered business address, State of formation, name and contact information of responsible party, and legally registered business name. DOT Registry or its agents will use this information to cross-reference the applicable state's registration records in order to verify the accuracy of the Registrant's application. Should DOT Registry be unable to verify the legitimacy of the Registrants application additional information might be requested in order to award a domain name.
- 2) A Registrant will only be awarded the ".LLP" domain that matches or includes a substantial part of the Registrant's legal name. For example, Blue Star Partners, LLP. would be able to purchase either BlueStarPartners.LLP or BlueStar.LLP.
- 3) Registrants will not be allowed to register product line registrations, regardless of the products affiliation to the LLP. All awarded domains must match or include a substantial part of the Registrant's legal name.
- 4) If there are registrants applying for the same domain names, which correspond to their legal business names as registered in different states, then the ".LLP" domain will be awarded on a first-come, first-served basis to the first registrant.
- 5) However, if a registrant has a trademark registered with the United States Patent and Trademark Office (USPTO), then such registrant will have priority over any other registrant to be awarded the applied for ".LLP" domain.
- 6) If a registrant's ".LLP" domain has already been awarded to another registrant with the same or similar legal name, then DOT Registry will offer to award such registrant a ".LLP" domain with a distinctive denominator including but not limited to a tag, company describer, or name abbreviation. For example, if BlueStar.LLP was awarded to Blue Star

- Partners, LLP. of California, then Blue Star Partners, LLP. of Kansas would be offered the opportunity to use BlueStarPartners.LLP.
- 7)DOT Registry will work closely with the Secretary of State's Offices throughout the United States, with NASS and with a number of other agencies and organizations in maintaining the integrity and security of its domain names. DOT Registry will utilize the Secretary of States' data resources to confirm that companies applying for their ".LLP" domain are in fact registered businesses.
- 8)DOT Registry or it's designated agent will annually verify each registrants community status in order to determine whether or not the entity is still an "Active" member of the community. Verification will occur in a process similar to the original registration process for each registrant, in which each registrant's "Active" Status and registration information will be validated through the proper state authority. In this regard, the following items would be considered violations of DOT Registry's Registration Guidelines, and may result in dissolution of a registrant's awarded ".LLP" domain:
- (a) If a registrant previously awarded the ".LLP" domain ceases to be registered with the State.
- (b) If a registrant previously awarded a ".LLP" domain is dissolved and/or forfeits the domain for any reason.
- (c) If a registrant previously awarded the ".LLP" domain is administratively dissolved by the State.
- Any registrant found to be "Inactive," or which falls into scenarios (a) through (c) above, will be issued a probationary warning by DOT Registry, allowing for the registrant to restore its active status or resolve its dissolution with its applicable Secretary of State's office. If the registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLP" will be forfeited. DOT Registry reserves the right to change the definition of "Active" in accordance with the policies of the Secretaries of State.
- 9)If DOT Registry discovers that a registrant wrongfully applied for and was awarded a ".LLP" domain, then such ".LLP" will be immediately forfeited to DOT Registry. Wrongful application includes but is not limited to: a registrant misrepresenting itself as a member of the Community of Registered Limited Liability Partnerships, a registrant participating in illegal or fraudulent actions, or where a registrant would be in violation of our abuse policies described in Question 28 (including promoting or facilitating spam, trademark or copyright infringement, phishing, pharming, willful distribution of malware, fast flux hosting, botnet command and control, distribution of pornography, illegal access to other computers or networks, and domain kiting-tasting).
- 10)All registration information will be made publicly available. DOT Registry will not accept private or proxy registration. DOT Registry's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement. Additionally, DOT Registry will provide a Web-based WHOIS application, which will be located at [www.whois.LLP](http://www.whois.LLP). The WHOIS Web application will be an intuitive and easy to use application. A complete description of these services can be found in Question 26 below.
- 11)Awarded names are non-transferrable to entities outside of the designated community, regardless of affiliation to any member of the community. In the event that a registrant's business entity merges, is acquired, or sold, the new entity will be allowed to maintain the previously awarded ".LLP" domain until the domain renewal date, at which point they will be evaluated as described in number seven (7) above. Further, any entity acquiring a ".LLP" domain through the processes described in this guideline that does not meet the registration criteria and wishes to maintain the awarded domain will be allowed a grace period after the renewal verification process to correct any non-compliance issues in order to continue operating their acquired domain. If the said entity is unable to comply with DOT Registry's guidelines, the awarded domain will be revoked.
- 12)If an application is unable to be verified or does not meet the requirements of the sponsored community, the application will be considered invalid. In addition to Applicant's comprehensive eligibility, verification, and policing mechanisms, DOT Registry will implement a series of Rights Protection Mechanisms (RPM),

including but not limited to: Support for and interaction with the Trademark Clearinghouse ("Clearinghouse"); use of the Trademark Claims Service; segmented Sunrise Periods allowing for the owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks; subsequent Sunrise Periods to give trademark owners or registrants that own the rights to a particular name the ability to block the use of such name; stringent take down policies in order to properly operate the registry; and Applicant shall comply with any RRDRP decision, further reinforcing the fact that Applicant is committed to acting in best interest of the community.

DOT Registry will employ an in house Rights Protection Mechanism Team consisting of our Director of Legal and Policy and two additional support personnel. The RPM team will work to mitigate any RPM complaints, while protecting the general rights and integrity of the ".LLP" gTLD. The RPM team will strictly enforce the rights protection mechanisms described in this application.

Membership verification will be performed via DOT Registry's designated agents that which have software systems in place to efficiently interface with each state's data records. By utilizing the resources of industry leaders in this field, DOT Registry will ensure accurate and timely verification in addition to our ability to meet the needs of such a vast community. "Active" status will be specifically verified by cross referencing an applicant's registration data with state records. If this process is unable to be automated at any given time DOT Registry's agents will manually verify the information by contacting the applicable state agencies. While manual verification will obviously employ a larger pool of resources, DOT Registry believes that its industry partners are sufficiently able to accomplish this task based on their employee pool and past business accomplishments. Registrants will be expected to provide a minimum of their legal registered name, state of organization, registered business address, and administrative contact. All additional information required such as proof of organization or "active" status verification will be the sole responsibility of DOT Registry or its designated agents and will be acquired through the processes described herein.

DOT Registry will not restrict the content of ".LLP" sites other than through the enforcement of our Abuse Mitigation practices or Rights Protection Mechanisms as described in question 28 and 29 of this application. All ".LLP" sites will be expected to adhere to the content restrictions described in DOT Registry's abuse policies. Any sites infringing on the legal rights of other individuals or companies, trademarks, or participating in the practice and promotion of illegal activities will be subject to Applicant's take down procedures.

".LLP" domains are designed for the sole use of community members with the intention of promoting their specific business activities. This purpose implies that site content should be restricted to information, products, and services directly related to the Registrants business practices, any Registrants falsely identifying themselves as a community member or inaccurately representing their intentions could be deemed in non-compliance with our registry policies resulting in the revocation of their awarded domain.

## **20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## **Geographic Names**

## 21(a). Is the application for a geographic name?

No

## Protection of Geographic Names

### 22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.

DOT Registry has thoroughly reviewed ISO 3166-1 and ISO 3166-2, relevant UN documents on the standardization of geographic names, GAC correspondence relating to the reservation of geographic names in the .INFO TLD, and understands its obligations under Specification 5 of the draft Registry Agreement. DOT Registry shall implement measures similar to those used to protect geographic names in the .INFO TLD by reserving and registering to itself all the geographic place names found in ISO-3166 and official country names as specified by the UN. DOT Registry has already discussed this proposed measure of protecting geographic names with its registry services provider, Neustar, and has arranged for such reservation to occur as soon after delegation as is technically possible.

As with the .INFO TLD, only if a potential second-level domain registrant makes a proper showing of governmental support for country or territorial names will DOT Registry then relay this request to ICANN. At this point, DOT Registry would wait for the approval of the GAC and of ICANN before proceeding to delegate the domain at issue.

## Registry Services

### 23. Provide name and full description of all the Registry Services to be provided.

#### 23.1 Introduction

DOT Registry has elected to partner with NeuStar, Inc (Neustar) to provide back-end services for the ".LLP" registry. In making this decision, DOT Registry recognized that Neustar already possesses a production-proven registry system that can be quickly deployed and smoothly operated over its robust, flexible, and scalable world-class infrastructure. The existing registry services will be leveraged for the ".LLP" registry. The following section describes the registry services to be provided.

## 23.2 Standard Technical and Business Components

Neustar will provide the highest level of service while delivering a secure, stable and comprehensive registry platform. DOT Registry will use Neustar's Registry Services platform to deploy the ".LLP" registry, by providing the following Registry Services (none of these services are offered in a manner that is unique to ".LLP"):

- Registry-Registrar Shared Registration Service (SRS)
- Extensible Provisioning Protocol (EPP)
- Domain Name System (DNS)
- WHOIS
- DNSSEC
- Data Escrow
- Dissemination of Zone Files using Dynamic Updates
- Access to Bulk Zone Files
- Dynamic WHOIS Updates
- IPv6 Support
- Rights Protection Mechanisms
- Internationalized Domain Names (IDN). [Optional should be deleted if not being offered].

The following is a description of each of the services.

### 23.2.1 SRS

Neustar's secure and stable SRS is a production-proven, standards-based, highly reliable, and high-performance domain name registration and management system. The SRS includes an EPP interface for receiving data from registrars for the purpose of provisioning and managing domain names and name servers. The response to Question 24 provides specific SRS information.

### 23.2.2 EPP

The ".LLP" registry will use the Extensible Provisioning Protocol (EPP) for the provisioning of domain names. The EPP implementation will be fully compliant with all RFCs. Registrars are provided with access via an EPP API and an EPP based Web GUI. With more than 10 gTLD, ccTLD, and private TLDs implementations, Neustar has extensive experience building EPP-based registries. Additional discussion on the EPP approach is presented in the response to Question 25.

#### 23.2.3 DNS

DOT Registry will leverage Neustar's world-class DNS network of geographically distributed nameserver sites to provide the highest level of DNS service. The service utilizes Anycast routing technology, and supports both IPv4 and IPv6. The DNS network is highly proven, and currently provides service to over 20 TLDs and thousands of enterprise companies. Additional information on the DNS solution is presented in the response to Questions 35.

#### 23.2.4 WHOIS

Neustar's existing standard WHOIS solution will be used for the ".LLP". The service provides supports for near real-time dynamic updates. The design and construction is agnostic with regard to data display policy is flexible enough to accommodate any data model. In addition, a searchable WHOIS service that complies with all ICANN requirements will be provided. The following WHOIS options will be provided:

Standard WHOIS (Port 43)

Standard WHOIS (Web)

Searchable WHOIS (Web)

#### 23.2.5 DNSSEC

An RFC compliant DNSSEC implementation will be provided using existing DNSSEC capabilities. Neustar is an experienced provider of DNSSEC services, and currently manages signed zones for three large top level domains: .biz, .us, and .co. Registrars are provided with the ability to submit and manage DS records using EPP, or through a web GUI. Additional information on DNSSEC, including the management of security extensions is found in the response to Question 43.

#### 23.2.6 Data Escrow

Data escrow will be performed in compliance with all ICANN requirements in conjunction with an approved data escrow provider. The data escrow service will:

- Protect against data loss
- Follow industry best practices
- Ensure easy, accurate, and timely retrieval and restore capability in the event of a hardware failure
- Minimizes the impact of software or business failure.

Additional information on the Data Escrow service is provided in the response to Question 38.

#### 23.2.7 Dissemination of Zone Files using Dynamic Updates

Dissemination of zone files will be provided through a dynamic, near real-time process. Updates will be performed within the specified performance levels. The proven technology ensures that updates pushed to all nodes within a few minutes of the changes being received by the SRS. Additional information on the DNS updates may be found in the response to Question 35.

#### 23.2.8 Access to Bulk Zone Files

DOT Registry will provide third party access to the bulk zone file in accordance with specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider.

#### 23.2.9 Dynamic WHOIS Updates

Updates to records in the WHOIS database will be provided via dynamic, near real-time updates. Guaranteed delivery message oriented middleware is used to ensure each individual WHOIS server is refreshed with dynamic updates. This component ensures that all WHOIS servers are kept current as changes occur in the SRS, while also decoupling WHOIS from the SRS. Additional information on WHOIS updates is presented in response to Question 26.

#### 23.2.10 IPv6 Support

The ".LLP" registry will provide IPv6 support in the following registry services: SRS, WHOIS, and DNS-DNSSEC. In addition, the registry supports the provisioning of IPv6 AAAA records. A detailed description on IPv6 is presented in the response to Question 36.

#### 23.2.11 Required Rights Protection Mechanisms

DOT Registry, will provide all ICANN required Rights Mechanisms, including:

- Trademark Claims Service
- Trademark Post-Delegation Dispute Resolution Procedure (PDDRP)
- Registration Restriction Dispute Resolution Procedure (RRDRP)
- UDRP
- URS
- Sunrise service.

More information is presented in the response to Question 29.

#### 23.2.12 Internationalized Domain Names (IDN)

IDN registrations are provided in full compliance with the IDNA protocol. Neustar possesses extensive experience offering IDN registrations in numerous TLDs, and its IDN implementation uses advanced technology to accommodate the unique bundling needs of certain languages. Character mappings are easily constructed to block out characters that may be deemed as confusing to users. A detailed description of the IDN implementation is presented in response to Question 44.

#### 23.3 Unique Services

DOT Registry will not be offering services that are unique to ".LLP".

#### 23.4 Security or Stability Concerns



All services offered are standard registry services that have no known security or stability concerns. Neustar has demonstrated a strong track record of security and stability within the industry.

## Demonstration of Technical & Operational Capability

### 24. Shared Registration System (SRS) Performance

#### 24.1 Introduction

DOT Registry has partnered with NeuStar, Inc ("Neustar"), an experienced TLD registry operator, for the operation of the ".LLP" Registry. The applicant is confident that the plan in place for the operation of a robust and reliable Shared Registration System (SRS) as currently provided by Neustar will satisfy the criterion established by ICANN.

Neustar built its SRS from the ground up as an EPP based platform and has been operating it reliably and at scale since 2001. The software currently provides registry services to five TLDs (.BIZ, .US, TEL, .CO and .TRAVEL) and is used to provide gateway services to the .CN and .TW registries. Neustar's state of the art registry has a proven track record of being secure, stable, and robust. It manages more than 6 million domains, and has over 300 registrars connected today.

The following describes a detailed plan for a robust and reliable SRS that meets all ICANN requirements including compliance with Specifications 6 and 10.

#### 24.2 The Plan for Operation of a Robust and Reliable SRS

##### 24.2.1 High-level SRS System Description

The SRS to be used for ".LLP" will leverage a production-proven, standards-based, highly reliable and high-performance domain name registration and management system that fully meets or exceeds the requirements as identified in the new gTLD Application Guidebook.

The SRS is the central component of any registry implementation and its quality,

reliability and capabilities are essential to the overall stability of the TLD. Neustar has a documented history of deploying SRS implementations with proven and verifiable performance, reliability and availability. The SRS adheres to all industry standards and protocols. By leveraging an existing SRS platform, DOT Registry is mitigating the significant risks and costs associated with the development of a new system. Highlights of the SRS include:

- State-of-the-art, production proven multi-layer design
- Ability to rapidly and easily scale from low to high volume as a TLD grows
- Fully redundant architecture at two sites
- Support for IDN registrations in compliance with all standards
- Use by over 300 Registrars
- EPP connectivity over IPv6
- Performance being measured using 100% of all production transactions (not sampling).

#### 24.2.2 SRS Systems, Software, Hardware, and Interoperability

The systems and software that the registry operates on are a critical element to providing a high quality of service. If the systems are of poor quality, if they are difficult to maintain and operate, or if the registry personnel are unfamiliar with them, the registry will be prone to outages. Neustar has a decade of experience operating registry infrastructure to extremely high service level requirements. The infrastructure is designed using best of breed systems and software. Much of the application software that performs registry-specific operations was developed by the current engineering team and as a result the team is intimately familiar with its operations.

The architecture is highly scalable and provides the same high level of availability and performance as volumes increase. It combines load balancing technology with scalable server technology to provide a cost effective and efficient method for scaling.

The Registry is able to limit the ability of any one registrar from adversely impacting other registrars by consuming too many resources due to excessive EPP transactions. The system uses network layer 2 level packet shaping to limit the number of simultaneous connections registrars can open to the protocol layer.

All interaction with the Registry is recorded in log files. Log files are generated at each layer of the system. These log files record at a minimum:

- The IP address of the client
- Timestamp
- Transaction Details
- Processing Time.

In addition to logging of each and every transaction with the SRS Neustar maintains audit records, in the database, of all transformational transactions. These audit records allow the Registry, in support of the applicant, to produce a complete history of changes for any domain name.

#### 24.2.3 SRS Design

The SRS incorporates a multi-layer architecture that is designed to mitigate risks and easily scale as volumes increase. The three layers of the SRS are:

- Protocol Layer
- Business Policy Layer
- Database.

Each of the layers is described below.

#### 24.2.4 Protocol Layer

The first layer is the protocol layer, which includes the EPP interface to registrars. It consists of a high availability farm of load-balanced EPP servers. The servers are designed to be fast processors of transactions. The servers perform basic validations and then feed information to the business policy engines as described below. The protocol layer is horizontally scalable as dictated by volume.

The EPP servers authenticate against a series of security controls before granting service, as follows:

- The registrar's host exchanges keys to initiates a TLS handshake session with the EPP

server.

-The registrar's host must provide credentials to determine proper access levels.

-The registrar's IP address must be preregistered in the network firewalls and traffic-shapers.

#### 24.2.5 Business Policy Layer

The Business Policy Layer is the brain of the registry system. Within this layer, the policy engine servers perform rules-based processing as defined through configurable attributes. This process takes individual transactions, applies various validation and policy rules, persists data and dispatches notification through the central database in order to publish to various external systems. External systems fed by the Business Policy Layer include backend processes such as dynamic update of DNS, WHOIS and Billing.

Similar to the EPP protocol farm, the SRS consists of a farm of application servers within this layer. This design ensures that there is sufficient capacity to process every transaction in a manner that meets or exceeds all service level requirements. Some registries couple the business logic layer directly in the protocol layer or within the database. This architecture limits the ability to scale the registry. Using a decoupled architecture enables the load to be distributed among farms of inexpensive servers that can be scaled up or down as demand changes.

The SRS today processes over 30 million EPP transactions daily.

#### 24.2.6 Database

The database is the third core components of the SRS. The primary function of the SRS database is to provide highly reliable, persistent storage for all registry information required for domain registration services. The database is highly secure, with access limited to transactions from authenticated registrars, trusted application-server processes, and highly restricted access by the registry database administrators. A full description of the database can be found in response to Question 33.

Figure 24-1 attached depicts the overall SRS architecture including network components.

#### 24.2.7 Number of Servers

As depicted in the SRS architecture diagram above Neustar operates a high availability architecture where at each level of the stack there are no single points of failures. Each of the network level devices run with dual pairs as do the databases. For the ".LLP" registry, the SRS will operate with 8 protocol servers and 6 policy engine servers. These expand horizontally as volume increases due to additional TLDs, increased load, and through organic growth. In addition to the SRS servers described above, there are multiple backend servers for services such as DNS and WHOIS. These are discussed in detail within those respective response sections.

#### 24.2.8 Description of Interconnectivity with Other Registry Systems

The core SRS service interfaces with other external systems via Neustar's external systems layer. The services that the SRS interfaces with include:

- WHOIS
- DNS
- Billing
- Data Warehouse (Reporting and Data Escrow).

Other external interfaces may be deployed to meet the unique needs of a TLD. At this time there are no additional interfaces planned for ".LLP".

The SRS includes an external notifier concept in its business policy engine as a message dispatcher. This design allows time-consuming backend processing to be decoupled from critical online registrar transactions. Using an external notifier solution, the registry can utilize control levers that allow it to tune or to disable processes to ensure optimal performance at all times. For example, during the early minutes of a TLD launch, when unusually high volumes of transactions are expected, the registry can elect to suspend processing of one or more back end systems in order to ensure that greater processing power is available to handle the increased load requirements. This proven architecture has been used with numerous TLD launches, some of which have involved the processing of over tens of millions of transactions in the opening hours. The following are the standard three external notifiers used the SRS:

#### 24.2.9 WHOIS External Notifier

The WHOIS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on WHOIS. It is important to note that, while the WHOIS external notifier feeds the WHOIS system, it intentionally does not have visibility into the actual contents of the WHOIS system. The WHOIS external notifier serves just as a tool to send a

signal to the WHOIS system that a change is ready to occur. The WHOIS system possesses the intelligence and data visibility to know exactly what needs to change in WHOIS. See response to Question 26 for greater detail.

#### 24.2.10 DNS External Notifier

The DNS external notifier dispatches a work item for any EPP transaction that may potentially have an impact on DNS. Like the WHOIS external notifier, the DNS external notifier does not have visibility into the actual contents of the DNS zones. The work items that are generated by the notifier indicate to the dynamic DNS update sub-system that a change occurred that may impact DNS. That DNS system has the ability to decide what actual changes must be propagated out to the DNS constellation. See response to Question 35 for greater detail.

#### 24.2.11 Billing External Notifier

The billing external notifier is responsible for sending all billable transactions to the downstream financial systems for billing and collection. This external notifier contains the necessary logic to determine what types of transactions are billable. The financial systems use this information to apply appropriate debits and credits based on registrar.

#### 24.2.12 Data Warehouse

The data warehouse is responsible for managing reporting services, including registrar reports, business intelligence dashboards, and the processing of data escrow files. The Reporting Database is used to create both internal and external reports, primarily to support registrar billing and contractual reporting requirement. The data warehouse databases are updated on a daily basis with full copies of the production SRS data.

#### 24.2.13 Frequency of Synchronization between Servers

The external notifiers discussed above perform updates in near real-time, well within the prescribed service level requirements. As transactions from registrars update the core SRS, update notifications are pushed to the external systems such as DNS and WHOIS. These updates are typically live in the external system within 2-3 minutes.

#### 24.2.14 Synchronization Scheme (e.g., hot standby, cold standby)

Neustar operates two hot databases within the data center that is operating in primary mode. These two databases are kept in sync via synchronous replication. Additionally, there are two databases in the secondary data center. These databases are updated real time through asynchronous replication. This model allows for high performance while also ensuring protection of data. See response to Question 33 for greater detail.

#### 24.2.15 Compliance with Specification 6 Section 1.2

The SRS implementation for ".LLP" is fully compliant with Specification 6, including section 1.2. EPP Standards are described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. Extensible Provisioning Protocol or EPP is defined by a core set of RFCs that standardize the interface that make up the registry-registrar model. The SRS interface supports EPP 1.0 as defined in the following RFCs shown in Table 24-1 attached.

Additional information on the EPP implementation and compliance with RFCs can be found in the response to Question 25.

#### 24.2.16 Compliance with Specification 10

Specification 10 of the New TLD Agreement defines the performance specifications of the TLD, including service level requirements related to DNS, RDDS (WHOIS), and EPP. The requirements include both availability and transaction response time measurements. As an experienced registry operator, Neustar has a long and verifiable track record of providing registry services that consistently exceed the performance specifications stipulated in ICANN agreements. This same high level of service will be provided for the ".LLP" Registry. The following section describes Neustar's experience and its capabilities to meet the requirements in the new agreement.

To properly measure the technical performance and progress of TLDs, Neustar collects data on key essential operating metrics. These measurements are key indicators of the performance and health of the registry. Neustar's current .biz SLA commitments are among the most stringent in the industry today, and exceed the requirements for new TLDs. Table 24-2 compares the current SRS performance levels compared to the requirements for new TLDs, and clearly demonstrates the ability of the SRS to exceed those requirements.

Their ability to commit and meet such high performance standards is a direct result of their philosophy towards operational excellence. See response to Question 31 for a full description of their philosophy for building and managing for performance.

### 24.3 Resourcing Plans

The development, customization, and on-going support of the SRS are the responsibility of a combination of technical and operational teams, including:

- Development/Engineering
- Database Administration
- Systems Administration
- Network Engineering.

Additionally, if customization or modifications are required, the Product Management and Quality Assurance teams will be involved in the design and testing. Finally, the Network Operations and Information Security play an important role in ensuring the systems involved are operating securely and reliably.

The necessary resources will be pulled from the pool of operational resources described in detail in the response to Question 31. Neustar's SRS implementation is very mature, and has been in production for over 10 years. As such, very little new development related to the SRS will be required for the implementation of the ".LLP" registry. The following resources are available from those teams:

- Development/Engineering 19 employees
- Database Administration- 10 employees
- Systems Administration 24 employees
- Network Engineering 5 employees

The resources are more than adequate to support the SRS needs of all the TLDs operated by Neustar, including the ".LLP" registry.

## 25. Extensible Provisioning Protocol (EPP)

### 25.1 Introduction



DOT Registry's back-end registry operator, Neustar, has over 10 years of experience operating EPP based registries. They deployed one of the first EPP registries in 2001 with the launch of .biz. In 2004, they were the first gTLD to implement EPP 1.0. Over the last ten years Neustar has implemented numerous extensions to meet various unique TLD requirements. Neustar will leverage its extensive experience to ensure DOT Registry is provided with an unparalleled EPP based registry. The following discussion explains the EPP interface which will be used for the ".LLP" registry. This interface exists within the protocol farm layer as described in Question 24 and is depicted in Figure 25-1 attached.

## 25.2 EPP Interface

Registrars are provided with two different interfaces for interacting with the registry. Both are EPP based, and both contain all the functionality necessary to provision and manage domain names. The primary mechanism is an EPP interface to connect directly with the registry. This is the interface registrars will use for most of their interactions with the registry.

However, an alternative web GUI (Registry Administration Tool) that can also be used to perform EPP transactions will be provided. The primary use of the Registry Administration Tool is for performing administrative or customer support tasks.

The main features of the EPP implementation are:

**-Standards Compliance:** The EPP XML interface is compliant to the EPP RFCs. As future EPP RFCs are published or existing RFCs are updated, Neustar makes changes to the implementation keeping in mind of any backward compatibility issues.

**-Scalability:** The system is deployed keeping in mind that it may be required to grow and shrink the footprint of the Registry system for a particular TLD.

