

Mr. Rod Beckstrom, CEO and President
Mr. Peter Dengate-Thrush,
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cc: Governmental Advisory Committee
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Re: Protection Against the Misleading Use of the Names and Acronyms of