**-Fault-tolerance:** The EPP servers are deployed in two geographically separate data centers to provide for quick failover capability in case of a major outage in a particular data center. The EPP servers adhere to strict availability requirements defined in the SLAs.

**-Configurability:** The EPP extensions are built in a way that they can be easily configured to turn on or off for a particular TLD.

**-Extensibility:** The software is built ground up using object oriented design. This allows for easy extensibility of the software without risking the possibility of the change

rippling through the whole application.

-Auditable: The system stores detailed information about EPP transactions from provisioning to DNS and WHOIS publishing. In case of a dispute regarding a name registration, the Registry can provide comprehensive audit information on EPP transactions.

-Security: The system provides IP address based access control, client credential-based authorization test, digital certificate exchange, and connection limiting to the protocol layer.

### 25.3 Compliance with RFCs and Specifications

The registry-registrar model is described and embodied in a number of IETF RFCs, ICANN contracts and practices, and registry-registrar agreements. As shown in Table 25-1 attached, EPP is defined by the core set of RFCs that standardize the interface that registrars use to provision domains with the SRS. As a core component of the SRS architecture, the implementation is fully compliant with all EPP RFCs.

Neustar ensures compliance with all RFCs through a variety of processes and procedures. Members from the engineering and standards teams actively monitor and participate in the development of RFCs that impact the registry services, including those related to EPP. When new RFCs are introduced or existing ones are updated, the team performs a full compliance review of each system impacted by the change. Furthermore, all code releases include a full regression test that includes specific test cases to verify RFC compliance.

Neustar has a long history of providing exceptional service that exceeds all performance specifications. The SRS and EPP interface have been designed to exceed the EPP specifications defined in Specification 10 of the Registry Agreement and profiled in Table 25-2 attached. Evidence of Neustar's ability to perform at these levels can be found in the .biz monthly progress reports found on the ICANN website.

#### 25.3.1 EPP Toolkits

Toolkits, under open source licensing, are freely provided to registrars for interfacing with the SRS. Both Java and C++ toolkits will be provided, along with the accompanying documentation. The Registrar Tool Kit (RTK) is a software development kit (SDK) that supports the development of a registrar software system for registering domain names in the registry using EPP. The SDK consists of software and documentation as described below.

The software consists of working Java and C++ EPP common APIs and samples that implement the EPP core functions and EPP extensions used to communicate between the registry and registrar. The RTK illustrates how XML requests (registration events) can be assembled and forwarded to the registry for processing. The software provides the registrar with the basis for a reference implementation that conforms to the EPP registry-registrar protocol. The software component of the SDK also includes XML schema definition files for all Registry EPP objects and EPP object extensions. The RTK also includes a dummy server to aid in the testing of EPP clients.

The accompanying documentation describes the EPP software package hierarchy, the object data model, and the defined objects and methods (including calling parameter lists and expected response behavior). New versions of the RTK are made available from time to time to provide support for additional features as they become available and support for other platforms and languages.

#### 25.4 Proprietary EPP Extensions

[Default Response]

The ".LLP" registry will not include proprietary EPP extensions. Neustar has implemented various EPP extensions for both internal and external use in other TLD registries. These extensions use the standard EPP extension framework described in RFC 5730. Table 25-3 attached provides a list of extensions developed for other TLDs. Should the ".LLP" registry require an EPP extension at some point in the future, the extension will be implemented in compliance with all RFC specifications including RFC 3735.

The full EPP schema to be used in the ".LLP" registry is attached in the document titled EPP Schema Files.

#### 25.5 Resourcing Plans

The development and support of EPP is largely the responsibility of the Development/Engineering and Quality Assurance teams. As an experience registry operator with a fully developed EPP solution, on-going support is largely limited to periodic updates to the standard and the implementation of TLD specific extensions.

The necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

-Development/Engineering 19 employees

-Quality Assurance - 7 employees.

These resources are more than adequate to support any EPP modification needs of the ".LLP" registry.

## 26. Whois

DOT Registry, LLC recognizes the importance of an accurate, reliable, and up-to-date WHOIS database to governments, law enforcement, intellectual property holders, and the public as a whole, and is firmly committed to complying with all of the applicable WHOIS specifications for data objects, bulk access, and lookups as defined in Specifications 4 and 10 to the Registry Agreement and relevant RFCs.

DOT Registry, LLC's back-end registry services provider, Neustar, has extensive experience providing ICANN and RFC-compliant WHOIS services for each of the TLDs that it operates both as a Registry Operator for gTLDs, ccTLDs, and back-end registry services provider. As one of the first "thick" registry operators in the gTLD space, the WHOIS service provided by DOT Registry, LLC's registry services operator has been designed from the ground up to display as much information as required by ICANN and respond to a very stringent availability and performance requirement.

Some of the key features of DOT Registry, LLC's WHOIS services will include:

- Fully compliant with all relevant RFCs including 3912;
- Production proven, highly flexible, and scalable (DOT Registry, LLC's back-end registry services provider has a track record of 100% availability over the past 10 years);
- Exceeds current and proposed performance specifications;
- Supports dynamic updates with the capability of doing bulk updates;
- Geographically distributed sites to provide greater stability and performance; and
- Search capabilities (e.g., IDN, registrant data) that mitigate potential forms of abuse as discussed below.

DOT Registry, LLC's registry services operator will provide thick WHOIS services that are fully compliant with RFC 3912 and with Specifications 4 and 10 of the Registry Agreement.

DOT Registry, LLC's WHOIS service will support port 43 queries, and will be optimized for speed using an in-memory database and a master-slave architecture between SRS and WHOIS slaves. RFC 3912 is a simple text based protocol over TCP that describes the interaction between the server and client on port 43. DOT Registry, LLC's registry services operator currently processes millions of WHOIS queries per day.

In addition to the WHOIS Service on port 43, DOT Registry, LLC will provide a Web-based WHOIS application, which will be located at [www.whois.llp](http://www.whois.llp). This WHOIS Web application will be an intuitive and easy to use application for the general public to use. The WHOIS Web application provides all of the features available in the port 43 WHOIS. This includes

full and partial search on:

- Domain names
- Nameservers
- Registrant, Technical and Administrative Contacts
- Registrars

The WHOIS web application will also provide features not available on the port 43 service. These include:

- Extensive support for international domain names (IDN)
- Ability to perform WHOIS lookups on the actual Unicode IDN
- Display of the actual Unicode IDN in addition to the ACE-encoded name
- A Unicode to Punycode and Punycode to Unicode translator
- An extensive FAQ
- A list of upcoming domain deletions

DOT Registry, LLC will also provide a searchable web-based WHOIS service in accordance with Specification 4 Section 1.8 The application will enable users to search the WHOIS directory to find exact or partial matches using any one or more of the following fields:

- Domain name
- Contacts and registrant's name
- Contact and registrant's postal address, including all the sub-fields described in EPP (e.g., street, city, state or province, etc.)

- Registrar ID
- Name server name and IP address
- Internet Protocol addresses
- The system will also allow search using non-Latin character sets which are compliant with IDNA specification

The WHOIS user will be able to choose one or more search criteria, combine them by Boolean operators (AND, OR, NOT) and provide partial or exact match regular expressions for each of the criterion name-value pairs. The domain names matching the search criteria and their WHOIS information will quickly be returned to the user.

In order to reduce abuse for this feature, only authorized users will have access to the Whois search features after providing a username and password. DOT Registry, LLC will provide third party access to the bulk zone file in accordance with Specification 4, Section 2 of the Registry Agreement. Credentialing and dissemination of the zone files will be facilitated through the Central Zone Data Access Provider, which will make access to the zone files in bulk via FTP to any person or organization that signs and abides by a Zone File Access (ZFA) Agreement with the registry. Contracted gTLD registries will provide this access daily and at no charge.

DOT Registry, LLC will also provide ICANN and any emergency operators with up-to-date Registration Data on a weekly basis (the day to be designated by ICANN). Data will include data committed as of 00:00:00 UTC on the day previous to the one designated for retrieval by ICANN. The file(s) will be made available for download by SFTP, unless ICANN requests other means in the future.

DOT Registry, LLC's Legal Team consisting of 3 dedicated employees, will regularly monitor the registry service provider to ensure that they are providing the services as described above. This will entail random monthly testing of the WHOIS port 43 and Web-based services to ensure that they meet the ICANN Specifications and RFCs as outlined above, if not, to follow up with the registry services provider to ensure that they do. As the relevant WHOIS will only contain DOT Registry, LLC's information, DOT Registry, LLC's WHOIS services will necessarily be in compliance with any applicable privacy laws or policies.

## 27. Registration Life Cycle

### 27.1 Registration Life Cycle

### 27.1.1 Introduction

".LLP" will follow the lifecycle and business rules found in the majority of gTLDs today. Our back-end operator, Neustar, has over ten years of experience managing numerous TLDs that utilize standard and unique business rules and lifecycles. This section describes the business rules, registration states, and the overall domain lifecycle that will be use for ".LLP".

### 27.1.2 Domain Lifecycle - Description

The registry will use the EPP 1.0 standard for provisioning domain names, contacts and hosts. Each domain record is comprised of three registry object types: domain, contacts, and hosts.

Domains, contacts and hosts may be assigned various EPP defined statuses indicating either a particular state or restriction placed on the object. Some statuses may be applied by the Registrar; other statuses may only be applied by the Registry. Statuses are an integral part of the domain lifecycle and serve the dual purpose of indicating the particular state of the domain and indicating any restrictions placed on the domain. The EPP standard defines 17 statuses, however only 14 of these statuses will be used in the ".LLP" registry per the defined ".LLP" business rules.

The following is a brief description of each of the statuses. Server statuses may only be applied by the Registry, and client statuses may be applied by the Registrar.

-OK Default status applied by the Registry.

-Inactive Default status applied by the Registry if the domain has less than 2 nameservers.

-PendingCreate Status applied by the Registry upon processing a successful Create command, and indicates further action is pending. This status will not be used in the ".LLP" registry.

-PendingTransfer Status applied by the Registry upon processing a successful Transfer request command, and indicates further action is pending.

-PendingDelete Status applied by the Registry upon processing a successful Delete command that does not result in the immediate deletion of the domain, and indicates further action is pending.

-PendingRenew Status applied by the Registry upon processing a successful Renew command that does not result in the immediate renewal of the domain, and indicates further action

is pending. This status will not be used in the ".LLP" registry.

-PendingUpdate Status applied by the Registry if an additional action is expected to complete the update, and indicates further action is pending. This status will not be used in the ".LLP" registry.

-Hold Removes the domain from the DNS zone.

-UpdateProhibited Prevents the object from being modified by an Update command.

-TransferProhibited Prevents the object from being transferred to another Registrar by the Transfer command.

-RenewProhibited Prevents a domain from being renewed by a Renew command.

-DeleteProhibited Prevents the object from being deleted by a Delete command.

The lifecycle of a domain begins with the registration of the domain. All registrations must follow the EPP standard, as well as the specific business rules described in the response to Question 18 above. Upon registration a domain will either be in an active or inactive state. Domains in an active state are delegated and have their delegation information published to the zone. Inactive domains either have no delegation information or their delegation information is not published in the zone. Following the initial registration of a domain, one of five actions may occur during its lifecycle:

-Domain may be updated

-Domain may be deleted, either within or after the add-grace period

-Domain may be renewed at anytime during the term

-Domain may be auto-renewed by the Registry

-Domain may be transferred to another registrar.

Each of these actions may result in a change in domain state. This is described in more detail in the following section. Every domain must eventually be renewed, auto-renewed, transferred, or deleted. A registrar may apply EPP statuses described above to prevent specific actions such as updates, renewals, transfers, or deletions.

## 27.2 Registration States

### 27.2.1 Domain Lifecycle Registration States

As described above the ".LLP" registry will implement a standard domain lifecycle found in

most gTLD registries today. There are five possible domain states:

- Active
- Inactive
- Locked
- Pending Transfer
- Pending Delete.

All domains are always in either an Active or Inactive state, and throughout the course of the lifecycle may also be in a Locked, Pending Transfer, and Pending Delete state. Specific conditions such as applied EPP policies and registry business rules will determine whether a domain can be transitioned between states. Additionally, within each state, domains may be subject to various timed events such as grace periods, and notification periods.

#### 27.2.2 Active State

The active state is the normal state of a domain and indicates that delegation data has been provided and the delegation information is published in the zone. A domain in an Active state may also be in the Locked or Pending Transfer states.

#### 27.2.3 Inactive State

The Inactive state indicates that a domain has not been delegated or that the delegation data has not been published to the zone. A domain in an Inactive state may also be in the Locked or Pending Transfer states. By default all domain in the Pending Delete state are also in the Inactive state.

#### 27.2.4 Locked State

The Locked state indicates that certain specified EPP transactions may not be performed to the domain. A domain is considered to be in a Locked state if at least one restriction has been placed on the domain; however up to eight restrictions may be applied simultaneously. Domains in the Locked state will also be in the Active or Inactive, and under certain conditions may also be in the Pending Transfer or Pending Delete states.



### 27.2.5 Pending Transfer State

The Pending Transfer state indicates a condition in which there has been a request to transfer the domain from one registrar to another. The domain is placed in the Pending Transfer state for a period of time to allow the current (losing) registrar to approve (ack) or reject (nack) the transfer request. Registrars may only nack requests for reasons specified in the Inter-Registrar Transfer Policy.

### 27.2.6 Pending Delete State

The Pending Delete State occurs when a Delete command has been sent to the Registry after the first 5 days (120 hours) of registration. The Pending Delete period is 35-days during which the first 30-days the name enters the Redemption Grace Period (RGP) and the last 5-days guarantee that the domain will be purged from the Registry Database and available to public pool for registration on a first come, first serve basis.

## 27.3 Typical Registration Lifecycle Activities

### 27.3.1 Domain Creation Process

The creation (registration) of domain names is the fundamental registry operation. All other operations are designed to support or compliment a domain creation. The following steps occur when a domain is created.

1. Contact objects are created in the SRS database. The same contact object may be used for each contact type, or they may all be different. If the contacts already exist in the database this step may be skipped.
2. Nameservers are created in the SRS database. Nameservers are not required to complete the registration process; however any domain with less than 2 name servers will not be resolvable.
3. The domain is created using the each of the objects created in the previous steps. In addition, the term and any client statuses may be assigned at the time of creation.

The actual number of EPP transactions needed to complete the registration of a domain name can be as few as one and as many as 40. The latter assumes seven distinct contacts and 13

nameservers, with Check and Create commands submitted for each object.

### 27.3.2 Update Process

Registry objects may be updated (modified) using the EPP Modify operation. The Update transaction updates the attributes of the object.

For example, the Update operation on a domain name will only allow the following attributes to be updated:

- Domain statuses
- Registrant ID
- Administrative Contact ID
- Billing Contact ID
- Technical Contact ID
- Nameservers
- AuthInfo
- Additional Registrar provided fields.

The Update operation will not modify the details of the contacts. Rather it may be used to associate a different contact object (using the Contact ID) to the domain name. To update the details of the contact object the Update transaction must be applied to the contact itself. For example, if an existing registrant wished to update the postal address, the Registrar would use the Update command to modify the contact object, and not the domain object.

### 27.3.4 Renew Process

The term of a domain may be extended using the EPP Renew operation. ICANN policy general establishes the maximum term of a domain name to be 10 years, and Neustar recommends not deviating from this policy. A domain may be renewed/extended at any point time, even immediately following the initial registration. The only stipulation is that the overall term of the domain name may not exceed 10 years. If a Renew operation is performed with a term value will extend the domain beyond the 10 year limit, the Registry will reject the transaction entirely.

### 27.3.5 Transfer Process

The EPP Transfer command is used for several domain transfer related operations:

- Initiate a domain transfer
- Cancel a domain transfer
- Approve a domain transfer
- Reject a domain transfer.

To transfer a domain from one Registrar to another the following process is followed:

1. The gaining (new) Registrar submits a Transfer command, which includes the AuthInfo code of the domain name.
2. If the AuthInfo code is valid and the domain is not in a status that does not allow transfers the domain is placed into pendingTransfer status
3. A poll message notifying the losing Registrar of the pending transfer is sent to the Registrar's message queue
4. The domain remains in pendingTransfer status for up to 120 hours, or until the losing (current) Registrar Acks (approves) or Nack (rejects) the transfer request
5. If the losing Registrar has not Acked or Nacked the transfer request within the 120 hour timeframe, the Registry auto-approves the transfer
6. The requesting Registrar may cancel the original request up until the transfer has been completed.

A transfer adds an additional year to the term of the domain. In the event that a transfer will cause the domain to exceed the 10 year maximum term, the Registry will add a partial term up to the 10 year limit. Unlike with the Renew operation, the Registry will not reject

a transfer operation.

#### 27.3.6 Deletion Process

A domain may be deleted from the SRS using the EPP Delete operation. The Delete operation will result in either the domain being immediately removed from the database or the domain being placed in pendingDelete status. The outcome is dependent on when the domain is deleted. If the domain is deleted within the first five days (120 hours) of registration, the domain is immediately removed from the database. A deletion at any other time will result in the domain being placed in pendingDelete status and entering the Redemption Grace Period (RGP). Additionally, domains that are deleted within five days (120) hours of any billable (add, renew, transfer) transaction may be deleted for credit.

#### 27.4 Applicable Time Elements

The following section explains the time elements that are involved.

##### 27.4.1 Grace Periods

There are six grace periods:

- Add-Delete Grace Period (AGP)
- Renew-Delete Grace Period
- Transfer-Delete Grace Period
- Auto-Renew-Delete Grace Period
- Auto-Renew Grace Period
- Redemption Grace Period (RGP).

The first four grace periods listed above are designed to provide the Registrar with the ability to cancel a revenue transaction (add, renew, or transfer) within a certain period of time and receive a credit for the original transaction.

The following describes each of these grace periods in detail.

#### 27.4.2 Add-Delete Grace Period

The APG is associated with the date the Domain was registered. Domains may be deleted for credit during the initial 120 hours of a registration, and the Registrar will receive a billing credit for the original registration. If the domain is deleted during the Add Grace Period, the domain is dropped from the database immediately and a credit is applied to the Registrar's billing account.

#### 27.4.3 Renew-Delete Grace Period

The Renew-Delete Grace Period is associated with the date the Domain was renewed. Domains may be deleted for credit during the 120 hours after a renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly renewed. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP (see below).

#### 27.4.4 Transfer-Delete Grace Period

The Transfer-Delete Grace Period is associated with the date the Domain was transferred to another Registrar. Domains may be deleted for credit during the 120 hours after a transfer. It should be noted that domains that are deleted during the renew grace period will be placed into pendingDelete and will enter the RGP. A deletion of domain after a transfer is not the method used to correct a transfer mistake. Domains that have been erroneously transferred or hijacked by another party can be transferred back to the original registrar through various means including contacting the Registry.

#### 27.4.5 Auto-Renew-Delete Grace Period

The Auto-Renew-Delete Grace Period is associated with the date the Domain was auto-renewed. Domains may be deleted for credit during the 120 hours after an auto-renewal. The grace period is intended to allow Registrars to correct domains that were mistakenly auto-renewed. It should be noted that domains that are deleted during the auto-renew delete grace period will be placed into pendingDelete and will enter the RGP.

#### 27.4.6 Auto-Renew Grace Period

The Auto-Renew Grace Period is a special grace period intended to provide registrants with an extra amount of time, beyond the expiration date, to renew their domain name. The grace period lasts for 45 days from the expiration date of the domain name. Registrars are not

required to provide registrants with the full 45 days of the period.

#### 27.4.7 Redemption Grace Period

The RGP is a special grace period that enables Registrars to restore domains that have been inadvertently deleted but are still in pendingDelete status within the Redemption Grace Period. All domains enter the RGP except those deleted during the AGP.

The RGP period is 30 days, during which time the domain may be restored using the EPP RenewDomain command as described below. Following the 30day RGP period the domain will remain in pendingDelete status for an additional five days, during which time the domain may NOT be restored. The domain is released from the SRS, at the end of the 5 day non-restore period. A restore fee applies and is detailed in the Billing Section. A renewal fee will be automatically applied for any domain past expiration.

Neustar has created a unique restoration process that uses the EPP Renew transaction to restore the domain and fulfill all the reporting obligations required under ICANN policy. The following describes the restoration process.

#### 27.5 State Diagram

Figure 27-1 attached provides a description of the registration lifecycle.

The different states of the lifecycle are active, inactive, locked, pending transfer, and pending delete. Please refer to section 27.2 for detailed descriptions of each of these states. The lines between the states represent triggers that transition a domain from one state to another.

The details of each trigger are described below:

-Create: Registry receives a create domain EPP command.

-WithNS: The domain has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.

-WithoutNS: The domain has not met the minimum number of nameservers required by registry policy. The domain will not be in the DNS zone.

-Remove Nameservers: Domain's nameserver(s) is removed as part of an update domain EPP

command. The total nameserver is below the minimum number of nameservers required by registry policy in order to be published in the DNS zone.

-Add Nameservers: Nameserver(s) has been added to domain as part of an update domain EPP command. The total number of nameservers has met the minimum number of nameservers required by registry policy in order to be published in the DNS zone.

-Delete: Registry receives a delete domain EPP command.

-DeleteAfterGrace: Domain deletion does not fall within the add grace period.

-DeleteWithinAddGrace: Domain deletion falls within add grace period.

-Restore: Domain is restored. Domain goes back to its original state prior to the delete command.

-Transfer: Transfer request EPP command is received.

-Transfer Approve/Cancel/Reject: Transfer requested is approved or cancel or rejected.

-TransferProhibited: The domain is in clientTransferProhibited and/or serverTransferProhibited status. This will cause the transfer request to fail. The domain goes back to its original state.

-DeleteProhibited: The domain is in clientDeleteProhibited and/or serverDeleteProhibited status. This will cause the delete command to fail. The domain goes back to its original state.

Note: the locked state is not represented as a distinct state on the diagram as a domain may be in a locked state in combination with any of the other states: inactive, active, pending transfer, or pending delete.

### 27.5.1 EPP RFC Consistency

As described above, the domain lifecycle is determined by ICANN policy and the EPP RFCs. Neustar has been operating ICANN TLDs for the past 10 years consistent and compliant with all the ICANN policies and related EPP RFCs.

### 27.6 Resources

The registration lifecycle and associated business rules are largely determined by policy and business requirements; as such the Product Management and Policy teams will play a critical role in working Applicant to determine the precise rules that meet the requirements of the TLD. Implementation of the lifecycle rules will be the responsibility of Development/Engineering team, with testing performed by the Quality Assurance team. Neustar's SRS implementation is very flexible and configurable, and in many case development is not required to support business rule changes.

The ".LLP" registry will be using standard lifecycle rules, and as such no customization is anticipated. However should modifications be required in the future, the necessary resources will be pulled from the pool of available resources described in detail in the response to Question 31. The following resources are available from those teams:

-Development/Engineering 19 employees

-Registry Product Management 4 employees

These resources are more than adequate to support the development needs of all the TLDs operated by Neustar, including the ".LLP" registry.

## 28. Abuse Prevention and Mitigation

### General Statement of Policy

Abuse within the registry will not be tolerated. DOT Registry will implement very strict policies and procedures to minimize abusive registrations and other activities that have a negative impact on Internet users. DOT Registry's homepages will provide clear contact information for its Abuse Team, and in accordance with ICANN policy DOT Registry shall host NIC.LLP, providing access to .LLP's WhoIs services, the Abuse Policy, and contact information for the Abuse Team.

### Anti-Abuse Policy

DOT Registry will implement in its internal policies and its Registry-Registrar Agreements (RRAs) that all registered domain names in the TLD will be subject to a Domain Name Anti-Abuse Policy ("Abuse Policy").

The Abuse Policy will provide DOT Registry with broad power to suspend, cancel, or transfer domain names that violate the Abuse Policy. DOT Registry will publish the Abuse Policy on its home website at NIC.LLP and clearly provide DOT Registry's Point of Contact ("Abuse Contact") and its contact information. This information shall consist of, at a minimum, a valid e-mail address dedicated solely to the handling of abuse complaints, and a telephone number and mailing address for the primary contact. DOT Registry will ensure that this information will be kept accurate and up to date and will be provided to ICANN if and when changes are made.

In addition, with respect to inquiries from ICANN-Accredited registrars, the Abuse Contact shall handle requests related to abusive domain name practices.

Inquiries addressed to the Abuse Contact will be routed to DOT Registry's Legal Team who will review and if applicable remedy any Complaint regarding an alleged violation of the Abuse Policy as described in more detail below. DOT Registry will catalog all abuse



communications in its CRM software using a ticketing system that maintains records of all abuse complaints indefinitely. Moreover, DOT Registry shall only provide access to these records to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

The Abuse Policy will state, at a minimum, that DOT Registry reserves the right to deny, cancel, or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, or similar status, that it deems necessary to ; (1) to protect the integrity and stability of the registry; (2) to comply with applicable laws, government rules or requirements, or court orders; (3) to avoid any liability, civil or criminal, on the part of DOT Registry, as well as its affiliates, subsidiaries, officers, directors, and employees; (4) to correct mistakes made by the DOT Registry, registry services provider, or any registrar in connection with a domain name registration; (5) during resolution of any dispute regarding the domain; and (6) if a Registrant's pre-authorization or payment fails; or (7) to prevent the bad faith use of a domain name that is identical to a registered trademark and being used to confuse users.

The Abuse Policy will define the abusive use of domain names to include, but not be limited to, the following activities:

- **Illegal or fraudulent actions:** use of the DOT Registry's or Registrar's services to violate the laws or regulations of any country, state, or infringe upon the laws of any other jurisdiction, or in a manner that adversely affects the legal rights of any other person;
- **Spam:** use of electronic messaging systems from email addresses from domains in the TLD to send unsolicited bulk messages. The term applies to e-mail spam and similar abuses such as instant messaging spam, mobile messaging spam, and the spamming of Web sites and Internet forums;
- **Trademark and Copyright Infringement:** DOT Registry will take great care to ensure that trademark and copyright infringement does not occur within the .LLP TLD. DOT Registry will employ notice and takedown procedures based on the provisions of the Digital Millennium Copyright Act (DMCA) ;
- **Phishing:** use of counterfeit Web pages within the TLD that are designed to trick recipients into divulging sensitive data such as usernames, passwords, or financial data;
- **Pharming:** redirecting of unknowing users to fraudulent Web sites or services, typically through DNS hijacking or poisoning;
- **Willful distribution of malware:** dissemination of software designed to infiltrate or damage a computer system without the owner's informed consent. Examples include, without limitation, computer viruses, worms, keyloggers, and trojan horses.
- **Fast flux hosting:** use of fast-flux techniques to disguise the location of Web sites or other Internet services, or to avoid detection and mitigation efforts, or to host illegal activities. Fast-flux techniques use DNS to frequently change the location on the Internet to which the domain name of an Internet host or name server resolves. Fast flux hosting may be used only with prior permission of DOT Registry;
- **Botnet command and control:** services run on a domain name that are used to control a collection of compromised computers or "zombies," or to direct denial-of-service attacks (DDoS attacks);
- **Distribution of pornography;**
- **Illegal Access to Other Computers or Networks:** illegally accessing computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system (often known as "hacking"). Also, any activity that might be used as a precursor to an attempted system penetration (e.g., port scan, stealth scan, or other information gathering activity);
- **Domain Kiting/Tasting:** registration of domain names to test their commercial viability before returning them during a Grace Period;
- **High Volume Registrations/Surveying:** registration of multiple domain names in order to warehouse them for sale or pay-per-click websites in a way that can impede DOT Registry

from offering them to legitimate users or timely services to other subscribers;

- **Geographic Name:** registering a domain name that is identical to a Geographic Name, as defined by Specification 5 of the Registry Agreement;
- **Inadequate Security:** registering and using a domain name to host a website that collects third-party information but does not employ adequate security measures to protect third-party information in accordance with that geographic area's data and financial privacy laws;
- **Front Running:** registrars mining their own web and WhoIs traffic to obtain insider information with regard to high-value second-level domains, which the registrar will then register to itself or an affiliated third party for sale or to generate advertising revenue;
- **WhoIs Accuracy:** Intentionally inserting false or misleading Registrant information into the TLD's WhoIs database in connection with the bad faith registration and use of the domain in question;
- **WhoIs Misuse:** abusing access to the WhoIs database by using Registrant information for data mining purposes or other malicious purposes;
- **Fake Renewal Notices;** misusing WhoIs Registrant information to send bogus renewal notices to Registrants on file with the aim of causing the Registrant to spend unnecessary money or steal or redirect the domain at issue.

#### Domain Anti-Abuse Procedure

DOT Registry will provide a domain name anti-abuse procedure modeled after the DMCA's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.LLP the Abuse Policy and the contact information for the Abuse Contact. Inquiries addressed to the Point of Contact will be addressed to and received by DOT Registry's Legal Time who will review and if applicable remedy any Complaint regarding an alleged violation of the Abuse Policy. DOT Registry will catalog all abuse communications and provide them to third parties only under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any correspondence ("Complaint") from a complaining party ("Complainant") to the Abuse Contact will be ticketed in DOT Registry's CRM software and relayed to DOT Registry's Abuse Team. A member of DOT Registry's Abuse Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email and that DOT Registry will notify the Complainant of the results of the Complaint within ten (10) days of receiving the Complaint.

DOT Registry's Abuse Team will review the Complaint and give it a "quick look" to see if the Complaint reasonably falls within an abusive use as defined by the Abuse Policy. If not, the Contact will write an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated abusive uses as defined by the Abuse Policy and that DOT Registry considers the matter closed.

If the quick look does not resolve the matter, DOT Registry's Abuse Team will give the Complaint a full review. Any Registrant that has been determined to be in violation of DOT Registry policies shall be notified of the violation of such policy and their options to cure the violation.

Such notification shall state:

- 1) the nature of the violation;
- 2) the proposed remedy to the violation;
- 3) the time frame to cure the violation; and
- 4) the Registry's options to take subsequent action if the Registrant does not cure the violation.

If an abusive use is determined DOT Registry's Abuse Team will alert it's Registry services team to immediately cancel the resolution of the domain name. DOT Registry's Abuse Team will immediately notify the Registrant of the suspension of the domain name, the nature of the complaint, and provide the Registrant with the option to respond within ten (10) days or the domain will be canceled.

If the Registrant responds within ten (10) business days, it'[s response will be reviewed by the DOT Registry's Abuse Team for further review. If DOT Registry's Abuse Team is satisfied by the Registrant's response that the use is not abusive, DOT Registry's Abuse Team will submit a request by the registry services provider to reactivate the domain name. DOT Registry's Abuse Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the Registrant does not respond within ten (10) business days, DOT Registry will notify the registry services team to cancel the abusive domain name.

This Anti-Abuse Procedure will not prejudice either party's election to pursue another dispute mechanism, such as URS or UDRP.

With the resources of DOT Registry's registry services personnel, DOT Registry can meet its obligations under Section 2.8 of the Registry Agreement where required to take reasonable steps to investigate and respond to reports from law enforcement and governmental and quasi-governmental agencies of illegal conduct in connection with the use of its TLD. The Registry will respond to legitimate law enforcement inquiries within one (1) business day from receiving the request. Such response shall include, at a minimum, an acknowledgement of receipt of the request, questions, or comments concerning the request, and an outline of the next steps to be taken by Application for rapid resolution of the request.

In the event such request involves any of the activities which can be validated by DOT Registry and involves the type of activity set forth in the Abuse Policy, the sponsoring registrar is then given forty-eight (48) hours to investigate the activity further and either take down the domain name by placing the domain name on hold or by deleting the domain name in its entirety or providing a compelling argument to the registry to keep the name in the zone. If the registrar has not taken the requested action after the 48-hour period (i.e., is unresponsive to the request or refuses to take action), DOT Registry will place the domain on "serverHold".

#### Maintenance of Registration Criteria

If a Registrant previously awarded the ".LLP" domain ceases to be registered with a Secretary of State or legally applicable jurisdiction, such Registrant will be required to forfeit the assigned ".LLP" domain at their designated renewal date.

If DOT Registry discovers that a Registrant wrongfully applied for and was awarded a ".LLP" domain, then such ".LLP" will be immediately forfeited to DOT Registry.

If a Registrant previously awarded a ".LLP" domain is dissolved and/or forfeited for any reason, then such ".LLP" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".LLP" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".LLP" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

A Registrant's "Active" Status will be verified annually. Any Registrant not considered "Active" by the definition listed above in question 18 will be given a probationary warning, allowing time for the Registrant to restore itself to "Active" Status. If the Registrant is unable to restore itself to "Active" status within the defined probationary period, their previously assigned ".LLP" will be forfeited. In addition, DOT Registry's definition of "Active" may change in accordance with the policies of the Secretaries of State.

## Orphan Glue Removal

As the Security and Stability Advisory Committee of ICANN (SSAC) rightly acknowledges, although orphaned glue records may be used for abusive or malicious purposes, the "dominant use of orphaned glue supports the correct and ordinary operation of the DNS." See <http://www.icann.org/en/committees/security/sac048.pdf>.

While orphan glue often supports correct and ordinary operation of the DNS, we understand that such glue records can be used maliciously to point to name servers that host domains used in illegal phishing, bot-nets, malware, and other abusive behaviors. Problems occur when the parent domain of the glue record is deleted but its children glue records still remain in the DNS. Therefore, when DOT Registry has written evidence of actual abuse of orphaned glue, DOT Registry will take action to remove those records from the zone to mitigate such malicious conduct.

DOT Registry's registry service operator will run a daily audit of entries in its DNS systems and compare those with its provisioning system. This serves as an umbrella protection to make sure that items in the DNS zone are valid. Any DNS record that shows up in the DNS zone but not in the provisioning system will be flagged for investigation and removed if necessary. This daily DNS audit serves to not only prevent orphaned hosts but also other records that should not be in the zone.

In addition, if either DOT Registry or its registry services operator becomes aware of actual abuse on orphaned glue after receiving written notification by a third party through its Abuse Contact or through its customer support, such glue records will be removed from the zone.

## WhoIs Accuracy

DOT Registry will provide WhoIs accessibility in a reliable, consistent, and predictable fashion in order to promote Whois accuracy. The Registry will adhere to port 43 WhoIs Service Level Agreements (SLAs), which require that port 43 WHOIS service be highly accessible and fast.

DOT Registry will offer thick WhoIs services, in which all authoritative WhoIs data—including contact data—is maintained at the registry. DOT Registry will maintain timely, unrestricted, and public access to accurate and complete WhoIs information, including all data objects as specified in Specification 4. Moreover, prior to the release of any domain names, DOT Registry's registrar will provide DOT Registry with an authorization code to verify eligible Registrants provide accurate Registrant contact information.

In order to further promote WhoIs accuracy, DOT Registry will offer a mechanism whereby third parties can submit complaints directly to the DOT Registry (as opposed to ICANN or the sponsoring Registrar) about inaccurate or incomplete WhoIs data. Such information shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the inaccuracies, DOT Registry reserves the right to cancel or suspend the applicable domain name(s) should DOT Registry determine that the domains are being used in a manner contrary to DOT Registry's abuse policy.

DOT Registry shall also require authentication and verification of all Registrant data. DOT Registry shall verify the certificates of incorporation, whether a corporation is in active status, contact information, e-mail address, and, to the best of its abilities,

determine whether address information supplied is accurate. Second-level domains in the TLD shall not be operational unless two (2) out of three (3) of the above authentication methods have been satisfied.

With regard to registrars, DOT Registry shall provide financial incentives for pre-authentication of Registrant data prior to such data being passed to the registry. DOT Registry will provide for lower renewal and bulk registration fees in its RRAs for registrations which have been pre-authenticated and which DOT Registry can rely on as accurate data to be entered into its WhoIs database.

DOT Registry will also maintain historical databases of Registrants and associated information which have provided inaccurate WhoIs information. DOT Registry will endeavor to use this database to uncover patterns of suspicious registrations which DOT Registry shall then flag for further authentication or for review of the Registrant's use of the domain in question to ensure Registrant's use is consonant with DOT Registry's abuse policy.

In addition, DOT Registry's Abuse Team shall on its own initiative, no less than twice per year, perform a manual review of a random sampling of domain names within the applied-for TLD to test the accuracy of the WhoIs information. Although this will not include verifying the actual information in the WHOIS record, DOT Registry will be examining the WHOIS data for prima facie evidence of inaccuracies. In the event that such evidence exists, it shall be forwarded to the registrar, who shall be required to address those complaints with their Registrants. Thirty days after forwarding the complaint to the registrar, the DOT Registry will examine the current WhoIs data for names that were alleged to be inaccurate to determine if the information was corrected, the domain name was deleted, or there was some other disposition. If the registrar has failed to take any action, or it is clear that the Registrant was either unwilling or unable to correct the inaccuracies, DOT Registry reserves the right to suspend the applicable domain name(s) should DOT Registry determine that the Registrant is using the domain in question in a manner contrary to DOT Registry's abuse policy. DOT Registry shall also reserve the right to report such recalcitrant registrar activities directly to ICANN.

#### Abuse Prevention and Mitigation – Domain Name Access

All domain name Registrants will have adequate controls to ensure proper access to domain functions.

In addition to the above, all domain name Registrants in the applied-for TLD will be required to name at least two (2) unique points of contact who are authorized to request and/or approve update, transfer, and deletion requests. The points of contact must establish strong passwords with the registrar that must be authenticated before a point of contact will be allowed to process updates, transfer, and deletion requests. Once a process update, transfer, or deletion request is entered, the points of contact will automatically be notified when a domain has been updated, transferred, or deleted through an automated system run by DOT Registry's registrar. Authentication of modified Registrant information shall be accomplished 48 Hours.

## 29. Rights Protection Mechanisms

DOT Registry is committed to implementing strong and integrated Rights Protection Mechanisms (RPM). Use of domain names that infringe upon the legal rights of others in the

TLD will not be tolerated. The nature of such uses creates security and stability issues for the registry, registrars, and registrants, as well as for users of the Internet in general. DOT Registry will protect the legal rights of others by implementing RPMs and anti-abuse policies backed by robust responsiveness to complaints and requirements of DOT Registry's registrars.

#### Trademark Clearinghouse

Each new gTLD Registry will be required to implement support for, and interaction with, the Trademark Clearinghouse ("Clearinghouse"). The Clearinghouse is intended to serve as a central repository for information to be authenticated, stored, and disseminated pertaining to the rights of trademark holders. The data maintained in the Clearinghouse will support and facilitate other RPMs, including the mandatory Sunrise Period and Trademark Claims service.

Utilizing the Clearinghouse, all operators of new gTLDs must offer: (i) a Sunrise registration service for at least 30 days during the pre-launch phase giving eligible trademark owners an early opportunity to register second-level domains in new gTLDs; and (ii) a Trademark Claims Service for at least the first 60 days that second-level registrations are open. The Trademark Claims Service is intended to provide clear notice to a potential registrant of the rights of a trademark owner whose trademark is registered in the Clearinghouse.

#### Sunrise A Period

DOT Registry will offer segmented Sunrise Periods. The initial Sunrise Period will last [minimum 30 days] for owners of trademarks listed in the Clearinghouse to register domain names that consist of an identical match of their listed trademarks. All domain names registered during the Sunrise Period will be subject to DOT Registry's domain name registration policy, namely, that all registrants be validly registered corporations and all applied-for domains will only be awarded the ".LLP" domain that matches or includes a substantial part of the Registrant's legal name. DOT Registry will assign its Rights Protection Team; which is lead by our Director of Legal and Policy and further supported by two dedicated employees to receive and authenticate all Sunrise Registrations.

DOT Registry's registrar will ensure that all Sunrise Registrants meet sunrise eligibility requirements (SERS), which will be verified by Clearinghouse data. The proposed SERS include: (i) ownership of a mark that is (a) nationally or regionally registered and for which proof of use, such as a declaration and a single specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse; or (b) that have been court-validated; or (c) that are specifically protected by a statute or treaty currently in effect and that was in effect on or before 26 June 2008, (ii) optional registry elected requirements concerning international classes of goods or services covered by registration; (iii) representation that all provided information is true and correct; and (iv) provision of data sufficient to document rights in the trademark.

Upon receipt of the Sunrise application, DOT Registry will issue a unique tracking number to the Registrar, which will correspond to that particular application. All applications will receive tracking numbers regardless of whether they are complete. Applications received during the Sunrise period will be accepted on a first-come, first-served basis and must be active corporations in good standing before they may be awarded the requested domain, or able to proceed to auction. Upon submission of all of the required information and documentation, registrar will forward the information to DOT Registry's [RPM Team] for authentication. DOT Registry's [RPM Team] will review the information and documentation and verify the trademark information, and notify the potential registrant of any deficiencies. If a registrant does not cure any trademark-related deficiencies and/or respond by the means listed within one (1) week, DOT Registry will notify its registrar and

the domain name will be released for registration. DOT Registry will incorporate a Sunrise Dispute Resolution Policy (SDRP). The SDRP will allow challenges to Sunrise Registrations by third parties for a ten-day period after acceptance of the registration based on the following four grounds: (i) at time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; (ii) the domain name is not identical to the mark on which the registrant based its Sunrise registration; (iii) the trademark registration on which the registrant based its Sunrise registration is not of national or regional effect or the trademark had not been court-validated or protected by statute or treaty; or (iv) the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received.

After receiving a Sunrise Complaint, DOT Registry's [RPM Team] will review the Complaint to see if the Complaint reasonably asserts a legitimate challenge as defined by the SDRP. If not, DOT Registry's [RPM Team] will send an email to the Complainant within thirty-six (36) hours of sending the confirmation email that the subject of the complaint clearly does not fall within one of the delineated grounds as defined by the SDRP and that DOT Registry considers the matter closed.

If the domain name is not found to have adequately met the SERs, DOT Registry's [RPM Team] will alert the registrar and registry services provider to immediately suspend the resolution of the domain name. Thereafter, DOT Registry's [RPM Team] will immediately notify the Sunrise Registrant of the suspension of the domain name, the nature of the complaint, and provide the registrant with the option to respond within ten (10) days to cure the SER deficiencies or the domain name will be canceled.

If the registrant responds within ten (10) business days, its response will be reviewed by DOT Registry's [RPM Team] to determine if the SERs are met. If DOT Registry's [RPM Team] is satisfied by the registrant's response, DOT Registry's [RPM Team] will submit a request to the registrar and the registry services provider to unsuspend the domain name. DOT Registry's [RPM Team] will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial.

Names secured as described through the Sunrise AT-AD processes will result in the registration of resolving domain names at the registry. Names reserved through the Sunrise B process will not result in resolving domain name at DOT Registry. Rather, these names will be reserved and blocked from live use. The applied for string will resolve to an informational page informing visitors that the name is unavailable for registration and reserved from use.

Applications that fit the following criteria will be considered during the Sunrise A period: Applicant owns and operates an existing domain name in another gTLD or ccTLD, in connection with eligible commerce and satisfies the registration requirements described in Section 1.

#### Sunrise B

Applications that fit the following criteria will be considered during the Sunrise B period:

- a) Applicant holds valid trademark registrations or owns rights to a particular name and wishes to block the use of such name.
- b) The Applicant must seek to block a name that corresponds to the entire text of its trademark or the complete textual component of a graphical or compound trademark. Certain variances are permitted for trademarks containing spaces or special characters that are not available for domain names.

Any entity, applying for blocks under Sunrise B as a non-member of the sponsored community

cannot apply for names in the TLD.

#### Founder's Program

Applications for the Founder's Program will be accepted after the close of the Sunrise Periods. Potential registrants should understand that certain expectations, as described herein will accompany the issuance of a domain name under the Founder's Program and all registrations resulting from this program will be required to follow the below listed guidelines, which will be further described in their Program Agreement:

- a) Registrants awarded a domain through the Founder's Program must use their best efforts to launch a ".LLP" website within 30 days of signing the Program Agreement.
  - b) In addition, each registrant will be required to issue a press release announcing the launch of their ".LLP" Founder Website, concurrent with the launch of their .LLP Founder Website, said press release must be approved by DOT Registry;
  - c) Founder's websites should be kept good working order, with unique, meaningful content, user-friendly interfaces, and broad user appeal, for the duration of the License Term,
  - d) Founders are expected to proactively market and promote ".LLP" gTLD in a manner that is likely to produce widespread awareness of the unique advantages gained through the ".LLP" string.
  - e) Founders are expected to participate in reasonable joint marketing initiatives with DOT Registry or its Agents, these would be discussed and mutually agreed upon, given the unique circumstances of each marketing venture.
  - f) Founders will allow DOT Registry to use in good faith Founder's name, likeness, trademarks, logos, and Application contents (other than Confidential Information,) as well as other Founder information and content as may be mutually agreed, in DOT Registry's marketing, promotional and communications materials.
- DOT Registry will randomly verify compliance of the above listed expectations and have the right to revoke any Founder's site, should they be deemed non-compliant.

Additionally, DOT Registry may suspend or delete a Founder's site without prior notice to the Registrar or Registrant if the Founder's site is deemed in violation of any of DOT Registry's registration guidelines or policies.

Registrants participating in the Founders program will receive 25% off their initial registration fees, additional discounts may be offered to founders at the time of renewal, should DOT Registry choose to offer additional discounts to founders or term extensions (not to exceed 5 years) DOT Registry will seek advance approval from ICANN via the specified channels.

#### Landrush

Landrush is a limited time opportunity for companies that want to secure a high value ".LLP" name for a small fee (above the basic registration cost). The landrush period will last 30 days. Applications will be accepted and evaluated to determine if they meet the requirements for registration. At the end of the Landrush period domain names with only one application will be awarded directly to the Applicant. Domain names with two or more applications will proceed to a closed mini auction, between the respective Applicants, where the highest bidder wins.

#### General Availability Period

Applicant must meet registration requirements.

Names will be awarded on a first-come, first serve basis which is determined as of the time of the initial request, not when authentication occurs.

#### Domain Name Contentions

Name contentions will arise when both a Sunrise A and Sunrise B application are submitted for the same name, the following actions will be taken to resolve the contention.

- a) Both Applicants will be notified of the contention and the Sunrise A Applicant will



be given first right to either register their requested domain or withdraw their application. Since ".LLP" is a sponsored community domain for registered Corporations, a domain applied for under Sunrise A will, all else being equal, receive priority over the identical domain applied for under Sunrise B. Sunrise A names get priority over Sunrise B names.

b) If the Sunrise A Applicant chooses to register their name regardless of the contention, then the Sunrise B Applicant may choose to pursue further action independently of DOT Registry to contest the name.

c) If two Sunrise A Applicants apply for the same domain name (i.e., Delta Airlines and Delta Faucet both seek to be awarded the use of DELTA.LLP) then DOT Registry will notify both Applicants of the contention and proceed to an auction process as described in Section 9.

d) If a Sunrise A Applicant and a Landrush Applicant apply for the same domain name, the Sunrise A Applicant, all else being equal will have priority over the Landrush Applicant.

e) If two Sunrise B Applicants apply for the same domain name (i.e., Delta Airlines and Delta Faucet, both seek to block the use of DELTA.LLP), then DOT Registry will accept both applications as valid and block the use of the indicated domain.

#### Appeal of Rejected Sunrise Applications

An applicant can file a request for reconsideration within 10 days of the notification of DOT Registry's rejection. Reconsideration can be requested by completing a reconsideration form and filing a reconsideration fee with DOT Registry. Forms, fee information, and process documentation will be available on the DOT Registry website. Upon receipt of the reconsideration form and the corresponding fee, DOT Registry or its Agents will re-examine the application, and notify the Registrant of all findings or additional information needed. The Request for Reconsideration must be submitted through the Registrant's registrar, and a reconsideration fee must be paid to DOT Registry.

#### Auctions

Sunrise A names found to be in contention as described above will result in Auction. DOT Registry plans to have a qualified third party conduct our auction processes, therefore the rules contained in this document are subject to change based on the selection of an auctioneer:

a) When your auction account is created, it will be assigned a unique bidder alias in order to ensure confidential bidding. The bidder alias will not reflect any information about your account. You may change your bidder alias to a name of your choosing but once set, it cannot be changed again.

b) All auction participants are expected to keep their account information current, throughout the auction process.

c) Auction participants will receive up to date communication from the auctioneer as the auction progresses, bidding status changes, or issues arise.

d) Bidding

i) Auctions will follow a standard process flow: scheduled (upcoming), open and closed.

ii) You will receive an "Auction Scheduled" notice at least ten (10) days prior to the scheduled auction start date. You will receive an "Auction Start" notice on the auction start date, which will indicate that you may begin placing bids through the interface. Once closed, the auction is complete and if you are the winning bidder, you will proceed to the payment process.

iii) If you choose to bid for a particular domain and you are the highest bidder at the end of an auction, you are obligated to complete the transaction and pay the Auctioneer the amount of your winning bid. Carefully consider your bids prior to placing them - bids are not retractable under any circumstances.

iv) If no bids are placed on a particular domain, the Registry will register the domain on behalf of the first customer (in the respective phase) to submit an application through a registrar.

e) Extensions

- i) A normal auction period is anticipated to last a minimum of 7 (seven) days. However, in the event of significant auction activity, an auction close may extend during the last twenty-four (24) hours of scheduled operation to better need the volume of the auction.
- ii) Auction extensions are meant to provide a mechanism that is fair for bidders in all time zones to respond to being outbid.
- iii) An auction extension will occur whenever the auction lead changes in the last twenty four (24) hours of the schedule of an auction. The close will be revised to reflect a new closing time set at twenty four (24) hours after the change in auction lead occurred. Essentially, this means that a winning maximum bid has to remain unchallenged for a period of twenty four (24) hours before the auction will close.
- iv) It is important to note that extensions are not simply based on the auction value changing since this could occur as a result of proxy bidding where the same bidder retains their lead. In this case, the maximum bid has not changed, the leader has not changed and therefore no extension will occur.
- f) Payment Default
- In the event that you as the winning bidder decide not to honor your payment obligations (or in the event of a reversal of payment or a charge back by a credit card company or other payment provider) on any outstanding balance, the Registry has the right to cancel any/all of your winning registrations for any .LLP domain name, regardless of whether they have been paid for or not. You do not have the right to "pick and choose" the names you wish to keep or not keep. Winning an auction creates an obligation to remit payment. Failure to remit payment is a breach of your agreement. You will lose any previously won domains and will no longer be allowed to bid on any current or future auctions sponsored by DOT Registry. Participants are encouraged therefore to consider carefully each bid submitted as any bid could be a winning bid.

#### Trademark Claims Service

DOT Registry will offer a Trademark Claims Service indefinitely to provide maximum protection and value to rights holders. The Trademark Claims Service will be monitored and operated by DOT Registry's RPM Team that will receive all communications regarding the Trademark Claims Service and catalog them. DOT Registry's registrar will review all domain name requests to determine if they are an identical match of a trademark filed with the Trademark Clearinghouse. A domain name will be considered an identical match when the domain name consists of the complete and identical textual elements of the mark, and includes domain names where (a) spaces contained within a mark that are either replaced by hyphens (and vice versa) or omitted; (b) certain special characters contained within a trademark are spelled out with appropriate words describing it (e.g., @ and &); and (c) punctuation or special characters contained within a mark that are unable to be used in a second-level domain name are either (i) omitted or (ii) replaced by spaces, hyphens or underscores. Domain names that are plural forms of a mark, or that merely contain a mark, will not qualify as an identical match.

If the registrar determines that a prospective domain name registration is identical to a mark registered in the Trademark Clearinghouse, the registrar will be required to email a "Trademark Claims Notice" (Notice) in English to the protective registrant of the domain name and copy DOT Registry's RPM Team. The Notice will provide the prospective registrant information regarding the trademark referenced in the Trademark Claims Notice to enhance understanding of the Trademark rights being claimed by the trademark holder. The Notice will be provided in real time without cost to the prospective registrant.

After receiving the notice, the registrar will provide the prospective registrant five (5) days to reply to the Trademark Claims Service with a signed document that specifically warrants that: (i) the prospective registrant has received notification that the mark is included in the Clearinghouse; (ii) the prospective registrant has received and understood the notice; and (iii) to the best of the prospective registrant's knowledge the

registration and use of the requested domain name will not infringe on the rights that are the subject of the notice. If the warranty document satisfies these requirements, the registrar will effectuate the registration and notify DOT Registry's RPM Team.

After the effectuation of a registration that is identical to a mark listed in the Trademark Clearinghouse, the registrar will provide clear notice to the trademark owner consisting of the domain name that has been registered and copy DOT Registry's RPM Team. The trademark owner then has the option of filing a Complaint under the Uniform Domain Name Dispute Resolution Policy (UDRP) or the Uniform Rapid Suspension System (URS).

#### Uniform Rapid Suspension System (URS)

DOT Registry will specify in the Registry Agreement, all RRAs, and all Registration Agreements used in connection with the TLD that it and its registrars will abide by all decisions made by panels in accordance with the Uniform Rapid Suspension System (URS). DOT Registry's RPM Team will receive all URS Complaints and decisions, and will notify its registrar to suspend all registrations determined by a URS panel to be infringing within a commercially reasonable time of receiving the decision. DOT Registry's RPM Team will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Uniform Domain Name Dispute Resolution Policy (UDRP)

DOT Registry will specify in the Registry Agreement, all Registry-Registrar Agreements, and Registration Agreements used in connection with the TLD that it will promptly abide by all decisions made by panels in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP). DOT Registry's RPM Team will receive all UDRP Complaints and decisions, and will notify its registrar to cancel or transfer all registrations determined to be by a UDRP panel to be infringing within ten (10) business days of receiving the decision. DOT Registry's [RPM Team] will catalog all abuse communications, but only provide them to third-parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

#### Proven Registrars

In order to reduce abusive registrations and other activities that affect the legal rights of others, DOT Registry will only contract with ICANN-accredited registrars. The registrar, according to the RRA, will not be able to register any domain names, thus eliminating the possibility of front-running.

#### Pre-Authorization and Authentication

Registrant authentication shall occur in accordance with the registration eligibility criteria and the Anti-Abuse Policy for .LLP as set forth in Question 28.

The verification process is designed to prevent a prospective registrant from providing inaccurate or incomplete data, such that, if necessary, the registrant can be readily contacted regarding an infringing use of its site; indeed, the process (including verification of a registrant's certificate of incorporation) is designed to ensure that only qualified members of the community are permitted to register in the TLD.

DOT Registry will not permit registrants to use proxy services.

#### Thick WhoIs

DOT Registry will include a thick WhoIs database as required in Specification 4 of the

Registry agreement. A thick WhoIs provides numerous advantages including a centralized location of registrant information, the ability to more easily manage and control the accuracy of data, and a consistent user experience.

#### Grace Period

If a Registrant previously awarded a ".LLP" domain is dissolved and/or forfeited for any reason, then such ".LLP" domain will be forfeited to DOT Registry at their designated renewal time; unless such Registrant takes all reasonable steps to become reinstated and such Registrant is reinstated within six months of being dissolved and/or forfeited.

If a Registrant previously awarded the ".LLP" domain is administratively dissolved by the Secretary of State or legally applicable jurisdiction, then such ".LLP" will be forfeited to DOT Registry at their designated renewal time, unless such Registrant is reinstated within six months of being administratively dissolved.

#### Takedown Procedure

DOT Registry will provide a Takedown Procedure modeled after the Digital Millennium Copyright Act's notice-and-takedown procedure.

At all times, DOT Registry will publish on its home website at NIC.LLP contact information for receiving rights protection complaints (Complaint) from rights holders, including but not limited to trademark and copyright Complaints. Complaints will be addressed to and received by DOT Registry's RPM Team who will catalogue and ticket in DOT Registry's CRM software and review as outlined herein. DOT Registry will catalog all rights protection communications and only provide them to third parties under limited circumstances, such as in response to a subpoena or other such court order or demonstrated official need by law enforcement.

Any Complaint from a rights holder will be relayed to DOT Registry's RPM Team. A member of DOT Registry's RPM Team will then send an email to the Complainant within forty-eight (48) hours of receiving the Complaint confirming receipt of the email, and that DOT Registry will notify the Complainant of the results of the Complaint within (10) days of receiving the Complaint.

After sending the confirmation email, DOT Registry's RPM Team will review the Complaint. If DOT Registry or its registrar determines that the registration was in bad faith, DOT Registry or its registrar may cancel or suspend the resolution of the domain name. Bad faith registration includes, but is not limited to, the registration of a domain identical to a registered trademark where the registrant has proceeded with registration after receipt of a Clearinghouse notice, as described above.

If the registrant responds within ten (10) business days, its response will be reviewed by the DOT Registry's RPM Team. If DOT Registry's RPM Team is satisfied by the registrant's response that the content has been taken down or is not infringing, DOT Registry's RPM Team will unsuspend the domain name. DOT Registry's RPM Team will then notify the Complainant that its complaint was ultimately denied and provide the reasons for the denial. If the registrant does not respond within ten (10) business days, DOT Registry or its registrar may cancel or suspend the resolution of the domain name.

This Takedown Procedure will not prejudice any party's election to pursue another dispute mechanism, such as URS or UDRP, as set forth in DOT Registry's response to Question 28.

## 30(a). Security Policy: Summary of the security policy for the proposed registry

### 30.(a).1 Security Policies

DOT Registry and our back-end operator, Neustar recognize the vital need to secure the systems and the integrity of the data in commercial solutions. The ".LLP" registry solution will leverage industry-best security practices including the consideration of physical, network, server, and application elements.

Neustar's approach to information security starts with comprehensive information security policies. These are based on the industry best practices for security including SANS (SysAdmin, Audit, Network, Security) Institute, NIST (National Institute of Standards and Technology), and CIS (Center for Internet Security). Policies are reviewed annually by Neustar's information security team.

The following is a summary of the security policies that will be used in the ".LLP" registry, including:

1. Summary of the security policies used in the registry operations
2. Description of independent security assessments
3. Description of security features that are appropriate for ".LLP"
4. List of commitments made to registrants regarding security levels

All of the security policies and levels described in this section are appropriate for the ".LLP" registry.

### 30.(a).2 Summary of Security Policies

Neustar has developed a comprehensive Information Security Program in order to create effective administrative, technical, and physical safeguards for the protection of its information assets, and to comply with Neustar's obligations under applicable law, regulations, and contracts. This Program establishes Neustar's policies for accessing, collecting, storing, using, transmitting, and protecting electronic, paper, and other records containing sensitive information.

-The policies for internal users and our clients to ensure the safe, organized and fair use of information resources.

-The rights that can be expected with that use.

- The standards that must be met to effectively comply with policy.
- The responsibilities of the owners, maintainers, and users of Neustar's information resources.
- Rules and principles used at Neustar to approach information security issues

The following policies are included in the Program:

#### 1. Acceptable Use Policy

The Acceptable Use Policy provides the rules of behavior covering all Neustar Associates for using Neustar resources or accessing sensitive information.

#### 2. Information Risk Management Policy

The Information Risk Management Policy describes the requirements for the on-going information security risk management program, including defining roles and responsibilities for conducting and evaluating risk assessments, assessments of technologies used to provide information security and monitoring procedures used to measure policy compliance.

#### 3. Data Protection Policy

The Data Protection Policy provides the requirements for creating, storing, transmitting, disclosing, and disposing of sensitive information, including data classification and labeling requirements, the requirements for data retention. Encryption and related technologies such as digital certificates are also covered under this policy.

#### 4. Third Party Policy

The Third Party Policy provides the requirements for handling service provider contracts, including specifically the vetting process, required contract reviews, and on-going monitoring of service providers for policy compliance.

#### 5. Security Awareness and Training Policy

The Security Awareness and Training Policy provide the requirements for managing the on-going awareness and training program at Neustar. This includes awareness and training activities provided to all Neustar Associates.

#### 6. Incident Response Policy

The Incident Response Policy provides the requirements for reacting to reports of potential security policy violations. This policy defines the necessary steps for identifying and reporting security incidents, remediation of problems, and conducting lessons learned post-mortem reviews in order to provide feedback on the effectiveness of this Program. Additionally, this policy contains the requirement for reporting data security breaches to the appropriate authorities and to the public, as required by law, contractual requirements, or regulatory bodies.

#### 7. Physical and Environmental Controls Policy

The Physical and Environment Controls Policy provides the requirements for securely storing sensitive information and the supporting information technology equipment and infrastructure. This policy includes details on the storage of paper records as well as access to computer systems and equipment locations by authorized personnel and visitors.

#### 8. Privacy Policy

Neustar supports the right to privacy, including the rights of individuals to control the dissemination and use of personal data that describes them, their personal choices, or life experiences. Neustar supports domestic and international laws and regulations that seek to protect the privacy rights of such individuals.

#### 9. Identity and Access Management Policy

The Identity and Access Management Policy covers user accounts (login ID naming convention, assignment, authoritative source) as well as ID lifecycle (request, approval, creation, use, suspension, deletion, review), including provisions for system/application accounts, shared/group accounts, guest/public accounts, temporary/emergency accounts, administrative access, and remote access. This policy also includes the user password policy requirements.

#### 10. Network Security Policy

The Network Security Policy covers aspects of Neustar network infrastructure and the technical controls in place to prevent and detect security policy violations.

#### 11. Platform Security Policy

The Platform Security Policy covers the requirements for configuration management of servers, shared systems, applications, databases, middle-ware, and desktops and laptops owned or operated by Neustar Associates.

#### 12. Mobile Device Security Policy

The Mobile Device Policy covers the requirements specific to mobile devices with information storage or processing capabilities. This policy includes laptop standards, as

well as requirements for PDAs, mobile phones, digital cameras and music players, and any other removable device capable of transmitting, processing or storing information.

### 13. Vulnerability and Threat Management Policy

The Vulnerability and Threat Management Policy provides the requirements for patch management, vulnerability scanning, penetration testing, threat management (modeling and monitoring) and the appropriate ties to the Risk Management Policy.

### 14. Monitoring and Audit Policy

The Monitoring and Audit Policy covers the details regarding which types of computer events to record, how to maintain the logs, and the roles and responsibilities for how to review, monitor, and respond to log information. This policy also includes the requirements for backup, archival, reporting, forensics use, and retention of audit logs.

### 15. Project and System Development and Maintenance Policy

The System Development and Maintenance Policy covers the minimum security requirements for all software, application, and system development performed by or on behalf of Neustar and the minimum security requirements for maintaining information systems.

### 30.(a).3 Independent Assessment Reports

Neustar IT Operations is subject to yearly Sarbanes-Oxley (SOX), Statement on Auditing Standards #70 (SAS70) and ISO audits. Testing of controls implemented by Neustar management in the areas of access to programs and data, change management and IT Operations are subject to testing by both internal and external SOX and SAS70 audit groups. Audit Findings are communicated to process owners, Quality Management Group and Executive Management. Actions are taken to make process adjustments where required and remediation of issues is monitored by internal audit and QM groups.

External Penetration Test is conducted by a third party on a yearly basis. As authorized by Neustar, the third party performs an external Penetration Test to review potential security weaknesses of network devices and hosts and demonstrate the impact to the environment. The assessment is conducted remotely from the Internet with testing divided into four phases:

- A network survey is performed in order to gain a better knowledge of the network that was being tested
- Vulnerability scanning is initiated with all the hosts that are discovered in the previous phase
- Identification of key systems for further exploitation is conducted



-Exploitation of the identified systems is attempted.

Each phase of the audit is supported by detailed documentation of audit procedures and results. Identified vulnerabilities are classified as high, medium and low risk to facilitate management's prioritization of remediation efforts. Tactical and strategic recommendations are provided to management supported by reference to industry best practices.

#### 30.(a).4 Augmented Security Levels and Capabilities

There are no increased security levels specific for ".LLP". However, Neustar will provide the same high level of security provided across all of the registries it manages.

A key to Neustar's Operational success is Neustar's highly structured operations practices. The standards and governance of these processes:

- Include annual independent review of information security practices
- Include annual external penetration tests by a third party
- Conform to the ISO 9001 standard (Part of Neustar's ISO-based Quality Management System)
- Are aligned to Information Technology Infrastructure Library (ITIL) and CoBIT best practices
- Are aligned with all aspects of ISO IEC 17799
- Are in compliance with Sarbanes-Oxley (SOX) requirements (audited annually)
- Are focused on continuous process improvement (metrics driven with product scorecards reviewed monthly).

A summary view to Neustar's security policy in alignment with ISO 17799 can be found in section 30.(a).5 below.

#### 30.(a).5 Commitments and Security Levels

The ".LLP" registry commits to high security levels that are consistent with the needs of the TLD. These commitments include:

##### Compliance with High Security Standards

- Security procedures and practices that are in alignment with ISO 17799
- Annual SOC 2 Audits on all critical registry systems
- Annual 3rd Party Penetration Tests
- Annual Sarbanes Oxley Audits

#### Highly Developed and Document Security Policies

- Compliance with all provisions described in section 30.(b) and in the attached security policy document.
- Resources necessary for providing information security
- Fully documented security policies
- Annual security training for all operations personnel

#### High Levels of Registry Security

- Multiple redundant data centers
- High Availability Design
- Architecture that includes multiple layers of security
- Diversified firewall and networking hardware vendors
- Multi-factor authentication for accessing registry systems
- Physical security access controls
- A 24x7 manned Network Operations Center that monitors all systems and applications
- A 24x7 manned Security Operations Center that monitors and mitigates DDoS attacks
- DDoS mitigation using traffic scrubbing technologies

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**New gTLD Program**  
**Community Priority Evaluation Report**  
 Report Date: 11 June 2014

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

### Overall Community Priority Evaluation Summary

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

### Panel Summary

Overall Scoring	5 Point(s)	
<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	3	4
#4: Community Endorsement	2	4
Total	5	16
<b>Minimum Required Total Score to Pass <u>14</u></b>		

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

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

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

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

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

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

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

#### Organization

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

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

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

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

documented evidence of community activities.

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

#### Pre-existence

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

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

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

1-B Extension

*0/2 Point(s)*

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

#### Size

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

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

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

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

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

#### Longevity

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

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

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

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

<b>Criterion #2: Nexus between Proposed String and Community</b>	<b>0/4 Point(s)</b>
2-A Nexus	<b>0/3 Point(s)</b>

The Community Priority Evaluation panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string identifies the community, but over-reaches substantially beyond the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.

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 (.INC) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community. According to the application documentation:

“.INC” was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language the word incorporation is primarily shortened to Inc. when used to delineate business entity types. For example, McMillion Incorporated would additionally be referred to as McMillion Inc. Since all of our community members are incorporated businesses we believed that “.INC” would be the simplest, most straightforward way to accurately represent our community.

Inc. is a recognized abbreviation in all 50 states and US Territories denoting the corporate status of an entity. Our research indicates that Inc. as corporate identifier is used in three other jurisdictions (Canada, Australia, and the Philippines) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our community definition.

While the string identifies the name of the community, it captures a wider geographical remit than the

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

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

2-B Uniqueness

*0/1 Point(s)*

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

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

**Criterion #3: Registration Policies**

**3/4 Point(s)**

3-A Eligibility

*1/1 Point(s)*

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

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

3-B Name Selection

*1/1 Point(s)*

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

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



3-C Content and Use	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by noting that all registrants must adhere to the content restrictions outlined in the applicant’s abuse policies. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.</p>	
3-D Enforcement	<i>0/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the application provided specific enforcement measures but did not include appropriate appeal mechanisms. The application received a score of 0 out of 1 point under criterion 3-D: Enforcement.</p> <p>Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. For example, if a registrant wrongfully applied for and was awarded a second level domain name, the right to hold this domain name will be immediately forfeited. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline an appeals process. The Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.</p>	
<b>Criterion #4: Community Endorsement</b>	
<i>2/4 Point(s)</i>	
4-A Support	<i>1/2 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.</p> <p>To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. “Recognized” means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. “Relevance” refers to the communities explicitly and implicitly addressed.</p> <p>The Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from a majority of the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support.</p>	

<p>The application included letters from a number of Secretaries of State of US states, which were considered to constitute support from groups with relevance, as each Secretary of State has responsibility for corporate registrations and the regulations pertaining to corporate formation in its jurisdiction. These entities are not the recognized community institution(s)/member organization(s), as these government agencies are fulfilling a function, rather than representing the community. The viewpoints expressed in these letters were not consistent across states. While several US states expressed clear support for the applicant during the Letters of Support verification process, others either provided qualified support, refrained from endorsing one particular applicant over another, or did not respond to the verification request. Letters of support from other entities did not meet the requirement for relevance based on the Applicant Guidebook criteria, as they were not from the recognized community institutions/member organizations. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.</p>	<i>1/2 Point(s)</i>
4-B Opposition	
<p>The Community Priority Evaluation panel determined that the application partially met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application received relevant opposition from one group of non-negligible size. The application received a score of 1 out of 2 points under criterion 4-B: Opposition.</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 several letters of opposition, one of which was determined to be relevant opposition from an organization of non-negligible size. This opposition was from a community that was not identified in the application but which has an association to the applied-for string. Opposition was on the grounds that limiting registration to US registered corporations only would unfairly exclude non-US businesses. The remaining letters were either from groups/individuals of negligible size, or were not from communities which were not mentioned in the application but which have an association to the applied for string. The Community Priority Evaluation Panel determined that the applicant partially satisfied the requirements for Opposition.</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 Applicant Guidebook or the Registry Agreement. For updated application status and complete details on the program, please refer to the Applicant Guidebook and the ICANN New gTLDs microsite at <[newgtlds.icann.org](http://newgtlds.icann.org)>.



**New gTLD Program**  
**Community Priority Evaluation Report**  
 Report Date: 11 June 2014

Application ID:	1-880-17627
Applied-for String:	LLC
Applicant Name:	Dot Registry LLC

### Overall Community Priority Evaluation Summary

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

### Panel Summary

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

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

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

Members of the community are defined as businesses registered as limited liability companies with the United States or its territories. Limited Liability Companies or (LLC’s) as they are commonly abbreviated, represent one of the most popular business entity structures in the US. LLC’s commonly participate in acts of commerce, public services, and product creation....

An LLC is defined as a flexible form of enterprise that blends elements of partnership and corporate structures. It is a legal form of company that provides limited liability to its owners in the vast majority of United States jurisdictions. LLC’s are a unique entity type because they are considered a hybrid, having certain characteristics of both a corporation and a partnership or sole proprietorship. LLC’s are closely related to corporations in the sense that they participate in similar activities and provide limited liability to their partners. Additionally, LLC’s share a key characteristic with partnerships through the availability of pass-through income taxation. LLC’s are a more flexible entity type than a corporation and are often well suited for businesses owned by a single owner.

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

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

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

#### Organization

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

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

LLC’s can be formed through any jurisdiction of the United States. Therefore members of this community exist in all 50 US states and its territories. LLC formation guidelines are dictated by state law and can vary based on each state’s regulations. Persons form an LLC by filing required documents with the appropriate state authority, usually the Secretary of State. Most states require the filing of Articles of Organization. These are considered public documents and are similar to articles of incorporation, which establish a corporation as a legal entity. At minimum, the articles of organization give a brief description of the intended business purposes, the registered agent, and registered business address. LLC’s are expected to conduct business in conjunction with the policies of the state in which they are formed, and the Secretary of State periodically evaluates a LLC’s level of good standing based on their commercial interactions with both the state and consumers.

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

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

#### Pre-existence

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

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

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

#### 1-B Extension

*0/2 Point(s)*

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

#### Size

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

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

With the number of registered LLC’s in the United States totaling over five million in 2010 (as reported by the International Association of Commercial Administrators) it is hard for the average consumer to not conduct business with an LLC.

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

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

#### Longevity

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

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

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

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

<b>Criterion #2: Nexus between Proposed String and Community</b>	<b>0/4 Point(s)</b>
2-A Nexus	0/3 Point(s)
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string identifies the community, but over-reaches substantially beyond the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.</p> <p>To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus, the applied-for string must identify the community. “Identify” means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.</p> <p>The applied-for string (.LLC) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community. According to the application documentation:</p> <p style="padding-left: 40px;">“LLC” was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language Limited Liability Company is primarily shortened to LLC when used to delineate business entity types. Since all of our community members are limited liability companies we believed that “.LLC” would be the simplest, most straight forward way to accurately represent our community.</p> <p style="padding-left: 40px;">LLC is a recognized abbreviation in all 50 states and US territories denoting the registration type of a business entity. The Panel’s research indicates that while other jurisdictions use LLC as a corporate identifier, their definitions are quite different and there are no other known associations or definitions of LLC in the English language.</p> <p>While the string identifies the name of the community, it captures a wider geographical remit than the</p>	

community has, as the corporate identifier is used in other jurisdictions (outside the US). Therefore, there is a substantial over-reach between the proposed string and community as defined by the applicant.

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

2-B Uniqueness

*0/1 Point(s)*

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

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

**Criterion #3: Registration Policies**

**3/4 Point(s)**

3-A Eligibility

*1/1 Point(s)*

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

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

3-B Name Selection

*1/1 Point(s)*

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

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

3-C Content and Use

*1/1 Point(s)*

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

To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by noting that all registrants must adhere to the content restrictions outlined in the applicant's abuse policies. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.

3-D Enforcement

*0/1 Point(s)*

The Community Priority Evaluation panel determined that the application did not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the application provided specific enforcement measures but did not include appropriate appeal mechanisms. The application received a score of 0 out of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. For example, if a registrant wrongfully applied for and was awarded a second level domain name, the right to hold this domain name will be immediately forfeited. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline an appeals process. The Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.

**Criterion #4: Community Endorsement**

*2/4 Point(s)*

4-A Support

*1/2 Point(s)*

The Community Priority Evaluation panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.

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 Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from a majority of the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support.

The application included letters from a number of Secretaries of State of US states, which were considered to



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

4-B Opposition

*1/2 Point(s)*

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

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

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

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



**New gTLD Program**  
**Community Priority Evaluation Report**  
 Report Date: 11 June 2014

Application ID:	1-880-35508
Applied-for String:	LLP
Applicant Name:	Dot Registry LLC

### Overall Community Priority Evaluation Summary

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

### Panel Summary

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

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

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

Members of the community are defined as businesses registered as Limited Liability Partnerships with the United States or its territories. Limited Liability Partnerships or (LLP’s) as they are commonly abbreviated, are specifically designed to represent professional service businesses in the US . Limited Liability Partnerships are commonly adopted by businesses which focus on: accounting, attorneys, architects, dentists, doctors and other fields treated as professionals under each state’s law....

A Limited Liability Partnership is defined as a partnership in which some or all partners (depending on jurisdiction) have limited liability. LLP’s therefore exhibit qualities of both partnerships and corporations. In an LLP, one partner is not responsible or liable for another partner’s misconduct or negligence. This distinction is why the LLP is a popular business entity amongst accountants, doctors, and lawyers; which deal heavily with issues that could inspire mal-practice lawsuits.

This community definition shows a clear and straightforward membership. While broad, the community is clearly defined, as membership requires formal registration as a limited liability partnership with the relevant US state (LLPs operate in about 40 US states). In addition, limited liability partnerships must comply with US state law and show proof of best practice in commercial dealings to the relevant state authorities.

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

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

#### Organization

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

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

Limited Liability Partnerships can be formed through all but ten states in the United States. Therefore members of this community exist in close to forty US states. LLP formation guidelines are dictated by state law and can vary based on each state’s regulations. Persons form an LLP by filing required documents with the appropriate state authority, usually the Secretary of State.

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

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

Pre-existence

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

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

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

## 1-B Extension

*0/2 Point(s)*

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

Size

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

The community as defined in the application is of a considerable size. The community for .LLP as defined in the application is large in terms of number of members. According to the application, “LLP’s represent a small but prestigious sector of business in the United States.”

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

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

Longevity

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

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

a “community” construed to obtain a sought-after corporate identifier as a gTLD string, as these limited liability partnerships would typically not associate themselves with being part of the community as defined by the applicant. Therefore, the pursuits of the .LLP community are not of a lasting, non-transient nature.

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

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

<b>Criterion #2: Nexus between Proposed String and Community</b>	<b>0/4 Point(s)</b>
2-A Nexus	<b>0/3 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string identifies the community, but over-reaches substantially beyond the community. The application received a score of 0 out of 3 points under criterion 2-A: Nexus.</p> <p>To receive the maximum score for Nexus, the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community name. To receive a partial score for Nexus, the applied-for string must identify the community. “Identify” means that the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community.</p> <p>The applied-for string (.LLP) over-reaches substantially, as the string indicates a wider or related community of which the applicant is a part but is not specific to the applicant’s community. According to the application documentation:</p> <p style="padding-left: 40px;">“LLP” was chosen as our gTLD string because it is the commonly used abbreviation for the entity type that makes up the membership of our community. In the English language Limited Liability Partnership is primarily shortened to LLP when used to delineate business entity types...</p> <p style="padding-left: 40px;">LLP is a recognized abbreviation in all 50 states and US territories denoting the registration type of a business entity. Our research indicates that LLP as corporate identifier is used in eleven other jurisdictions (Canada, China, Germany, Greece, India, Japan, Kazakhstan, Poland, Romania, Singapore, and the United Kingdom) though their formation regulations are different from the United States and their entity designations would not fall within the boundaries of our community definition.</p> <p>While the string identifies the name of the community, it captures a wider geographical remit than the community has, as the corporate identifier is used in Poland, the UK, Canada and Japan, amongst others. Therefore, there is a substantial over-reach between the proposed string and community as defined by the applicant.</p> <p>The Community Priority Evaluation panel determined that the applied-for string over-reaches substantially beyond the community. It therefore does not meet the requirements for Nexus.</p>	

2-B Uniqueness	<i>0/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the string does not score a 2 or a 3 on Nexus. The application received a score of 0 out of 1 point under criterion 2-B: Uniqueness.</p> <p>To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application and it must also score a 2 or a 3 on Nexus. The string as defined in the application does not demonstrate uniqueness as the string does not score a 2 or a 3 on Nexus and is therefore ineligible for a score of 1 for Uniqueness. The Community Priority Evaluation panel determined that the applied-for string does not satisfy the condition to fulfill the requirements for Uniqueness.</p>	

<b>Criterion #3: Registration Policies</b>	<b>3/4 Point(s)</b>
3-A Eligibility	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.</p> <p>To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members. The application demonstrates adherence to this requirement by limiting eligibility to registered limited liability partnerships and by cross-referencing their documentation against the applicable US state's registration records in order to verify the accuracy of their application. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.</p>	
3-B Name Selection	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as name selection rules are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-B: Name Selection.</p> <p>To fulfill the requirements for Name Selection, the registration policies for name selection for registrants must be consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by outlining a comprehensive list of name selection rules, such as requirements that second level domain names should match or include a substantial part of the registrant's legal name, and specifying that registrants will not be able to register product line registrations, amongst other requirements. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.</p>	
3-C Content and Use	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p>	

To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by noting that all registrants must adhere to the content restrictions outlined in the applicant's abuse policies. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.

3-D Enforcement

*0/1 Point(s)*

The Community Priority Evaluation panel determined that the application did not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the application provided specific enforcement measures but did not include appropriate appeal mechanisms. The application received a score of 0 out of 1 point under criterion 3-D: Enforcement.

Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. For example, if a registrant wrongfully applied for and was awarded a second level domain name, the right to hold this domain name will be immediately forfeited. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline an appeals process. The Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.

**Criterion #4: Community Endorsement**

*2/4 Point(s)*

4-A Support

*1/2 Point(s)*

The Community Priority Evaluation panel determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.

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 Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s), nor did it have documented authority to represent the community, or documented support from a majority of the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from at least one group with relevance and this documentation contained a description of the process and rationale used in arriving at the expression of support.

The application included letters from a number of Secretaries of State of US states, which were considered to constitute support from groups with relevance, as each Secretary of State has responsibility for corporate registrations and the regulations pertaining to corporate formation in its jurisdiction. These entities are not the recognized community institution(s)/member organization(s), as these government agencies are fulfilling a function, rather than representing the community. The viewpoints expressed in these letters were not consistent across states. While several US states expressed clear support for the applicant during the Letters of Support verification process, others either provided qualified support, refrained from endorsing one

particular applicant over another, or did not respond to the verification request. Letters of support from other entities did not meet the requirement for relevance based on the Applicant Guidebook criteria, as they were not from the recognized community institutions/member organizations. The Community Priority Evaluation Panel determined that the applicant partially satisfies the requirements for Support.

4-B Opposition

*1/2 Point(s)*

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

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

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

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





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

Application ID:	1-1083-39123
Applied-for String:	RADIO
Applicant Name:	European Broadcasting Union

### Overall Community Priority Evaluation Summary

Community Priority Evaluation Result	Prevailed
<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 met the requirements specified in the Applicant Guidebook. Your application prevailed in Community Priority Evaluation.</p>	

### Panel Summary

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

Criterion #1: Community Establishment	3/4 Point(s)
1-A Delineation	1/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as defined in the application partially met the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as it is clearly delineated and pre-existing, but, as defined, is not sufficiently organized. The application received a score of 1 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> <p>The community defined in the application (“RADIO”) is, as follows:</p> <p style="padding-left: 40px;">The Radio industry is composed of a huge number of very diverse radio broadcasters: public and private; international and local; commercial or community-oriented; general purpose, or sector-</p>	

specific; talk or music; big and small. All licensed radio broadcasters are part of the .radio community, and so are the associations, federations and unions they have created (such as the EBU, applicant for the .radio TLD with the support of its sister Unions; see below for more details on Radio industry representativeness). Also included are the radio professionals, those making radio the fundamental communications tool that it is.

However, the Radio industry keeps evolving and today, many stations are not only broadcasting in the traditional sense, but also webcasting and streaming their audio content via the Internet. Some are not broadcasters in the traditional sense: Internet radios are also part of the Radio community, and as such will be acknowledged by .radio TLD, as will podcasters. In all cases certain minimum standards on streaming or updating schedules will apply.

The .radio community also comprises the often overlooked amateur radio, which uses radio frequencies for communications to small circles of the public. Licensed radio amateurs and their clubs will also be part of the .radio community.

Finally, the community includes a variety of companies providing specific services or products to the Radio industry.

This community definition shows a clear and straightforward membership and is therefore well defined. Association with, and membership in, the radio community can be verified through licenses held by professional and amateur radio broadcasters; membership in radio-related associations, clubs and unions; internet radios that meet certain minimum standards; radio-related service providers that can be identified through trademarks; and radio industry partners and providers.

In addition, the community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities and individuals that are in the radio industry<sup>1</sup>, and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community. In addition, membership in the (industry) community is sufficiently structured, as the requirements listed in the community definition above show.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both of the conditions to fulfill the requirements for Delineation.

#### Organization

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

The community as defined in the application does not have one entity mainly dedicated to the community. There are several entities that represent parts of the radio community, such as the World Broadcasting Unions (WBU), the Association for International Broadcasting, the Association of European Radios, the Association Mondiale des Radiodiffuseurs Communautaires, the European Association of Television and Radio Sales Houses, the Union Radiophonique et Télévisuelle Internationale, and the Internet Media Device Alliance. Based on the Panel's research, these entities only represent certain segments of the community as defined by the applicant. For example, the WBU is the umbrella organization for eight regional broadcasting unions, but does not represent amateur radio. There is no entity that represents all of the radio member categories outlined by the applicant. According to the application:

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<sup>1</sup> The radio industry is included in the North American Industrial Classification System (NAICS). It defines this industry as, "Establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Also included here are establishments primarily engaged in radio broadcasting and which produce radio program materials." This definition of the industry includes the vast majority of entities included in the defined community.

The Radio community is structured mainly under 8 world broadcasting Unions which represent radio broadcasting interests at the World Radio Frequencies Conferences and coordinate their work through the WBU, as described in response to Question 11H.

The WBU works through a number of permanent working commissions, such as the Technical Committee, which deals with technical standardization; the Sports Committee, dealing with the coverage of world sports events (such as Olympic Games and football world championships); ISOG (International Satellite Operations Group), dealing with satellite contribution circuit issues. Besides the WBU, other specialized broadcasting associations represent specific radio interests, such as the already mentioned AMARC and AER.

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 radio member categories outlined by the applicant. An "organized" community is one that is represented by at least one entity that encompasses the entire community as defined by the applicant. For example, there should be at least one entity that encompasses and organizes: "radio broadcasters, the associations, federations and unions they have created, radio professionals, Internet radios, podcasters, amateur radio (and their clubs), and companies providing specific services or products to the Radio industry." Based on information provided in the application materials and the Panel's research, there is no such entity that organizes the community defined in the application. Therefore, as there is no entity that is mainly dedicated to the community as defined in the .RADIO application, as the Panel has determined, there cannot be documented evidence of community activities.

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

#### Pre-existence

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

The community as defined in the application was active prior to September 2007. Radio broadcast technologies have existed in one form or another for nearly a century. As the industry has evolved<sup>2</sup> through the uptake of new technologies, so too has industry membership. For example, in the early years of the industry, members of the radio industry included radio professionals, broadcasters and companies providing products to the industry, amongst others. With the advent of the internet and other radio technologies, the community has expanded to include Internet radios, podcasters and others. The Panel acknowledges that not all elements of the community defined in the application have been in existence since the dawn of the industry; however, the proposed community segments have been active prior to September 2007.

The Community Priority Evaluation panel determined that the community as defined in the application fulfills the requirements for Pre-existence.

1-B Extension

**2/2 Point(s)**

The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application demonstrates considerable size and longevity for the community. The application received a maximum score of 2 points under criterion 1-B: Extension.

<sup>2</sup> According to the US Federal Communications Commission, in 1906 the first program including speech and music was transmitted over the radio; by 1912 the US government put in place regulations for radio stations and operators. See [http://transition.fcc.gov/omd/history/radio/documents/short\\_history.pdf](http://transition.fcc.gov/omd/history/radio/documents/short_history.pdf)

Size

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

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

Currently, there are about 50,000 radio stations worldwide, according to the figure published by CIA World Facts on their website. In addition, there are at least another 50,000 web radios.

Moreover, the community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities and individuals that are in the radio industry<sup>3</sup>, and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the 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 it must display an awareness and recognition of a community among its members.

The community as defined in the application demonstrates longevity. The pursuits of the .RADIO community are of a lasting, non-transient nature. Radio services have, as noted, existed for more than a century and are likely to continue, although technological advances may change form and function.

Moreover, as mentioned previously, the community as defined in the application has awareness and recognition among its members. This is because the community as defined consists of entities and individuals that are in the radio industry<sup>4</sup>, and as participants in this clearly defined industry, they have an awareness and recognition of their inclusion in the industry community.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for Longevity.

**Criterion #2: Nexus between Proposed String and Community**

**3/4 Point(s)**

2-A Nexus

**2/3 Point(s)**

The Community Priority Evaluation panel determined that the application partially met the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string “identifies” the name of the community as defined in the application, without over-reaching substantially beyond the community, but it does not “match” the name of the community as defined. The application received a score of 2 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 (.RADIO) identifies the name of the community. According to the applicant:

<sup>3</sup> Ibid

<sup>4</sup> Ibid

Radio means the operators, services and technologies defined here as the Radio community. Radio also means, and is, audio broadcasting. The station broadcasting or streaming that audio content is radio, and the company performing the audio broadcasting is radio. A radio is the receiver used by the listener. Radio is the name everybody uses to refer to the entire industry, and the whole community.

With the advent of streaming via the Internet and the continuous delivery of audio content to broad groups of listeners, we now often refer to the new services as web, net or Internet radio.

The Radio community could not find any other name, even vaguely appropriate, to designate the TLD for its community. .radio is the TLD for the Radio community and could not be anything else. It is perfectly tuned.

The string closely describes the community, without overreaching substantially beyond the community. The string identifies the name of the core community members (i.e. licensed professional and amateur radio broadcasters and their associated unions and clubs, and Internet radio). However, the community, as defined in the application, also includes some entities that are only tangentially related to radio, such as companies providing specific services or products to radio broadcasting organizations and which may not be automatically associated with the gTLD string. For example, network interface equipment and software providers to the industry, based on the Panel's research, would not likely be associated with the word RADIO<sup>5</sup>. However, these entities are considered to comprise only a small part of the community. Since only a small part of the community as defined by the applicant extends beyond the reference of the string, it is not a substantial over-reach. Therefore, the string identifies the community, as the public will generally associate the string with the community as defined by the applicant.

The Community Priority Evaluation panel determined that the applied-for string identifies the name of the community as defined in the application. It therefore partially meets the requirements for Nexus.

#### 2-B Uniqueness

**1/1 Point(s)**

The Community Priority Evaluation panel determined that the application met the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the string has no other significant meaning beyond identifying the community described in the application. The application received a maximum score 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. The string as defined in the application demonstrates uniqueness, as the string does not have any other meaning beyond identifying the community described in the application. The Community Priority Evaluation panel determined that the applied-for string satisfies the condition to fulfill the requirements for Uniqueness.

### **Criterion #3: Registration Policies**

**4/4 Point(s)**

#### 3-A Eligibility

**1/1 Point(s)**

The Community Priority Evaluation panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as eligibility

<sup>5</sup> There are numerous definitions of the word radio. These include: (a) the transmission and reception of electromagnetic waves of radio frequency, especially those carrying sound messages; (b) the activity or industry of broadcasting sound programs to the public; (c) an apparatus for receiving radio programs. Definition (b) closely reflects the core community as defined by the applicant, which includes: radio broadcasters, the associations, federations and unions they have created, radio professionals, Internet radios, podcasters, and amateur radio (and their clubs). However, the community members that provide "specific services or products to the Radio industry", such as software or interface equipment, would not be associated with the term "radio" by the general public.

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 the community categories mentioned in Delineation, and additionally requiring that the registered domain name be “accepted as legitimate; and beneficial to the cause and values of the radio industry; and commensurate with the role and importance of the registered domain name; and in good faith at the time of registration and thereafter.” (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.

### 3-B Name Selection

***1/1 Point(s)***

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

To fulfill the requirements for Name Selection, the registration policies for name selection for registrants must be consistent with the articulated, community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by specifying that the registrant’s nexus with the radio community and use of the domain must be commensurate with the role of the registered domain, and with the role and importance of the domain name based on the meaning an average user would reasonably assume in the context of the domain name. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.

### 3-C Content and Use

***1/1 Point(s)***

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

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 specifying that use of the domain name must be beneficial to the cause and values of the radio industry, and commensurate with the role and importance of the registered domain name, etc. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.

### 3-D Enforcement

***1/1 Point(s)***

The Community Priority Evaluation panel determined that the application met the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application provided specific enforcement measures as well as 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 enforcement program is based on random checks, and if the content or use of an existing domain name shows bad faith, it will be suspended. There is also an appeals mechanism, which is managed in

the first instance by the registry, with appeals heard by an independent, alternative dispute resolution provider. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies both conditions to fulfill the requirements for Enforcement.

<b>Criterion #4: Community Endorsement</b>	<b>4/4 Point(s)</b>
<b>4-A Support</b>	<b>2/2 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application fully met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the applicant had documented support from the recognized community institution(s)/member organization(s). The application received a maximum score 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 those institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. “Relevance” refers to the communities explicitly and implicitly addressed.</p> <p>The Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from institutions/organizations representing a majority of the community addressed, and this documentation contained a description of the process and rationale used in arriving at the expression of support. The applicant received support from a broad range of recognized community institutions/member organizations, which represented different segments of the community as defined by the applicant. These entities represented a majority of the overall community. The Community Priority Evaluation Panel determined that the applicant fully satisfies the requirements for Support.</p>	
<b>4-B Opposition</b>	<b>2/2 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, 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 not to be relevant, as they were (1) from individuals or groups of negligible size, or (2) were not from communities either explicitly mentioned in the application nor from those with an implicit association to such communities. 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 Applicant Guidebook or the Registry Agreement. For updated application status and complete details on the program, please refer to the Applicant Guidebook and the ICANN New gTLDs microsite at <newgtlds.icann.org>.



**New gTLD Program  
 Community Priority Evaluation Report**

Report Date: 11 June 2014

Application ID:	1-1032-95136
Applied-for String:	HOTEL
Applicant Name:	HOTEL Top-Level-Domain s.a.r.l

**Overall Community Priority Evaluation Summary**

Community Priority Evaluation Result	Prevailed
<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 met the requirements specified in the Applicant Guidebook. Your application prevailed in Community Priority Evaluation.</p>	

**Panel Summary**

Overall Scoring	15 Point(s)	
	Earned	Achievable
#1: Community Establishment	4	4
#2: Nexus between Proposed String and Community	3	4
#3: Registration Policies	4	4
#4: Community Endorsement	4	4
Total	15	16
<p><b>Minimum Required Total Score to Pass <u>14</u></b></p>		

Criterion #1: Community Establishment	4/4 Point(s)
1-A Delineation	2/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the community is clearly delineated, organized and pre-existing. The application received the maximum score 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> <p>The community defined in the application (“HOTEL”) is:</p>	



The .hotel namespace will exclusively serve the global Hotel Community. The string “Hotel” is an internationally agreed word that has a clear definition of its meaning: According to DIN EN ISO 18513:2003, “A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available.” Therefore only entities which fulfil this definition are members of the Hotel Community and eligible to register a domain name under .hotel. .hotel domains will be available for registration to all companies which are member of the Hotel Community on a local, national and international level. The registration of .hotel domain names shall be dedicated to all entities and organizations representing such entities which fulfil the ISO definition quoted above:

1. Individual Hotels
2. Hotel Chains
3. Hotel Marketing organizations representing members from 1. and/or 2.
4. International, national and local Associations representing Hotels and Hotel Associations representing members from 1. and/or 2.
5. Other Organizations representing Hotels, Hotel Owners and other solely Hotel related organizations representing on members from 1. and/or 2.

These categories are a logical alliance of members, with the associations and the marketing organizations maintaining membership lists, directories and registers that can be used, among other public lists, directories and registers, to verify eligibility against the .hotel Eligibility requirements.

This community definition shows a clear and straightforward membership. The community is clearly defined because membership requires entities/associations to fulfill the ISO criterion for what constitutes a hotel. Furthermore, association with the hotel sector can be verified through membership lists, directories and registers.

In addition, the community as defined in the application has awareness and recognition among its members. This is because the community is defined in terms of its association with the hotel industry and the provision of specific hotel services.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for Delineation.

#### Organization

Two conditions need to 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 has at least one entity mainly dedicated to the community. There are, in fact, several entities that are mainly dedicated to the community, such as the International Hotel and Restaurant Association (IH&RA), Hospitality Europe (HOTREC), the American Hotel & Lodging Association (AH&LA) and China Hotel Association (CHA), among others. According to the application,

Among those associations the International Hotel and Restaurant Association (IH&RA) is the oldest one, which was founded in 1869/1946, is the only global business organization representing the hotel industry worldwide and it is the only global business organization representing the hospitality industry (hotels and restaurants) worldwide. Officially recognized by United Nations as the voice of the private sector globally, IH&RA monitors and lobbies all international agencies on behalf of this industry. Its members represent more than 300,000 hotels and thereby the majority of hotels worldwide.

The community as defined in the application has documented evidence of community activities. This is confirmed by detailed information on IH&RA’s website, as well as information on other hotel association websites.

The Community Priority Evaluation panel determined that the community as defined in the application

satisfies both the 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 active prior to September 2007. Hotels have existed in their current form since the 19<sup>th</sup> century, and the oldest hotel association is IH&RA, which, according to the entity’s website, was first established in 1869 as the All Hotelmen Alliance. The organization has been operating under its present name since 1997.

The Community Priority Evaluation panel determined that the community as defined in the application fulfills the requirements for Pre-existence.

1-B Extension

*2/2 Point(s)*

The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application demonstrates considerable size and longevity for the community. The application received a maximum score of 2 points under criterion 1-B: Extension.

Size

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

The community as defined in the application is of a considerable size. The community for .HOTEL as defined in the application is large in terms of the number of members. According to the applicant, “the global Hotel Community consists of more than 500,000 hotels and their associations”.

In addition, the community as defined in the application has awareness and recognition among its members because the community is defined in terms of association with the provision of hotel services.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the 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 demonstrates longevity. The pursuits of the .HOTEL community are of a lasting, non-transient nature.

In addition, the community as defined in the application has awareness and recognition among its members because the community is defined in terms of association with the provision of hotel services.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for Longevity.

**Criterion #2: Nexus between Proposed String and Community**

*3/4 Point(s)*

2-A Nexus

*2/3 Point(s)*

The Community Priority Evaluation panel determined that the application met the criterion for Nexus as

<p>specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string identifies the name of the community, without over-reaching substantially beyond the community. The application received a score of 2 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 (.HOTEL) identifies the name of the community. According to the applicant,</p> <p style="padding-left: 40px;">The proposed top-level domain name, “HOTEL”, is a widely accepted and recognized string that globally identifies the Hotel Community and especially its members, the hotels.</p> <p>The string nexus closely describes the community, without overreaching substantially beyond the community. The string identifies the name of the core community members (i.e. hotels and associations representing hotels). However, the community also includes some entities that are related to hotels, such as hotel marketing associations that represent hotels and hotel chains and which may not be automatically associated with the gTLD. However, these entities are considered to comprise only a small part of the community. Therefore, the string identifies the community, but does not over-reach substantially beyond the community, as the general public will generally associate the string with the community as defined by the applicant.</p> <p>The Community Priority Evaluation panel determined that the applied-for string identifies the name of the community as defined in the application. It therefore partially meets the requirements for Nexus.</p>	
2-B Uniqueness	<i>1 / 1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the string has no other significant meaning beyond identifying the community described in the application. The application received a maximum score of 1 point under criterion 2-B: Uniqueness.</p> <p>To fulfill the requirements for Uniqueness, the string .HOTEL must have no other significant meaning beyond identifying the community described in the application. The Community Priority Evaluation panel determined that the applied-for string satisfies the condition to fulfill the requirements for Uniqueness.</p>	

<b>Criterion #3: Registration Policies</b>		<b>4/4 Point(s)</b>
3-A Eligibility		<i>1 / 1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Eligibility, as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.</p> <p>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 the narrow category of hotels and their organizations as defined by ISO 18513, and verifying this association through membership lists, directories and registries. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.</p>		

3-B Name Selection	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as name selection rules are consistent with the articulated community-based purpose of the applied-for gTLD. The application received a maximum score of 1 point under criterion 3-B: Name Selection.</p> <p>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 specifying that eligible applicants will be entitled to register any domain name that is not reserved or registered at the time of their registration submission. Furthermore, the registry has set aside a list of domain names that will be reserved for the major hotel industry brands and sub-brands. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.</p>	
3-C Content and Use	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by specifying that each domain name must display hotel community-related content relevant to the domain name, etc. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Content and Use.</p>	
3-D Enforcement	<i>1/1 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application provided specific enforcement measures as well as appropriate appeal mechanisms. The application received a maximum score of 1 point under criterion 3-D: Enforcement.</p> <p>Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set. The applicant's registry will establish a process for questions and challenges that could arise from registrations and will conduct random checks on registered domains. There is also an appeals mechanism, whereby a registrant has the right to request a review of a decision to revoke its right to hold a domain name. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies both conditions to fulfill the requirements for Enforcement.</p>	
<b>Criterion #4: Community Endorsement</b>	
4-A Support	<i>4/4 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application fully met the criterion for Support</p>	

specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the applicant had documented support from the recognized community institution(s)/member organization(s). The application received a maximum score 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 Community Priority Evaluation panel determined that the applicant was not the recognized community institution(s)/member organization(s). However, the applicant possesses documented support from the recognized community institution(s)/member organization(s), and this documentation contained a description of the process and rationale used in arriving at the expression of support. These groups constitute the recognized institutions to represent the community, and represent a majority of the overall community as defined by the applicant. The Community Priority Evaluation Panel determined that the applicant fully satisfies the requirements for Support.

#### 4-B Opposition

*2/2 Point(s)*

The Community Priority Evaluation panel determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application did not receive any relevant opposition. The application received the maximum score 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 relevant opposition from, at most, one group of non-negligible size. According to the Applicant Guidebook, “To be taken into account as relevant opposition, such objections or comments must be of a reasoned nature. Sources of opposition that are clearly spurious, unsubstantiated, made for a purpose incompatible with competition objectives, or filed for the purpose of obstruction will not be considered relevant”. “Relevance” and “relevant” refers to the communities explicitly and implicitly addressed.

The application received letters of opposition, which were determined not to be relevant, as they were either from groups of negligible size, or were from entities/communities that do not have an association with the applied for string. The Community Priority Evaluation Panel determined that these letters therefore were not relevant because they are not from the recognized community institutions/member organizations, nor were they from communities/entities that have an association with the hotel community. In addition, some letters were filed for the purpose of obstruction, and were therefore not considered relevant. The Community Priority Evaluation Panel determined that the applicant satisfies the requirements for Opposition.

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



**New gTLD Program**  
**Community Priority Evaluation Report**  
 Report Date: 29 July 2014

Application ID:	1-901-9391
Applied-for String:	Osaka
Applicant Name:	Interlink Co., Ltd.

### Overall Community Priority Evaluation Summary

Community Priority Evaluation Result	Prevailed
<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 met the requirements specified in the Applicant Guidebook. Your application prevailed in Community Priority Evaluation.</p>	

### Panel Summary

Overall Scoring	15 Point(s)	
Criteria	Earned	Achievable
#1: Community Establishment	4	4
#2: Nexus between Proposed String and Community	4	4
#3: Registration Policies	3	4
#4: Community Endorsement	4	4
Total	15	16
<b>Minimum Required Total Score to Pass <u>14</u></b>		

Criterion #1: Community Establishment	4/4 Point(s)
1-A Delineation	2/2 Point(s)
<p>The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Delineation as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the community is clearly delineated, organized and pre-existing. The application received the maximum score 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 defined in the application (“Osaka”) is:</p>	

Members of the community are defined as those who are within the Osaka geographical area as well as those who self identify as having a tie to Osaka, or the culture of Osaka. Major participants of the community include, but are not limited to the following:

- Legal entities
- Citizens
- Governments and public sectors
- Entities, including natural persons who have a legitimate purpose in addressing the community.

This community definition shows a clear and straightforward membership. The community is clearly defined because membership is dependent on having a clear connection to a defined geographic area.

In addition, the community as defined in the application has awareness and recognition among its members. This is because of the clear association with the Osaka geographical area, as according to the applicant, “the Osaka Community is largely defined by its prefectural borders.”

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the 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 has at least one entity mainly dedicated to the community, which is the Osaka Prefectural government. According to the letter of support from the Osaka Prefectural Government:

As the Governor of Osaka Prefecture, I confirm that I have the authority of the government to be writing to you on this matter. As the local municipality, the government has the authority to decide conditions to use .osaka as a trustworthy domain.

The community as defined in the application has documented evidence of community activities. This is confirmed by detailed information on the website of the Osaka Prefectural government. These activities include carrying out promotional activities to attract overseas corporations and tourists to the Osaka region.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the 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 active prior to September 2007. According to the application:

The Osaka community has been in existence for thousands of years, and is known as Japan’s oldest capital. Osaka has been an economic and cultural center of the Japan for over a long span of time, though formally, the geographic area that defines the community, Osaka Prefecture, was formally established in 1868.

The Community Priority Evaluation panel determined that the community as defined in the application fulfills the requirements for pre-existence.

1-B Extension	<i>2/2 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application demonstrates considerable size and longevity for the community. The application received a maximum score of 2 points under criterion 1-B: Extension.</p>	
<p><u>Size</u></p>	
<p>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.</p>	
<p>The community as defined in the application is of considerable size. The community for .Osaka as defined in the application is large in terms of the number of members. According to the applicant, “the Osaka Prefecture is currently the 3rd most populous area in Japan with a community of over 8.8 million people.”</p>	
<p>In addition, the community as defined in the application has awareness and recognition among its members. This is because of the clear association with the Osaka geographical area. According to the applicant, “the Osaka Community is largely defined by its prefectural borders.”</p>	
<p>The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for size.</p>	
<p><u>Longevity</u></p>	
<p>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.</p>	
<p>The community as defined in the application demonstrates longevity. The pursuits of the .Osaka community are of a lasting, non-transient nature. According to the application materials:</p>	
<p style="padding-left: 40px;">The Osaka community has been in existence for thousands of years, and is known as Japan’s oldest capital. Osaka has been an economic and cultural center of the Japan for over a long span of time, though formally, the geographic area that defines the community, Osaka Prefecture, was formally established in 1868. Osaka’s culture is grounded in its long history of being a center for traditional performing arts known as the “kamigata culture”. The community enjoys festivals and other customs that have been passed on from generation to generation.</p>	
<p>In addition, the community as defined in the application has awareness and recognition among its members This is because of the clear association with the Osaka geographical area. According to the applicant, “the Osaka Community is largely defined by its prefectural borders.”</p>	
<p>The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for longevity.</p>	

<b>Criterion #2: Nexus between Proposed String and Community</b>	<b>4/4 Point(s)</b>
2-A Nexus	<i>3/3 Point(s)</i>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string matches the name of the community. The application received a maximum score 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. To receive a partial score for Nexus, the applied-for string must identify the community. “Identify” means that the applied-for string closely describes</p>	



<p>the community or the community members without over-reaching substantially beyond the community.</p> <p>The applied-for string (.Osaka) matches the name of the community. The string matches the name of the geographical and political area around which the community is based. According to the application documentation:</p> <p style="padding-left: 40px;">The string, “.osaka”, directly represents the Osaka community, and has been fully approved by the Osaka Prefectural Government as the proper representation of the Osaka community on the Internet.</p> <p>The Community Priority Evaluation panel determined that the applied-for string matches the name of the community as defined in the application. It therefore meets the requirements for nexus.</p>	
<b>2-B Uniqueness</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the string has no other significant meaning beyond identifying the community described in the application. The application received a maximum score of 1 point under criterion 2-B: Uniqueness.</p> <p>To fulfill the requirements for Uniqueness, the string must have no other significant meaning beyond identifying the community described in the application. The string as defined in the application demonstrates uniqueness, as the string does not have any other meaning beyond identifying the city and prefecture on which the community is based. The Community Priority Evaluation panel determined that the applied-for string satisfies the condition to fulfill the requirements for uniqueness.</p>	

<b>Criterion #3: Registration Policies</b>		<b>3/4 Point(s)</b>
<b>3-A Eligibility</b>		<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.</p> <p>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 specifying that registrants must satisfy at least one of the following requirements:</p> <p style="padding-left: 40px;">Osaka municipalities and local governments; public and private institutions in Osaka; organizations, companies and other businesses in Osaka; residents of Osaka; other community members who have a bona fide purpose for registering and using the domain. Registrants who purchase “.osaka” names will be required to certify that meet one of the categories above. (Comprehensive details are provided in Section 20e of the applicant documentation).</p> <p>The Community Priority Evaluation panel determined that the application satisfied the condition to fulfill the requirements for Eligibility.</p>		
<b>3-B Name Selection</b>		<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as name selection rules are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-B: Name Selection.</p> <p>To fulfill the requirements for Name Selection, the registration policies for name selection for registrants</p>		

<p>must be consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by outlining the types of names that may be registered within the .Osaka top-level domain, while the name selection rules are consistent with the purpose of the gTLD. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfied the condition to fulfill the requirements for Name Selection.</p>	
<b>3-C Content and Use</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by outlining prohibitions on certain types of content. Additionally, the applicant “will implement an Acceptable Use Policy (AUP) as well as include an Abuse Point of Contact on its website as a means to provide a method for users to submit complaints of abuse...” (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfied the condition to fulfill the requirements for Content and Use.</p>	
<b>3-D Enforcement</b>	<b>0/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application did not meet the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook as the application provided specific enforcement measures but did not include appropriate appeal mechanisms. The application received a score of 0 out of 1 point under criterion 3-D: Enforcement.</p> <p>Two conditions must be met to fulfill the requirements for Enforcement: the registration policies must include specific enforcement measures constituting a coherent set, and there must be appropriate appeals mechanisms. The applicant outlined policies that include specific enforcement measures constituting a coherent set as the registry will monitor domain registrations for content and has the right to cancel or suspend domain names that are in breach of its policies. (Comprehensive details are provided in Section 20e of the applicant documentation). However, the application did not outline an appeals process. The Community Priority Evaluation panel determined that the application satisfies only one of the two conditions to fulfill the requirements for Enforcement.</p>	

<b>Criterion #4: Community Endorsement</b>	<b>4/4 Point(s)</b>
<b>4-A Support</b>	<b>2/2 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application fully met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook based on documented support from the recognized community institution to represent the community. The application received a maximum score of 2 points under criterion 4-A: Support.</p> <p>To receive the maximum score for Support, the applicant is, or has documented support from, the recognized community institution(s)/member organization(s), or has otherwise documented authority to represent the community. “Recognized” means the institution(s)/organization(s) that, through membership or otherwise, are clearly recognized by the community members as representative of the community. To receive a partial score for Support, the applicant must have documented support from at least one group with relevance. “Relevance” refers to the communities explicitly and implicitly addressed.</p> <p>The Community Priority Evaluation panel determined that the applicant has documented support from the</p>	

recognized community institution that represents the community. The Osaka Prefectural government has provided its written endorsement to the applicant for the provision of registry services under the .Osaka gTLD. The government also provided support for the applicant in the Initial Evaluation (Geographic Names Evaluation) phase. The Community Priority Evaluation Panel determined that the applicant fully satisfies the requirements for Support.

4-B Opposition

*2/2 Point(s)*

The Community Priority Evaluation panel determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application did not receive any relevant opposition. The application received the maximum score of 2 points under criterion 4-B: Opposition.

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

The application did not receive any letters of opposition. The Community Priority Evaluation Panel determined that the applicant satisfied the requirements for Opposition.

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

Application ID:	1-912-59314
Applied-for String:	ECO
Applicant Name:	Big Room Inc.

### Overall Community Priority Evaluation Summary

Community Priority Evaluation Result	Prevailed
<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 met the requirements specified in the Applicant Guidebook. Your application prevailed in Community Priority Evaluation.</p>	

### Panel Summary

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

Criterion #1: Community Establishment	4/4 Point(s)
1-A Delineation	2/2 Point(s)
<p>The Community Priority Evaluation panel has determined that the community as defined in the application met 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 is clearly delineated, organized and pre-existing. The application received the maximum score 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 defined in the application (“ECO”) is as follows:</p> <p style="padding-left: 40px;">Members of the Community are delineated from Internet users generally by community-recognized memberships, accreditations, registrations, and certifications that demonstrate active commitment, practice and reporting.</p>	

Community members include:

Relevant not-for-profit environmental organizations (ie, accredited by relevant United Nations (UN) bodies; International Union for Conservation of Nature (IUCN) member; proof of not-for-profit legal entity status with documented environmental mission).

Businesses (ie, members of environmental organizations; UN Global Compact participants; hold internationally-recognized environmental certifications; report to a global sustainability standard).

Government agencies with environmental missions (ie, UN bodies, national/sub-national government agencies with environmental responsibilities).

Individuals (ie, members of environmental organizations; academics; certified environmental professionals).

This community definition shows a clear and straightforward membership and is therefore well defined. Membership is determined through formal membership, certification, accreditation and/or a clearly defined mission, a transparent and verifiable membership structure that adequately meets the AGB criteria. Individuals' and organizations' association with, and membership in, the defined community can be verified by way of (1) membership in environmental organizations or certifiable practice in relevant fields in the case of individuals; or (2) accreditation, certification, or environmental mission in the case of organizations. In all cases, the application's membership definition depends on a transparent, explicit, and formal affiliation to an entity with an environmental focus.

In addition, the community as defined in the application has awareness and recognition among its members. According to the application:

The Community has historically structured and organized itself and its work through an international network of organizations, including millions of individual members with strongly aligned goals, values and interests. As well as collaborating via long-standing international multi-stakeholder fora and membership organizations, members traditionally organize through multi-organization alliances around specific events, geographies, and issues.

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." Based on the Panel's research and materials provided in the application, the community members as defined in the application demonstrate the "cohesion" required by the AGB. The application dictates four types of members, whose cohesion and awareness is founded in their demonstrable involvement in environmental activities and who "demonstrate active commitment, practice and reporting." This involvement may vary among member categories as below:

**Not-for-profit environmental organizations and government agencies with environmental missions:** These entities must have a demonstrable mission that is directly associated with promoting environmental goals. Their mission and activities therefore align with the community-based purpose of the application, which is to foster transparency and communication in order to advance progress towards environmental goals.

**Individuals:** These may be members of the organizations included in the above grouping, or are academics or professionals whose degree, license, or other form of certification demonstrates that their area of work falls in a field related to the environment.

**Businesses:** These are businesses which may be members of one of the organizations referred to in the first grouping of members (such as the UN Global Compact), or have certified compliance with standards that are recognized by such organizations as showing commitment to environmental goals.

In all of the above cases, each individual or entity has a clear, public and demonstrable involvement in environmental activities. The interdependence and active commitment to shared goals among the various membership types are indicative of the “cohesion” that the AGB requires in a CPE-eligible community. The Panel found that entities included in the membership categories defined in the application are shown to cohere in their work towards clearly defined projects and goals that overlap among a wide array of member organizations. For example, Conservation International is a nonprofit organization that falls within the application’s delineated community. It shows cohesion with the application’s membership by way of its advocacy to and cooperation with both businesses<sup>1</sup> and governments<sup>2</sup> worldwide. Greenpeace, another such organization, has consultative status with the UN and actively involves its thousands of members, volunteers, and experts worldwide in its campaigns.<sup>3</sup> Furthermore, businesses that are included in the applicant’s defined community have voluntarily opted to subject themselves to evaluation of their compliance with environmental standards that qualify them for the accreditations referenced in the application. As such, the defined community’s membership is found to meet the AGB’s standard for cohesion, required for an adequately delineated community.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both of the conditions to fulfill the requirements for Delineation.

#### Organization

Two conditions need to 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 has at least one entity mainly dedicated to the community. In fact, several entities are mainly dedicated to the community as defined by the application, such as the International Union for Conservation of Nature (IUCN), World Wide Fund For Nature (WWF), United Nations Environment Program and the Global Reporting Initiative, among others. According to the application:

All the major international membership organizations (IUCN, WWF, Greenpeace, Friends of the Earth), the biggest global business and environment organizations (World Business Council for Sustainable Development (WBCSD), Green Economy Coalition), the largest international Community alliances (350.org, TckTckTck) and the key global environmental reporting standards (Global Reporting Initiative, Carbon Disclosure Project) support the creation of .ECO as a Community TLD. The United Nations Environment Programme (UNEP) has been an observer to the .ECO community process since 2010.

As the world’s largest and longest established organizations and alliances, these institutions represent over 190 countries, 1,000 entities, and more than 10 million individual members.

The international organizations like those above actively include elements from all the application’s defined membership categories. The IUCN, for example, engages the private sector<sup>4</sup>, individuals like environmental scientists<sup>5</sup>, governmental agencies and other member organizations<sup>6</sup>. Its activities include the IUCN’s World Conservation Congress that brings together its members, as well members of other organizations and government representatives.<sup>7</sup> The UN Global Compact similarly has regular events held worldwide where its affiliate organizations, governments and private sector partners come together in relation to the organization’s environmental goals.<sup>8</sup> These organizational activities are representative of others that the Panel has reviewed that show ample evidence of the organized activity that the AGB requires of a community.

<sup>1</sup> <http://www.conservation.org/how/pages/innovating-with-business.aspx>

<sup>2</sup> <http://www.conservation.org/how/pages/working-with-governments.aspx>

<sup>3</sup> <http://www.greenpeace.org/usa/en/campaigns/>

<sup>4</sup> <http://iucn.org/about/work/programmes/business/>

<sup>5</sup> <http://www.iucn.org/about/union/commissions/>

<sup>6</sup> [http://www.iucn.org/about/union/members/who\\_members/](http://www.iucn.org/about/union/members/who_members/)

<sup>7</sup> [http://www.iucn.org/about/work/programmes/gpap\\_home/gpap\\_events/gpap\\_2012/](http://www.iucn.org/about/work/programmes/gpap_home/gpap_events/gpap_2012/)

<sup>8</sup> [https://www.unglobalcompact.org/NewsAndEvents/event\\_calendar/index.html](https://www.unglobalcompact.org/NewsAndEvents/event_calendar/index.html)

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both of the 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 active prior to September 2007. The application presents the following as examples:

1948: First formal Community institution, the International Union for Conservation of Nature (IUCN), was established. Not-for-profit organizations, businesses and governments came together to address pressing environmental challenges. 1972: Global Environmental Community recognized by the world's governments on creation of the UN Environment Programme (UNEP), the UN's designated authority for addressing environmental issues at the global and regional level.

Many of the organizations that fall within the application's delineation have been active prior to 2007, including the UN Global Compact (founded in 2000)<sup>9</sup>, Greenpeace (founded in 1971)<sup>10</sup>, and others. The Panel has determined that since organizations like those referenced above are mainly dedicated to the members of the community as defined by the application, and since they and others were active prior to 2007, the community as defined in the application fulfills the requirements for Pre-existence.

1-B Extension

**2/2 Point(s)**

The Community Priority Evaluation panel determined that the community as identified in the application met the criterion for Extension specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application demonstrates considerable size and longevity for the community. The application received a maximum score of 2 points under criterion 1-B: Extension.

Size

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

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

40,000+ Not-for-Profit Organizations, eg, 34,376 US environmental organizations (2011 Internal Revenue Service Exempt Organizations Business Master File, National Center for Charitable Statistics); 6,157 in the UK (March 2012, 1/3 of 18,470 Environment/Conservation/Heritage registered charities, Charity Commission);

148,000+ Businesses, eg, 68,200 US businesses committed to environmental sustainability (Pew Charitable Trust, "The Clean Energy Economy", 2009); 80,000 small and medium enterprises in the EU use certified environmental management systems (Danish Technological Institute, "SMEs and the Environment in the European Union", 2010);

193+ Environment-focused Governmental Bodies – eg, 193 member states (UN website, March 2012);

18 million+ Individuals, eg, International: WWF, 5M; Greenpeace, 2.8M; FOE, 2M; Ocean Conservancy, 0.5M. National: National Wildlife Federation, 4M; Sierra Club, 1.4M; National Resources Defense Council, 1.2M; The Nature Conservancy, 1M (Members, 2010).

<sup>9</sup> [https://www.unglobalcompact.org/docs/news\\_events/8.1/UNGC\\_Annual\\_Review\\_2010.pdf](https://www.unglobalcompact.org/docs/news_events/8.1/UNGC_Annual_Review_2010.pdf)

<sup>10</sup> <http://www.greenpeace.org/usa/en/campaigns/history/>

In addition, as previously stated, the community as defined in the application has awareness and recognition among its members. This is because the community is defined in terms of its association with, and active participation in, environmental activities and environmental conservation and preservation.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both of the 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.

Many of the major catalysts of the modern environmental movement have continued or worsened in recent years, and the organizations founded with missions of environmental advocacy have redoubled their efforts. The number and breadth of environmental laws and protocols will continue to grow.<sup>11</sup> The effects of climate change are especially long-term<sup>12</sup> and many of the organizations in the application’s delineated community advocate for long-term solutions and measures that they have committed to seeing through.<sup>13</sup> The Panel has therefore determined that the community as defined in the application demonstrates longevity. The pursuits of the .ECO community are of a lasting, non-transient nature.

In addition, as mentioned previously, the community as defined in the application has awareness and recognition of a community among its members. This is because the community is defined in terms of its association with, and active participation in, environmental activities. Its members are actively committed to environmental causes, such as sustainable use of the environment and environmental conservation and preservation.

The Community Priority Evaluation panel determined that the community as defined in the application satisfies both the conditions to fulfill the requirements for Longevity.

**Criterion #2: Nexus between Proposed String and Community** **3/4 Point(s)**

**2-A Nexus** **2/3 Point(s)**

The Community Priority Evaluation panel determined that the application met the criterion for Nexus as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook. The string “identifies” the name of the community, without over-reaching substantially beyond the community, but does not “match” the name of the community. The application therefore received a score of 2 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 (.ECO) identifies the name of the community. According to the applicant,

The term “eco” has long been used to identify members of the Global Environmental Community (the Community), as well as concepts, products and services associated with the Community’s goal of a respectful, responsible and sustainable use of the environment. The term appears in common usage and is clearly associated by consumers with environmentally responsible practices.

<sup>11</sup> <http://www.britannica.com/EBchecked/topic/189205/environmentalism/224631/History-of-the-environmental-movement>

<sup>12</sup> <http://www.epa.gov/climatechange/science/future.html>

<sup>13</sup> [http://www.oecd.org/env/cc/Outlook%20to%202050\\_Climate%20Change%20Chapter\\_HIGHLIGHTS-FINA-8pager-UPDATED%20NOV2012.pdf](http://www.oecd.org/env/cc/Outlook%20to%202050_Climate%20Change%20Chapter_HIGHLIGHTS-FINA-8pager-UPDATED%20NOV2012.pdf)



The Oxford English Dictionary (OED) offers the following examples:  
 Individuals and organizations (eg, eco-activist, eco-charities, eco-group)  
 Concepts (eg, eco-advocacy, eco-activism, eco-justice, eco-cultural, eco-literacy, eco-philosophy, eco-minded, eco-savvy, eco-awareness, eco-consciousness)  
 Products and services (eg, eco-product, eco-label, eco-house, eco-holiday, eco-resort, eco-bottle, eco-bulb, eco-forestry, eco-car)  
 (Oxford English Dictionary, 3rd edition, Mar. 2008; online version Sept. 2011)  
 Eco in Consumer Protection Public Policy

The Panel has determined that the string “.ECO,” is not a match of the community or a well-known short-form or abbreviation of the community name, as the AGB requires for a score of 3 for Nexus. This is because various organizations that are a part of the community as described by the application name the same community in various ways, but generally by use of the word “environment” or by words related to “eco” but not by “eco” itself or on its own. However, because of the common association of the prefix “eco” with various phrases closely associated with environmental protection, such as those provided in the excerpt of the application above, the Panel has determined that the string does identify the community, without overreaching substantially beyond the community.

Additionally, while the string identifies the name of the core community members (i.e. not-for-profit environmental organizations, government agencies with environmental missions, etc.) the community as defined by the application also includes some entities, such as businesses that use certified environmental management systems, which may not automatically be associated with the gTLD. For example, the applicant includes in the proposed community businesses that are participants in the UN Global Compact<sup>14</sup>. Business participants include China Development Bank, a US-based technology firm, Intel Corporation, a Brazil-based natural resources firm, Vale, and UK-based Unilever, a consumer goods company<sup>15</sup>. These companies, and the many others with the same or similar participation in the UN Global Compact, are not commonly known by the string “ECO” as the AGB requires for a full score on Nexus. However, since these entities comprise only part of one category of the application’s community membership, the over-reach is not substantial, as the public will generally associate the string with the community as defined by the applicant. Therefore, the Panel has determined that the application should receive partial credit for Nexus.

The Community Priority Evaluation panel determined that the applied-for string “identifies” the name of the community as defined in the application, but does not “match” it. It therefore partially meets the requirements for Nexus.

#### 2-B Uniqueness

***1/1 Point(s)***

The Community Priority Evaluation panel determined that the application met the criterion for Uniqueness as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the string has no other significant meaning beyond identifying the community described in the application. The application received a maximum score 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. The string as defined in the application demonstrates uniqueness as the string does not have any other meaning beyond identifying the community described in the application. According to Oxford Dictionaries, the prefix “eco-” is defined as “Representing ecology, ecological, etc.” The string “eco” as a word or concept itself is defined as “Not harming the environment; [as in] eco-friendly.” The application cites, as in the excerpt above, several such uses of the applied-for string that correspond to the environmental focus of the community it defines. As such, the Panel has determined that the concept to which the definition refers is the same as the community purpose of the applied-for

<sup>14</sup> The UN Global Compact is the world's largest corporate citizenship and sustainability initiative, with over 10,000 business participants and other stakeholders from more than 145 countries. See <https://www.unglobalcompact.org/ParticipantsAndStakeholders/index.html>.

<sup>15</sup> [https://www.unglobalcompact.org/HowToParticipate/Lead/lead\\_participants.html](https://www.unglobalcompact.org/HowToParticipate/Lead/lead_participants.html)

string and that the applied-for string therefore satisfies the condition to fulfill the requirements for Uniqueness.

<b>Criterion #3: Registration Policies</b>	<b>4/4 Point(s)</b>
<b>3-A Eligibility</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Eligibility as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as eligibility is restricted to community members. The application received a maximum score of 1 point under criterion 3-A: Eligibility.</p> <p>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 individuals and entities (non-for-profit, businesses and governments) that are members of the global environmental community and that meet recognized standards. (Comprehensive details are provided in Section 20e of the applicant documentation). The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Eligibility.</p>	
<b>3-B Name Selection</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Name Selection as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as name selection rules are consistent with the articulated community-based purpose of the applied-for gTLD. The application received a maximum score of 1 point under criterion 3-B: Name Selection.</p> <p>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 specifying several categories of name registration policies. The applicant further ensures that any strings “used in a manner inconsistent with the Community’s goals, values, and/or interests” (Application, Q18(b)) will be flagged and subject to additional scrutiny. The Community Priority Evaluation panel determined that the application satisfies the condition to fulfill the requirements for Name Selection.</p>	
<b>3-C Content and Use</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Content and Use as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the rules for content and use are consistent with the articulated community-based purpose of the applied-for TLD. The application received a maximum score of 1 point under criterion 3-C: Content and Use.</p> <p>To fulfill the requirements for Content and Use, the registration policies must include rules for content and use for registrants that are consistent with the articulated community-based purpose of the applied-for gTLD. The application demonstrates adherence to this requirement by specifying that any approved registrant on the gTLD will post a link to their ECO Profile. This ECO Profile is a repository of registrant-specific information that, according to the application:</p> <p style="padding-left: 40px;">“will cover community-recognized memberships, accreditations, registrations, certifications, and reports that demonstrate active commitment, practice and reporting. Additional questions may: be both qualitative and quantitative; include commitments to environmental and social issues that are considered to be linked to environmental goals; and, reference robust existing environmental standards, requirements, indicators, regulations, codes, and calculators.”</p> <p>Therefore, the applicant has required not only certain specific content (in the form of a link to the above registrant-related information), but such content is clearly consistent with the articulate community-based purpose of the applied-for string. The Panel has therefore determined that the application satisfies the condition to fulfill the requirements for Content and Use.</p>	
<b>3-D Enforcement</b>	<b>1/1 Point(s)</b>
<p>The Community Priority Evaluation panel determined that the application met the criterion for Enforcement as specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the</p>	

application provided specific enforcement measures as well as 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's registry will evaluate complaints against a registrant agreement and decide on an appropriate course of action, which may result in the case being referred to a dispute resolution process. There is also an appeals mechanism, whereby a registrant has the right to seek the opinion of an independent arbiter approved by the registry. The Community Priority Evaluation panel determined that the application satisfies both conditions to fulfill the requirements for Enforcement.

**Criterion #4: Community Endorsement**

**3/4 Point(s)**

**4-A Support**

**1/2 Point(s)**

The Community Priority Evaluation panel has determined that the application partially met the criterion for Support specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as there was documented support from at least one group with relevance. The application received a score of 1 out of 2 points under criterion 4-A: Support.

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. In this context, "recognized" refers to 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 by the application's defined community.

The Community Priority Evaluation panel has 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). While organizations like the IUCN and the UN Global Compact are sufficient to meet the AGB's requirement for an "entity mainly dedicated to the community" under Delineation (1-A), it does not meet the standard of a "recognized" organization. The AGB specifies that "recognized" means that an organization must be "clearly recognized by the community members as representative of the community." The IUCN and others, as shown in their mission and activities, are clearly dedicated to the community and it serves the community and its members in many ways, but "recognition" demands not only this unilateral dedication of an organization to the community, but a reciprocal recognition on the part of community members of the organization's authority to represent it. There is no single such organization recognized by the defined community as representative of the community. However, the applicant possesses documented support from many groups with relevance; their verified documentation of support contained a description of the process and rationale used in arriving at the expression of support, showing their understanding of the implications of supporting the application. Despite the wide array of organizational support, however, the applicant does not have the support from the recognized community institution, as noted above, and the Panel has not found evidence that such an organization exists. The Community Priority Evaluation Panel has determined that the applicant partially satisfies the requirements for Support.

**4-B Opposition**

**2/2 Point(s)**

The Community Priority Evaluation panel determined that the application met the criterion for Opposition specified in section 4.2.3 (Community Priority Evaluation Criteria) of the Applicant Guidebook, as the application did not receive any relevant opposition. The application received the maximum score of 2 points under criterion 4-B: Opposition.

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

The application received letters of opposition, which were determined not to be relevant, as they were either from individuals or groups of negligible size, or were not from communities which were not mentioned in the application but which have an association to the applied for string. The Community Priority Evaluation Panel determined that the applicant satisfies the requirements for Opposition.

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

**Exhibit 14. Estimated Significance of Firms Using "Inc." or "Corp." Delimiters in  
Australia, Canada and the Philippines Relative to the U.S.  
(based on *Forbes Global 2000*)**

<b>Country</b>	<b>No. of Firms in <i>Forbes Global 2000</i></b> <i>[a]</i>	<b>Aggregate Market Cap (US\$ billion)</b> <i>[b]</i>	<b>Aggregate Market Cap as % of U.S.</b> <i>[c]</i>	<b>No. of Firms with Available Identifier</b> <i>[d]</i>	<b>No. of Firms Using "Inc." or "Corp."</b> <i>[e]</i>	<b>Firms Using "Inc." or "Corp." as Pct of Total</b> <i>[f]=[e]/[d]</i>	<b>Estimated Market Cap of Firms Using "Inc." or "Corp."</b> <i>[g]=[b]x[f]</i>	<b>Estimated Market Cap of Firms Using "Inc." or "Corp." as Pct of U.S.</b> <i>[h]=[g]/\$18188.1</i>
<b>Australia</b>	36	\$1,008.7	5.5%	29	1	3.4%	\$34.8	<b>0.2%</b>
<b>Canada</b>	57	\$1,210.0	6.7%	49	37	75.5%	\$913.7	<b>5.0%</b>
<b>The Philippines</b>	10	\$72.2	0.4%	9	6	66.7%	\$48.1	<b>0.3%</b>
<b>Australia, Canada and Philippines Combined</b>	103	\$2,290.9	12.6%	87	44		\$996.6	<b>5.5%</b>
<b>United States</b>	560	<b>\$18,188.1</b>						

**Exhibit 15. Estimated Significance of Firms Using "LLP" in  
India and Singapore Relative to the U.S.**  
*(based on 2014 IMF and 2013 World Bank data)*

Country	2014 International Monetary Fund data		2013 World Bank data	
	GDP [US\$ billion]	Share of U.S. [percent]	GDP [US\$ billion]	Share of U.S. [percent]
India	\$7,375.9	42.3%	\$6,776.0	40.4%
Singapore	\$452.7	2.6%	\$425.0	2.5%
<b>India and Singapore Combined</b>	\$7,828.6	<b>44.9%</b>	\$7,201.0	<b>42.9%</b>
United States	\$17,418.9		\$16,768.0	



## **New gTLD Application Submitted to ICANN by: European Broadcasting Union (EBU)**

**String: radio**

**Originally Posted: 13 June 2012**

**Application ID: 1-1083-39123**

### **Applicant Information**

#### **1. Full legal name**

European Broadcasting Union (EBU)

#### **2. Address of the principal place of business**

L'Ancienne-Route 17A  
Case postale 45  
Grand-Saconnex Geneva 1218  
CH

#### **3. Phone number**

+41 22 717 2111

#### **4. Fax number**

Radio might be used, as well, as part of the name of some technologies such as “Bluetooth radio” or “RFID” (Radio Frequency IDentification) but its overwhelming meaning and use, the one with most social relevance and the only one that has meaning when used alone as “radio”, is the one described here for the Radio community.

## **20(e). Provide a description of the applicant’s intended registration policies in support of the community-based purpose of the applied-for gTLD.**

Q20(e):

((Eligibility: who is eligible to register a second-level name in the gTLD, and how will eligibility be determined))

As described in the response to Question 20(a), two types of conditions must be fulfilled for the right to register a .radio name. These are:

- (A) community membership defined as bona fide membership in the any of the eligible categories, as defined in 20 (b) above, and
- (B) the additional requirements that the registrant’s actions in the Radio community, as well as the registrant’s use of the registered domain name, must be:
  - (i) generally accepted as legitimate; and
  - (ii) beneficial to the cause and the values of the radio industry; and
  - (iii) commensurate with the role and importance of the registered domain name; and
  - (iv) in good faith at the time of registration and thereafter.

These conditions must always be fulfilled. The strength of the validation is kept in line with the importance of the underlying domain name base bearing in mind the assumption that a typical user would reasonably make.

As examples, for the Category 2, the license to broadcast is a condition of eligibility, as holding a valid trademark is a condition for category 3, or a radio amateur license is for category 5, as a pre-requisite for all other conditions explained here.

To facilitate validation, registrants are required to state their intended use of the registered domain name. A false statement of intended use is an indication of bad faith and can be the basis for the suspension of the domain name.

The validation may be assisted through pre-identification of potential registrants using existing community channels, such as Union/Association membership, either by direct checking in the membership’s database or by the distribution of Promotion Codes to members.

After the pre-launch and launch phase, the validation mode goes from pre-validation to post-validation and later to statistically targeted random validation, backed up by a on-going enforcement program.

The validation and enforcement program are supported by an integrated issue tracking system. This system allows validating agents and personnel to cooperate and interact with the registrant. The system keeps track of decisions made by the agents and stores supplemental documentary evidence that may be supplied by the registrants.

((Name selection: what types of second-level names may be registered in the gTLD))

The fundamental rule on which name selection is based is part of the policy principles: the registrant’s nexus with the Radio community and use of domain must be commensurate to role and importance of domain registered.



The role and importance of the domain name is based on meaning an average user would reasonably assume in the context of that domain name.

This criterion also applies to the strength of the documentation or proof required of the registrant.

The pre-Launch phase (Frequent Names Global Contention Resolution) is a special global community contention resolution program for Categories 1 and 2 only, mainly for frequently used radio station names aiming to achieve a coherent, consistent and friendly policy for the .radio TLD used by the worldwide radio broadcasters, and especially, to minimize conflicts. During the Launch phase the different categories will be able to apply for their corporate or brand names, such as the name commonly used for the radio station, or the "license" name for radio amateurs.

Below those privileged categories, as explained in Q18 above, and afterwards, in the on-going registrations or Live Registry phase, eligible members will also be allowed to register other names, but always with the express restriction stated above, allowing for instance names of programs, campaigns or any other initiative effectively related to their radio activities, and commensurate to the role and importance of such domain name.

Pre-definition of the namespace, especially names with significance for the Radio community from a public service or public interest standpoint, is developed through special programs with strong selection processes, based on proposals made by parties interested in providing content on such domain names. This process not only covers the identity and legitimacy of the party entrusted with the operation of the domain(s), but also a defined obligation with respect to the content to be provided for the benefit of the Radio community and the public.

((Content/Use: what restrictions, if any, the registry operator will impose on how a registrant may use its registered name))

As described in the response to Question 20(a) the use of the domain must be:

- (i) generally accepted as legitimate; and
- (ii) beneficial to the cause and the values of the radio industry; and
- (iii) commensurate with the role and importance of the registered domain name; and
- (iv) in good faith at the time of registration and thereafter.

(i), (ii) and (iv) specifically refer to the Accepted Use of .radio domain names by .radio Registry.

This is verified on the basis of:

- 1) the intended use statement supplied by the domain registrant at the time of registration (or possibly updated later)
- 2) the on-going enforcement program (see below)

((Enforcement: what investigation practices and mechanisms exist to enforce the policies above, what resources are allocated for enforcement, and what appeal mechanisms are available to registrants))

The purpose of the enforcement program is to protect the credibility of the .radio TLD for the Radio industry, the radio listeners and the Internet users in general.

In particular, it upholds the community-based purpose of the .radio TLD and helps prevent misuse or malicious behaviour.

The enforcement program is based on statistically targeted random investigations and on a complaint follow-up process. The statistical targeting is strongly automated and involves the use of search engines and the analysis of registry data related to behaviour of registrants.

Depending on the type of misuse to be investigated, website content or content sent to victims of abuse will be reviewed and analysed by the Compliance Officers.

Enhanced investigation takes place if the registrant has a bad track record in terms of compliance with the rules of the .radio TLD. Other violations of public record (such as UDRP or URS cases) will also be taken into account.

If the intended use cannot be deemed legitimate or has a negative impact on the values of the Radio community, the registration is rejected. If content or use of an existing .radio domain demonstrate that the registrant has shown bad faith by stating a false intended use, the domain name is suspended.

If a registrar is complicit with systematic violations of the .radio policies or causes an unacceptable burden for the validation and enforcement program by negligence, the registry can restrict that registrar's access to the new registrations, subject its inventory of .radio domains to enhanced investigation and require it to conduct its own post-validation program.

An appeals process is available for all administrative measures taken in the framework of the enforcement program. The first instance of the appeals process is managed by the .radio Registry, while appeals are heard by an independent alternative dispute resolution provider. The Charter for .radio, upon which all these decisions will be based, will be approved by EBU and WRAB (World Radio Advisory Board).

All that said, EBU is convinced that the level of existing misuses and conflicts will range from marginal to non-existent, given the strict eligibility and registration rules, the organized and public-interest oriented nature of the Radio community and the oversight of the Broadcasting Unions and other relevant organisations. But designing a comprehensive and vigorous enforcement program helps in further minimizing those risks. Please see answers to questions 28 and 29 for additional details.

## **20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## **Geographic Names**

### **21(a). Is the application for a geographic name?**

No

## **Protection of Geographic Names**



## New gTLD Application Submitted to ICANN by: HOTEL Top-Level-Domain S.a.r.l

Application Downloaded On: 24 Dec 2014

String: hotel

Application ID: 1-1032-95136

### Applicant Information

1. Full legal name

[HOTEL Top-Level-Domain S.a.r.l](#)

2. Address of the principal place of business

[68, av. de la Liberté Luxembourg - 1930 LU](#)

3. Phone number

[+35220992610](#)

4. Fax number

[+35224611186](#)

5. If applicable, website or URL

<http://www.dothotel.info>

### Primary Contact

6(a). Name

[Johannes Lenz-Hawliczek](#)

6(b). Title

[Chief Executive Officer](#)

6(c). Address

In conjunction with international press activities, we are maintaining a comprehensive website with articles on .hotel and related topics. In the past, dotHotel has provided extensive guidelines of digital marketing strategies for Hotels; these efforts will continue in the future.

\* Lasting nature \*

The .hotel top-level domain and its purpose are of a long-lasting nature since digital marketing and distribution and individual digital addresses (domain names) have become an integral component of a hotel's general business practices and thereby also for the Hotel Community as a whole. It is foreseeable and anticipated that digital strategies including .hotel domain names will play an ever increasing role for hotels within the next decade and beyond. The .hotel top-level domain will thereby serve the Hotel Community and its members in a lasting nature and will fulfil its purpose of providing verified, meaningful and easily recognizable domains.

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20D. Explain the relationship between the applied- for gTLD string and the community identified in 20(a).

\* Relationship "Name and Community" \*

The proposed top-level domain name, "HOTEL", is a widely accepted and recognized string that globally identifies the Hotel Community and especially its members, the hotels. Therefore there is a very strong relationship between the applied-for string and the name of the community.

According to the International Standardization Organization, "A hotel is an establishment with services and additional facilities where accommodation and in most cases meals are available." (ISO 18513:2003). Another definition states that "A hotel is an establishment that provides paid lodging on a short-term basis" (Wikipedia). Hotel operations vary in size, function, and cost. Most hotels and major hospitality companies that operate hotels have set widely accepted industry standards to classify hotel types.

\* Relationship "Name and Community members" \*

The global Hotel Community consists of more than 500,000 hotels and their associations, all being members of the Hotel Community. There is a very strong relationship also between the members of Hotel Community and the applied-for string, as the string "HOTEL" is the word that is uniting them all. Community members can be clearly identified if they fulfil the requirements of ISO 18513:2003.

\* Other connotations \*

The word hotel has no other significant meaning and is being understood worldwide to mean establishments of the type described above.

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20E. Provide a complete description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD. Policies and enforcement mechanisms are expected to constitute a coherent set.

\* Eligibility \*

.hotel second-level domain names are initially restricted to the narrow category of hotels

and their organizations (Registrants) as defined by ISO 18513. Therefore the registration of .hotel domains shall be exclusively limited to registrants from a logical alliance of the hotel industry including:

1. Individual Hotels
2. Hotel Chains
3. Hotel Marketing organizations representing members from 1. and/or 2.
4. International, national and local Associations representing Hotels and Hotel Associations representing members from 1. and/or 2.
5. Other Organizations representing Hotels, Hotel Owners and other solely Hotel related organizations representing on members form 1. and/or 2.

It is the role of the .hotel Registry to assure and control the registrant's eligibility to register a domain name to guarantee the community aspect and integrity of the .hotel name space and to avoid disputes. The .hotel Registry anticipates that disputes over the registrant's eligibility will be minimal within the hotel community. Nevertheless it has put in place an adequate procedure to assist the hotel community's registrants in dealing with denials of registrant's eligibility in a way that supports community needs and values. The .hotel Registry's informal denial procedures will not super-cede any formal dispute procedures.

Any domain name registered according to the eligibility criteria described above is subject to a subsequent registrant eligibility verification process which will start immediately after the registration process starts. Registrant eligibility verification will occur after domain name registration but before the registered domain name can be used for web services and protocols like email, website, and FTP. This is to avoid mass fraudulent domain name registrations.

Registrant data supplied for registrant eligibility verification purposes will be held and used by the Registry for eligibility verification purposes only, based on European data protection laws. Registrant eligibility verification requires a review by an applicable organization or by the Registry (reviewer).

The registrant eligibility verification process starts with the Registry evaluation each domain registration for eligibility. For evaluation purposes industry databases will be used, like hotel association databases or other electronically available databases. Within 48 hours after registration started, the registry will provide the evaluation result to the registrar.

In case the reviewer will review the registered domain name and can not validate the domain name he may require further material supporting the registrant's eligibility. Once reviewed the reviewer will confirm or deny the registration. Confirmation will be conveyed to the registrar by email. In the case of denial of the registrant's domain name registration is taken-down in the Registry's discretion. A denial of registrant's eligibility will be recorded against the registrant's domain name and they will not be entitled to register a domain name until their circumstances have changed such that their registrant eligibility is confirmed in the required manner.

Registrant eligibility verification reviews may occur following domain name registration and where a registrant is found to be ineligible subsequent to registration of a domain name(s), and such ineligibility is due to mistake or error on the part of the registrant, their registration fee may be refunded.

The registry confirms registrant's eligibility for up to one year and the registrant may be reviewed annually or at any other time by the Registry to ensure that registrant's eligibility data have not changed in the prior period and that they continue to be eligible. If any change has occurred the registrant at any time may re-submit their registrant's eligibility data and it may be reviewed and confirmed as for initial registrant eligibility verification.

The registrant's eligibility is the central requirement to hold a .hotel domain name. It is therefore necessary that registrants maintain their eligibility throughout the term of the

registration, including renewal. If the registrant ceases to be a member of the hotel community as defined by current policies and practices of the Registry, then the registrant must give notice of such change within 20 days of ceasing to be eligible to the registrar.

In the event that the registrant does not notify the Registrar of a change of status, the registrar will report to the registry and the registry may take-down all registrations held by the registrant immediately upon becoming informed of the change of status. The Registry may require further information from the registrant to determine registrant's eligibility.

In addition to the obligation on the registrant to notify the Registrar of any change of its status, each hotel community that is assisting the Registry in the registrant eligibility verification process may be required to solicit and receive an update of all registrant eligibility verification data from each registrant. Any registrant eligibility verification organization shall provide the Registry with all such information and shall confirm to the Registry that the registrant continues to be eligible to hold the domain name it has registered. In the event that the registrant is no longer entitled to hold the domain name, the Registry shall inform the registrar and the registrar the registrant of that determination and the registrant will be given 20 days to provide updated and correct data that confirms its eligibility. Where such information is not provided, or, if provided, does not support the registrant's eligibility, the Registry will so inform the registrant and provide the registrant with a right to request a review of the denial as if it had been an initial registration. At the time when such review period has ended and the registrant remains ineligible, the Registry shall take-down the domain name and it has to be returned to the list of available domain names.

The Registry's rights to require notice of a change of status, to take-down a domain name unilaterally and to require information is contained in the registrant agreement of the registrar by reference to these policies.

#### \* Types of names \*

The Registry will set aside a list of domain names that will be reserved for the 325 major hotel industry brands including sub-brands. Cut-off date for this list is September 2011. These names can be released by the Registry upon request of the brand concerned and registered by eligible community member brand.

#### \* Domain Names available for registration \*

No Limitation - Any applicant that is eligible will be entitled to register any domain name that is not reserved or registered at the time of their registration submission through an ICANN accredited registrar.

No Limitation in Number - Registrants are not limited in the number of domain names they may register.

Registrant Representations - The registration application and registrant agreement will contain positive representations from the registrant that they are entitled to the domain name(s) they are or have registered. Breach of such representation will allow the Registry to take-down ineligible domain names at any time.

#### \* Content and Use Restrictions \*

The Registry has in its discretion developed restrictions on the content and use of any domain name. Such restrictions apply to any domain name registration that occurs after such restrictions come into effect.

Each domain name must, within one year following the date of registration, and thereafter throughout the term of the domain name registration, be used as the domain name for a

website displaying hotel community related content relevant to the domain name, or in such other manner (such as email) that the Registry may approve after review. Domain names used as contemplated above may resolve directly to the relevant website or be forwarded or redirected to another domain name displaying hotel content relevant to the domain name.

Restrictions may include, but are not limited to, a requirement to develop a website that uses the registered domain name, to ensure that each registered domain name resolves to a working website, or to ensure that each website using a registered domain name, or redirected from a registered domain name presents content related to the registered .hotel domain name.

The .hotel Registry will, from time to time in its sole discretion or upon evidence or advice, but at least once a year, conduct continuing or recurring audits of domain names registered to ensure continued compliance with these requirements. Failure to comply will result in a notice providing 20-days to comply. Non-compliance following such a notice period may result in take-down of the relevant domain name, at the discretion of the Registry.

\* Enforcement and dispute policy \*

The registry will set-up a process for any questions and challenges that may arise from registrations. Complainants will be provided a single point of contact via the registry's website to submit any questions and complaints regarding alleged abuse. The registry will randomly check 2% of registered domains to verify they have content. The registry also follows the standard dispute policies as defined in Q 28 and Q 39.

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20F. Attach any written endorsements for the application from established institutions representative of the community identified in 20(a). An applicant may submit written endorsements by multiple institutions, if relevant to the community.

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21A. Is the application for a geographic name?

No

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22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD. This should include any applicable rules and procedures for reservation and/or release of such names.

Hotel Top-Level-Domain S.a.r.l. will protect names with national or geographic significance by reserving the country and territory names at the second level and at all other levels within the TLD, as per the requirements in the New TLD Registry Agreement (Specification 5, paragraph 5).

Hotel Top-Level-Domain S.a.r.l. will employ a series of rules to translate the geographical names required to be reserved by Specification 5, paragraph 5 to a form consistent with the "host names" format used in domain names.

Considering the Governmental Advisory Committee (GAC) advice "Principles regarding new gTLDs", these domains will be blocked, at no cost to governments, public authorities, or IGOs, before the TLD is introduced (Sunrise), so that no parties may apply for them. Hotel Top-Level-Domain S.a.r.l. will publish a list of these names before Sunrise, so our registrars and their prospective applicants can be aware that these names are reserved.



## New gTLD Application Submitted to ICANN by: Dadotart, Inc.

String: art

Originally Posted: 13 June 2012

Application ID: 1-1097-20833

### Applicant Information

#### 1. Full legal name

Dadotart, Inc.

#### 2. Address of the principal place of business

7080 Hollywood Boulevard  
Los Angeles CA 90028  
US

#### 3. Phone number

323 645 6034

#### 4. Fax number

323 645 6001



the development of every culture, whether it was seen in the clay pots used for cooking or the high art of painting found in our national galleries. Supporting the arts as an engaged participant is one of most important ways that we nurture our own humanity and why all the arts continue their practice over time. The purpose of the .ART gTLD is first to unite, support and promote Artists and those who are engaged in the Arts worldwide and second, its mission is to use the .ART gTLD for the co-ordination and protection of their common aims and interests, communication and co-operation, while at the same time conserving and respecting their autonomy. These are purposes that are essential to the life of the arts community.

The .ART gTLD will ensure that Internet users know a site is one of the few locations on the Internet providing only content on Art. A simple search limited to .ART second-level registrants will provide the Internet user with results completely culled of the irrelevant. The fact that arts content will be required on .ART sites will provide a level of user assurance that going to a .ART site will not lead to an empty page.

## **20(d). Explain the relationship between the applied-for gTLD string and the community identified in 20(a).**

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.

The string, ART, is of long-standing and is not used in any significant way beyond the community. Minor English uses include the phrase "term of art" or the word "artless". But these uses are minimal and easily distinguishable from the word Art as a single noun. By contrast, the term "art" can be used with the meaning of an occupation requiring skillful use of the hands (synonym to handcraft), or a subtle or imaginative ability in inventing, devising, or executing something (skillfulness, masterfulness, artistry, cleverness, craft). This figurative use of the word "art" does not in any sense interfere with its main meaning.

## **20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.**

Descriptions should include proposed policies, if any, on the following:

- Eligibility: who is eligible to register a second-level name in the gTLD, and how will eligibility be determined.
- Name selection: what types of second-level names may be registered in the gTLD.
- Content/Use: what restrictions, if any, the registry operator will impose on how a registrant may use its registered name.
- Enforcement: what investigation practices and mechanisms exist to enforce the policies above, what resources are allocated for enforcement, and what appeal mechanisms are available to registrants.

Eligibility- The arts community at large is made up of Artists and those who are have an identifiable engagement with the Arts worldwide. The following statement describes the feature of community definition for the purposes of eligibility.

Definition—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.

Domain name registration is planned to occur on both the second and third level: at the second level (e.g. Stella.ART) and at the third level (e.g. Stella.Sculpture.ART). The PAB will define policies to ensure that Art-specific name spaces are managed in line with the interests of the Art community. Registrant Eligibility criteria at the second- and third-level within the .ART gTLD will be deferred to PAB for development and later adoption by Dadotart. The universe of registrants that could potentially be permitted to register in accordance with any final Registrant Eligibility criteria at either the second or third level include, Artists and those who have an identifiable engagement with the Arts.

Eligibility will be reviewed before registration in the pre-launch phase. During the launch phase pre-validation will apply for reserved names or trademarks, but will always involve community nexus.

During the post-launch phase of general availability, community nexus will be subject to post-validation by way of an extensive compliance program along with statistically targeted random validation, backed up by a ongoing enforcement program.

From time to time in cases of special promotion, eligibility review may be assisted by pre-identification of potential registrants using existing community channels, in particular through promotion codes.

Projections for the maximum size of the .ART gTLD are 50,000 names by the end of year three, as described more fully in Questions 45-49. Given the anticipated size of the gTLD review of eligibility will not be a problem for the staff identified.

Name Selection— Name selection will be limited by several policies and procedures: reserved lists, landrush and "sunrise" rules, and "portal" names allocated in pre-launch. Reserved names restriction will involve preparation of several lists of reserved names as follows:

- (1) Names denoting genres or fields of activity (e.g. theatre, sculpture, painting, photography, sculpture, etc.);
- (2) In addition, a second reserved list of names of prominent Art institutions as well as Art-related trademarks will be created; and
- (3) Names of prominent Artists living or dead.

Name selection will further be limited by provisions restricting registration of country codes at the second level. In addition a sunrise and landrush program will provide special provision for trademarks.

In the pre-launch phase key portal names of use to the entire community will be registered and used for communication and outreach. It is anticipated that the pre-launch portal development program will involve builders and users in the Art community. The portal development program will allocate domain names based on an open and transparent project selection process based on proposals for use of the names for the benefit of the Art community.

Content—The arts community is a community of production, support and affinity, and its policies of member definition would be incomplete if they did not hold requirements for name use. Use of a name in artistic production, support and affinity represents ongoing evidence of community eligibility

The registration of domain names under the .ART gTLD will be subject to the further requirement that the registrant's participation or support in the Art community arena and the registrant's use of the domain name must be:

- (1) Generally accepted as legitimate;
- (2) Of a nature that demonstrates the registrant's membership in the Art community; and
- (3) Conducted in good faith at the time of registration and thereafter.

To facilitate validation, registrants will be required to state their intended use of the registered domain name. A false statement of intended use is an indication of bad faith and can be the basis for the suspension or revocation of the domain name

Enforcement— The purpose of the enforcement program is to protect the credibility of the .ART gTLD for users.

The enforcement program will be based on statistically targeted random investigations and

on a complaint follow-up process. The statistical targeting is strongly automated and involves the use of search engines and the analysis of registry data related to behavior of registrants.

Depending on the type of misuse to be investigated, web site content or content sent to victims of abuse will reviewed and analyzed by investigators.

Enhanced investigation will take place if the registrant has a bad track record in terms of compliance with the rules of the .ART gTLD. Other violations of public record (such as UDRP or URS cases) will also be taken into account.

If the intended use cannot be deemed legitimate, the registration will be rejected at the time of initial application. If content or later use of an existing .ART domain demonstrate that the registrant has shown bad faith by stating a false intended use, or has changed use, the domain name will be suspended.

If a registrar is complicit with systematic violations of the .ART policies or causes an unacceptable burden for the validation and enforcement program by negligence, the registry can restrict that registrar's access to the new registrations, subject its inventory of .ART domains to enhanced investigation and require it conduct its own post-validation program.

An appeals process will available for all administrative measures taken in the framework of the enforcement program. The first instance of the appeals process will be managed by the registry service provider.

The PAB set up by Dadotart provides the second and last instance of an appeals process by itself or entrusts it to an alternative dispute resolution provider. The charter of the appeals process will be promulgated by the PAB.

The ongoing compliance program will regularly be adapted to current needs based on experience and audit findings. Community nexus validation combined with strong protection of trademarks will help to stamp out cybersquatting and abusive registrations. Non-complying registrations will be subject to revocation.

Eligibility and name use conditions must always be fulfilled. The strength of the validation will be kept in line with the nature of the underlying domain name base and the reasonable expectations of a typical user.

The validation and enforcement program will be supported by an integrated issue tracking system. This system allows validating agents and personnel to cooperate and interact with the registrant. The system keeps track of decisions made by the agents and stores supplemental documentary evidence that may be supplied by the registrants.

Projections for the maximum size of the .ART gTLD are 50,000 names by the end of Year three, as described more fully in Questions 45-49. Given the anticipated size of the gTLD enforcement will not be a problem for the staff identified.

## **20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## **Geographic Names**

### **21(a). Is the application for a geographic name?**

No



## **New gTLD Application Submitted to ICANN by: Big Room Inc.**

**String: ECO**

**Originally Posted: 13 June 2012**

**Application ID: 1-912-59314**

## **Applicant Information**

### **1. Full legal name**

Big Room Inc.

### **2. Address of the principal place of business**

332-237 Keefer Street  
Vancouver BC V6A 1X6  
CA

### **3. Phone number**

+1 604 682 6673

### **4. Fax number**

+1 604 682 6673

ecological (adjective), with the meaning environmentally friendly.

The OED lists over 30 words beginning with the prefix eco-, all of which relate to combined form adjectives with the sense “ecological and – –” or nouns with the sense “ecological –”. Throughout the over 70 years of documented use in the OED, eco has always been associated with ecology or ecological concepts, never as a shortened or combining form for words such as economy.

Support for a comparable use of “eco” in French is provided by Dr Pascaline Dury’s bilingual corpus-based study of the migration of vocabulary from scientific to non-scientific use. Of the 21 lexical units that appear in the study’s French news corpus, “all of them are semantically-related to the field of ecology and can be easily defined.” (Dury, P. “The rise of carbon neutral and compensation carbone”. Terminology 14(2): 236, 2008.)

#### POTENTIAL CONNOTATIONS BEYOND THE COMMUNITY

The OED identifies the potential for “greenwashing,” defined as “disinformation disseminated by an organisation, etc., so as to present an environmentally responsible public image; a public image of environmental responsibility promulgated by or for an organisation, etc., but perceived as being unfounded or intentionally misleading.” (BSR & Futerra, “Understanding and Preventing Greenwash: A Business Guide”, 2009.) Misuse of the “eco” label can negatively affect Community interests by making people skeptical of environmental initiatives and impeding consumers’ understanding of the impacts of their buying decisions.

While “eco” has no significant meaning other than as a short form for environment/ecology, it infrequently occurs as an acronym. Known international acronyms and uses are:

European Communications Office (ECO): All European Conference of Postal and Telecommunications Administrators (CEPT) divisions are housed as part of the CEPT website ([www.cept.org/eco](http://www.cept.org/eco)). There is no confusion anticipated between this usage and the .ECO TLD.

Economic Cooperation Organisation (ECO): an intergovernmental regional group established by Iran, Pakistan and Turkey to promote economic cooperation in the region ([www.ecosecretariat.org](http://www.ecosecretariat.org)). As the focus is regional rather than global and on economic rather than environmental issues, there is no confusion anticipated between this usage and the .ECO TLD.

eco Association of the German Internet Industry: Confirmed in writing that it does not intend to apply for .ECO or object to Big Room’s .ECO application. See attached letter of non-objection in 20f (20d-eco-non-objection.pdf). There is no confusion anticipated between this usage and the .ECO TLD.

## **20(e). Provide a description of the applicant’s intended registration policies in support of the community-based purpose of the applied-for gTLD.**

The policies developed by the .ECO Community Council form the .ECO policy consensus, a key result of the process discussed in 20c. Policies are also discussed in 18b. The Dot ECO Global Community Organization (the Organization) provides for continued community discussion and participation to develop and modify .ECO policies and practices.

The registry will prevent DNS resolution of .ECO names until the registrant submits information to support their compliance with the .ECO community eligibility requirements. Registrants will be required to satisfactorily complete their .ECO-profile, the central eligibility verification system. Provided that this step is completed, active DNS resolution will be enabled.

The registry will employ standard registration lifecycle mechanisms, statuses, and states such as HOLD or LOCK functions, or other existing Extensible Provisioning Protocol (EPP) commands, in order to disallow a domain to be active when a registrant is not in compliance with the community eligibility requirements or under related community dispute resolution procedures.

#### ELIGIBILITY

Eligibility is limited to individuals and entities (not-for-profit, business and government) that are members of the Global Environmental Community (the Community) that meet community-recognized standards:

1. Not-for-profit environmental organizations that affirm and can provide proof on request of:
  - A) Accreditation by relevant UN agencies (ie, UNEP, UN Economic and Social Council) or
  - B) Proof of legal establishment and environmental mission/purpose.
2. Business entities that affirm and can provide proof on request of:
  - A) Membership in environmental organizations and initiatives including:
    - i. Organizations as in 1 A)-B) or
    - ii. The United Nations Global Compact or
    - iii. Other memberships approved by the Organization
  - B) Accreditation by voluntary environmental certifications, standards and reporting systems of:
    - i. Organizations as in 1 A)-B) or
    - ii. UN member states, national and sub-national governmental bodies and entities or
    - iii. The International Organization for Standardization or
    - iv. Other certification, standards and reporting systems approved by the Organization
3. Governments, including environment-related departments and initiatives of UN member states, national and sub-national governmental bodies, and UN bodies
4. Individuals that affirm and can provide proof on request of membership, financial support for, or accreditation including:
  - A) Organizations as in 1 A)-B) or
  - B) Certified environmental professional qualifications approved by the Organization or
  - C) Academics/scientists affiliated with recognized universities

Registrants holding certain environmental certifications may qualify to register for .ECO domain names without providing additional details through a .ECO-Profile. The Organization will establish the required qualifications and agreements with certifiers to enable rapid, accurate validation. Certified registrants will be promoted as such within the .ECO System.

#### NAME SELECTION

**Community-priority:** Prior to launch, the Organization will approve a list of community-priority names and with the Registry, develop a best-use plan competition. Allocated names will be donated to the winners for a defined term. All community-priority names will be reviewed biennially by the Registry against their use plans (eg, Forest, Finance).

**Platform Names:** Registry will reserve a list of names that may be useful to the .ECO System like industry sectors, environmental issues, nouns with environmental significance and other names deemed useful to the Registry's implementation of .ECO (eg, Council, Community) for allocation in a manner to be determined by the Organization.

**Auction-able:** Registry will publish a list of remaining names available for auction during sunrise. Funds generated from these names will be used to support the Registry and Organization.

#### CONTENT/USE

Registrants must comply with the .ECO Purpose and Principles and provide accurate information

in their .ECO-profiles.

Applicants must complete a .ECO-profile that includes a series of mandatory and voluntary questions about commitments, memberships, certification, reporting and other activities undertaken in support of Community goals.

Responses will form a .ECO-profile webpage that will be added to a public online database called the .ECO System. Registrant .ECO-profiles will be linked to the registrant's .ECO domain via a .ECO logo trust-mark.

The Organization will develop a process to establish, regularly review, and update the .ECO-profile Registrant questions.

The types of .ECO use will be not-for-profit, business, individual, government, and product.

Controversial Names: Organization will develop a method to flag controversial strings based on: existing public policy, community recommendations; industry sector and green-washing watch-lists; and research/surveys. Controversial names will not be automatically blocked but registrants selecting flagged names will be notified that registration will be subject to additional scrutiny.

.ECO-profiles: Registry, in consultation with Organization, will develop a set of review guidelines to maximize .ECO System accuracy and to ensure compliance with the .ECO eligibility requirements. Registry will report annually on review process and results to the Organization.

To use a .ECO domain name a registrant must sign a Registrant Agreement that explains the actions they will need to take in support of the .ECO purpose and policies.

Registrants must review and/or update their .ECO-profiles at least annually. Non-compliant Registrants will be reminded by the Registry 30 and 10 days prior to the mandatory review date. Domain names with .ECO-profiles that remain non-compliant 12 months after the review date will be subject to takedown proceedings. This requirement further strengthens our rights protection and WHOIS accuracy mechanisms. See also Question 29.

Anywhere a registrant references .ECO (or Dot Eco) and/or the .ECO logo, the registrant's corresponding Eco-profile URL must also be displayed (ie, as a footnote or hyperlink) as the .ECO logo must directly reference the registrant's .ECO-profile.

Registrants must complete all mandatory .ECO-profile questions.

Registrants can indicate if the information in their .ECO-profile has been independently verified, and if so, include the verifier and validity/expiry dates.

## ENFORCEMENT

Complaints: Every .ECO-profile will have a report abuse link where a complaint can be submitted about that registrant to the Registry. The Registry will evaluate complaints against the Registrant Agreement and decide whether and how to take action.

Where the registrant, Registry or Organization sees no clear resolution, the case may be referred to a dispute resolution process. The Registry, in keeping with the principles of improvement and inclusivity, will work with the registrant through the process to reach a mutually agreeable solution on behalf of the Community.

Where complaints are not addressed to the satisfaction of Registry and Organization, the registrant's domain name may be suspended and/or taken down.

Complaints submitted by verified Community member registrants will be given priority over the general public. The Registry will review the number and nature of complaints about a registrant when considering suspension and take-down measures.

Dispute Resolution Process: Registry will support a Community Eligibility Dispute Resolution Process (CEDRP) aligned with the Accountability Policy described in the .ECO Policy Consensus. The CEDRP can be initiated by .ECO community member or the general public to address alleged violations of .ECO member policies or operating requirements by a registrant or registrar. Complaints will be first be addressed between the Registry, or a dispute resolution party contracted by the Registry, and the relevant Registrant. If not resolved to the satisfaction of the registrant, the registrant may pay a fee to seek the recommendation of an independent mediator or arbiter approved by the Registry. If not resolved to the satisfaction of the Registry, the Registry may choose to refer the dispute to the Organization for a final decision.

Comments on .ECO-profiles: .ECO-profiles are tools used to confirm Community membership and eligibility. Every .ECO-profile to have a public comment forum and the registrant whose .ECO domain name is associated with an .ECO-profile will have the right to moderate comments on their profile. Registrants may post comments about .ECO-profiles to relevant Platform Name pages. The Organization will establish and regularly review recommended moderation / commenting guidelines, including handling malicious comments.

Community Comment Forum: Registry will implement a .ECO community comment / debate forum for members to interact with each-other, the Registry and the Organization

Take-Down Process: For Registrants found to be in breach of the .ECO Registrant Agreement: receipt of a 60 day email notice to come into compliance and/or opt for dispute resolution, if no action, domain to be suspended for 60 days, if remains non-compliant, domain to be taken down by the Registry.

Transparency: Registry process for evaluating and resolving complaints and results of disputes will be made public. An Annual report of all complaints and actions taken will be made to the Organization.

Controversial Names: Registry mechanisms for community enforcement include: reporting controversial names, implementation of complaints, dispute resolution, takedown mechanisms per the Accountability Policy, and the right to take down names and sites that it or the Organization deem to be in breach of the .ECO Purpose and Registrant Agreement.

## **20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## **Geographic Names**

### **21(a). Is the application for a geographic name?**

No

## **Protection of Geographic Names**





## **New gTLD Application Submitted to ICANN by: dotgay llc**

**String: gay**

**Originally Posted: 13 June 2012**

**Application ID: 1-1713-23699**

### **Applicant Information**

#### **1. Full legal name**

dotgay llc

#### **2. Address of the principal place of business**

307 Seventh Avenue  
suite 1807  
New York NY 10001  
US

#### **3. Phone number**

+12127601400

#### **4. Fax number**

+12127600221

where the word `gay` is used to indicate a member of the Gay Community.

As a word in the modern lexicon, the word `gay` has only one meaning as a noun - to be a member of the Gay Community. As an adjective, however, it still has meanings that have largely slipped into archaic or historic use. To understand other possible meanings of the term in the English language, one needs to test using substitution as is often done in language theory (eg. can the word 'happy' be substituted for the word 'gay' in the normal sentence). When one utters the phrase 'I think he is gay' one cannot assume the substituted 'I think he is happy'. And if there were to be any question, it would be followed up with something such as: do you mean gay as in 'gay' or do you mean gay as in 'happy'? The initial presumption is that `gay` refers to a member of the Gay Community.

Additionally while there are a few historical references such as Gay Nineties - reference to the 1890s, there are very few remaining uses, and there is no chance of the term being misunderstood in the context of gTLD usage. In the context of new gTLD applications, the name does not have any connotation beyond the Gay Community. The idea that one would look at a domain such as `lawyer.gay` or `health.gay` and misunderstand that to mean `lawyer.happy` or `health.happy` is inconceivable.

OED - Oxford English Dictionary

## 20(e). Provide a description of the applicant's intended registration policies in support of the community-based purpose of the applied-for gTLD.

### .gay Registration Policies

- All registrants will be required to authenticate and obtain a Community Identifier Code (CIC) through an Authentication Partner in order to register or renew .gay domain names.
- One CIC will permit the registration of one domain name on the .gay TLD.
- All domain names at all levels within the .gay domain name space must abide by all applicable dotgay LLC policies.
- Data supplied during the authentication process will be protected, not sold and used exclusively by dotgay LLC for the purposes for which it was collected.
- dotgay LLC will adhere to all name selection restrictions that flow from ICANN policies and contracts.
- The registrant agreement will contain the following representations from the registrant:
  - They have a valid association to the name
  - They are not selecting a name in bad faith or for malicious use
  - They are not engaging in cybersquatting activity in which the goal is to obtain desirable names for the purpose of generating profit or other advantage.
  - They are not engaging in speculative registration activity for the purpose of reselling domains or parking the names for traffic.
- Breach of registrant agreement, or representations made in that agreement, will subject the registrant to the Registry Policies Dispute Resolution Procedure (RPDRP) and may result in dotgay LLC revoking the ineligible names.
- dotgay LLC will host an online process to submit recommendations for names that should be reserved prior to Sunrise including:
  - Community relevant key word domain names for the index directory
  - Domain names for premium auctions
  - Sensitive words or phrases that incite or promote discrimination or violent behavior, including anti-gay hate speech
- Third level name registrations will be made available on select index domain names.
- Registry reserves the right to review and reject any third level registration requests.
- dotgay LLC will have an established policy regarding adult content.

### Eligibility

.gay is restricted to members of the Gay Community. Eligibility is determined through formal membership with any of dotgay LLC's Authentication Partners (AP) from the

community.

Early organizations of the Gay Community provided "safe places" during a period in history when community members became empowered to step out of the closet. They created a trusted network of community members sharing a common ambition; from gay rights to a response around the AIDS epidemic. Individuals who willingly associated themselves with these organizations affirmed themselves as members of the community.

As the foundation of the community, membership organizations are the single most visible entry point to the Gay Community around the world. They serve as "hubs" and are recognized as definitive qualifiers for those interested in affirming their membership in the community. The organizations range from serving health, social and economic needs to those more educational and political in nature; with each having due process around affirming status in the community.

In keeping with standards currently acknowledged and used within the community, dotgay LLC will utilize membership organizations as APs to confirm eligibility. APs must meet and maintain the following requirements for approval by dotgay LLC:

1. Have an active and reputable presence in the Gay Community
2. Have a mission statement that incorporates a focus specific to the Gay Community
3. Have an established policy that affirms community status for member enrolment
4. Have a secure online member login area that requires a username & password, or other secure control mechanism.

dotgay LLC will work within the community to identify and approve APs that meet the above requirements, providing as many opportunities for the community to participate as possible. A complete list of APs will be provided when .gay is placed in the root and the list will be maintained and updated as APs are added or removed. APs will be reviewed by dotgay LLC on a periodic basis (eg. every 1-3 years) to ensure they meet all requirements. dotgay LLC will provide APs with the means of allocating CICs required to register names on .gay.

#### Name Selection

Registerable names on .gay

Community members that have received a CIC as per the requirements set forth in Eligibility will be permitted to register second-level names that are:

1. Not words or phrases that incite or promote discrimination or violent behavior, including anti-gay hate speech.
2. In accordance with the ICANN-related name restrictions outlined in Specification 5 of the Registry agreement (unless otherwise expressly authorized in writing by ICANN).
3. Not part of the Registry-defined reserved lists outlined below;
  - a. Index words. Words designated for the index directory.
  - b. Founders names. These are names that are reserved for Founders of .gay as outlined in 18(c)(i). They will remain reserved only until they are registered by the Founders, either at the beginning or the end of the Sunrise period accordingly.
  - c. Sunrise B names. Includes names from Sunrise B as outlined on 18(c)(i).
  - d. Registry Designated names. Includes names designated by dotgay LLC for use in operation of the Registry.
  - e. Premium Auction names. Names reserved for auctions conducted by dotgay LLC, including generic words.
  - f. Sensitive names. Names that the Registry Advisory Board (RAB) may recommend be reserved by dotgay LLC because they are deemed sensitive on .gay, including words or phrases that incite or promote discrimination or violent behavior.

#### Content & Use:

##### Content & Use Restrictions

- dotgay LLC will make best efforts to prevent incitement to or promotion of real or perceived discrimination based upon race, color, gender, sexual orientation or gender

expression, ethnicity, religion or national origin, or other similar types of discrimination that violate generally accepted legal norms recognized under principles of international law.

- Registrants are not permitted to give non-community members access to sub-level domains.
- dotgay LLC will use web metasearch technology to help determine that policies are adhered to at all levels.

#### Enforcement:

##### Investigation Practices & Mechanisms

Registry will utilize an Ombudsman function to be the initial point of contact for reports, including complaints, disputes and matters related to abuse of policy. The Office of the Ombudsman (OTO) will be responsible for receiving and evaluating all such reports, including those from law enforcement and governmental and quasi-governmental agencies.

Registry will use a Community Watch mechanism, wherein the members of the community can easily report any infraction of Registry policies. A web-based reporting system established by the Registry will be the suggested method of contact for all matters related to enforcement. The OTO will be responsible for investigating all such reports. To the extent possible, all communications between the Registry, claimants and registrants regarding enforcement matters will be conducted electronically, however at the discretion of the OTO other methods of communication may be used.

The Ombudsman function will also have within its responsibility, creation and management of a statistical method of sampling adherence to the policies of the Registry. The Ombudsman function will be responsible for periodic reporting on the statistics related to complaints, enforcement and solutions.

Reporting will ultimately be addressed by one of the following enforcement agents, using the appropriate dispute resolution policy. Matters that cannot be resolved by the OTO will be referred to the appropriate dispute resolution process. The Registry will be bound by the decisions made by the dispute resolution processes.

##### Resources Allocated to Enforcement

- Ombudsman
  - Registry provided independent agent or agents
  - Attempts to resolve issues amicably between complainant and registrant
  - Acknowledges and documents all Registry related reports and resolutions
  - Administers notifications and warnings related to Registry policy
  - Reports to Registry when policy violations are not corrected in the required time
  - As required by due process and ICANN rules, cooperates with law enforcement, privacy protection regulations and other regulatory frameworks
  - Redirect complaints that cannot be resolved by the OTO, to the appropriate dispute resolution process.
    - Uniform Dispute Resolution Policy (UDRP) as defined by ICANN
    - Uniform Rapid Suspension (URS) as defined by ICANN
    - Registry Restrictions Dispute Resolution Procedures (RRDRP) as defined by ICANN
    - Trademark Post Delegation Dispute Resolution Procedure (Trademark PDDRP) as defined by ICANN
    - Registry Policies Dispute Resolution Procedure (RPDRP) as defined below.
- Registry Policies Dispute Resolution Procedure (RPDRP)
  - The RPDRP is similar to the RRDRP except that it is responsible for resolving all disputes concerning Registry established policies, such as naming policy.

##### Appeals Mechanism

Registrants who have not been successful in Registry policy dispute resolution will have the one-time opportunity to make a reconsideration appeal around the policy decision. The reconsideration appeal will be through an online appeal mechanism provided by the Registry. Reconsideration appeals must include a stated reason for request of reconsideration.

Any Registrant taken down or suspended for a Registry related violation will also have the option to submit an appeal for reinstatement. Registrants will submit appeals directly with the RPDRP appointed dispute resolution provider. All claimants must follow the online appeal process provided by the appointed dispute resolution provider.

## **20(f). Attach any written endorsements from institutions/groups representative of the community identified in 20(a).**

Attachments are not displayed on this form.

## **Geographic Names**

### **21(a). Is the application for a geographic name?**

No

## **Protection of Geographic Names**

### **22. Describe proposed measures for protection of geographic names at the second and other levels in the applied-for gTLD.**

Geographical names predetermined to require protection will initially be reserved at the second level and at all other levels within the .gay TLD at which the Registry provides for registrations. This includes all two-character labels, country and territory names included in Specification 5 of the Registry agreement with ICANN.

According to the Applicant Guidebook "the rules for release can be developed or agreed to by governments, the GAC, and/or approved ICANN after a community discussion."

Registry initially proposes the following procedure but reserves the right to later introduce additional procedures in case agreement can be reached with governments, the GAC, and/or ICANN.

Rules for release of Geographical Names

The following rules are suggested for requests pertaining to the release of reserved geographic names:

1. Requesting registrants must meet eligibility requirements for the .gay TLD.
2. Requesting registrants must specify whether they are seeking a second or third level registrations, or any combination thereof.
3. Reserved geographical names will only be eligible for release and delegation to the government agency to which the geographical name represents.
4. Reserved geographical names in the form of two-character labels that are not currently

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**From:** EIU Contact Information Redacted  
**To:** Christopher Bare <christopher.bare@icann.org>  
**CC:** EIU Contact Information Redacted <redacted@icann.org>; Russ Weinstein <russ.weinstein@icann.org>  
**Sent:** 7/17/2014 3:25:01 PM  
**Subject:** Re: Response needed: background info on LLC, LLP, INC evaluations

Hi Chris,

We have thoroughly reviewed the evaluations and relevant materials and have provided our responses below.

**1. Which organization was the one you identified as relevant and of non-negligible size? Was it one of the two mentioned?**

The EIU identified the European Commission as the relevant organization of non-negligible size.

**2. Was EIU aware of the application comment and posted correspondence that rescinded the opposition? If so, was this considered in the evaluation?**

The EIU was not aware of the second *application comment* from the European Commission. The EIU follows a process once an evaluation is commenced. This process includes receiving *application comments* from ICANN via the external shared drive at the start of each evaluation. The EIU then reviews and evaluates the relevance of each comment. The European Commission's first comment, an objection, was included in the *application comments* documentation provided by ICANN.

The EIU's process has never included the retrieval or review of additional *application comments* posted to the ICANN website, nor was the EIU ever asked or instructed to undertake such a review of *application comments*. As a result, the EIU was not aware of the second comment posted by the European Commission at a later date.

The EIU process does include a weekly review of *correspondence* (*i.e. letters*) posted to ICANN's correspondence page. On a weekly basis, an EIU team member reviews the correspondence section of the website for all new correspondence, and determines whether there are any new letters relevant to CPE.

The EIU was aware of the posted correspondence from the US state of Delaware and reviewed the correspondence during the evaluation process.

**3. How did the opposition letter referenced in the evaluation report impact the overall scoring? (e.g. Applicant got 1 point instead of 2 for opposition) Would it have made a material difference to the score?**

If the EIU had considered the letter from the European Commission withdrawing its opposition, the score for Opposition would have increased to two (2), up from one (1) previously, for the evaluations in question. However, this would have had no material impact on the final outcome

of the evaluation.

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Please let me know if you have any follow-up questions.

Best wishes,

EIU Contact Information Redacted

On 16 July 2014 19:20, Christopher Bare <[christopher.bare@icann.org](mailto:christopher.bare@icann.org)> wrote:  
EIU Contact Information Redacted

The applicant for LLC, LLP, and INC (Dot Registry, LLC) has filed Reconsideration Requests (RR) with the ICANN board. Our legal team is currently drafting a response to these RRs and need some additional information from EIU.

In the RRs, the applicant is questioning the one opposition letter that 'was determined to be relevant opposition from an organization of non-negligible size'. The applicant is claiming that the 2 opposition letters they were aware of from organizations of non-negligible size (Secretary of State for Delaware, European Commission) were rescinded later by the authors. The State of Delaware was rescinded via application comments on 20 March and the European Commission via correspondence posted on 25 March.

What we need to know from you in order to write our response:

1. Which organization was the one you identified as relevant and of non-negligible size? Was it one of the two mentioned?
2. Was EIU aware of the application comment and posted correspondence that rescinded the opposition? If so, was this considered in the evaluation?
3. How did the opposition letter referenced in the evaluation report impact the overall scoring? (e.g. Applicant got 1 point instead of 2 for opposition) Would it have made a material difference to the score?

We would like the information as soon as possible. Tomorrow would be great. Thursday at the latest as we want to have the response ready for the board meeting later this week.

Here are the links to the RRs for your reference. They make for some interesting reading.

LLC: <https://www.icann.org/resources/pages/14-30-2014-06-25-en>

INC: <https://www.icann.org/resources/pages/14-32-2014-06-26-en>

LLP: <https://www.icann.org/resources/pages/14-33-2014-06-26-en>

Let us know if you have any questions about what we are asking.

Thanks  
Chris

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[Make a Comment](#)[View Comments](#)

Comment ID: 7s164151

Name: Camino Manjon

Affiliation: GAC member, European Commission

Applicant: Dot Registry LLC

String: INC

Application ID: 1-880-35979

Panel/Objection Ground: Community Evaluation Panel

Subject: Objection Withdrawal

Comment Submission Date: 25 March 2014 at 10:09:55 UTC

Comment:

Dear ICANN,

After submitting our comments regarding Dot Registry's applications for .inc, .llp, and .llc, we were approached by the applicant to address and clarify the concerns stated in our correspondence.

The applicant has provided extensive field research that provides sufficient basis for a withdrawal of our objection, and after discussing in depth the issues raised in our comments we have a different approach to these community applications.

Both the applicant and the European Commission have resolved the issues at hand and therefore we are respectfully withdrawing our previous comments objecting to Dot Registry's applications for .inc, .llp and .llc.

In the particular case of .llp (used in the UK), the European Commission and the applicant have reached an agreement based on the commitment that if the string is delegated to Dot Registry, parties will work together towards the implementation of a framework which ensures that UK registrants that comply with certain requirements can make use of the corporate identifier referenced above.

We also understand and acknowledge that Dot Registry will be retracting their comments made regarding the Commission's comments on this matter and the suggestion that the European Commission had been lobbied, rather than having being provided with inaccurate research and information by other interested parties.

Lastly and for the avoidance of any potential confusion with the pending Community Priority Evaluation processes underway for Dot Registry, we ask that ICANN forward a copy of this communication to the Economist Intelligence Unit.

Best regards

Linda Corugedo Steneberg

<https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12413>

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## APPLICATION COMMENT DETAILS

Make a Comment

View Comments

Comment ID: t9wufnw

Name: Camino Manjon

Affiliation: GAC member, European Commission

Applicant: Dot Registry LLC

String: INC

Application ID: 1-880-35979

Panel/Objection Ground: Community Evaluation Panel

Subject: European Commission opposition

Comment Submission Date: 4 March 2014 at 17:27:34 UTC

Comment:

Dear ICANN,

The European Commission would like to take the opportunity to submit a Letter of Opposition for the Community Priority Evaluation of Dot Registry LLC's ".LLP", and ".INC" applications.

The European Commission is a steady member of the ICANN's Governmental Advisory Committee (GAC). Amongst others it is our duty to ensure legitimacy and appropriate actions from all participants in the new gTLD process from a European point of view and to identify breaches of relevant regulations, public policy interests and ICANN's decisions which may affect European markets.

In this context we would like to express our concerns and opposition as regards three Community Applications filed by Dot Registry LLC's.

1) Community Application ID 1-880-35508 (.LLP )

2) Community Application ID 1-880-17627 (.LCC)

3) Community application ID: 1-880-35979) (.INC)

Following the new gTLD process closely, we do appreciate that ICANN has recognized the critical significance for Internet users in case of an inadequate delegated gTLD to a non-legitimate community applicant.

"It should be noted that a qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application..." (Applicant Guidebook 4.2.3, pages 4-9)

Dot Registry's community application for .LLP fails to match fundamental principles of ICANN's New gTLD Program, amongst others, in the ICANN bylaws , as well as in the Approved Resolution of the NGPC in realization of the GAC Beijing advice . According to these regulations all new gTLDs shall be operated in a non discriminatory manner.

Dot Registry's concept to limit the ability to register these domains for corporate identifiers to US registered businesses only is excluding numerous companies worldwide including European Member States and is therefore discriminating potential registrants in an illegitimate manner.

As an example, Dot Registry admits in its application, EU Member States as Germany, Greece, Poland, Romania, and the United Kingdom are indeed using LLP as a legal form for entities. Several other countries worldwide use the legal form of Limited Liability Partnerships as well. Entities from these countries will be excluded in a discriminatory matter, as they have the same legal form as US based companies but are not allowed to register domains within the TLD .LLP because of their national origin.

We would like you to take into consideration that the European Commission does not agree with this restricted community target as defined by the applicant Dot Registry LLC and that we therefore recommend not awarding the community status to Dot Registry's .LLP application with the ID 1-880-35508 during the Community Priority Evaluation (CPE).

We appreciate the work undertaken by ICANN and the CPE Panel and thank you for considering our Letter of Opposition.

Best regards

Linda Corugedo Steneberg

European Commission - DG CONNECT

Director for Cooperation and EU GAC Member

<https://gtldcomment.icann.org/comments-feedback/applicationcomment/commentdetails/12361>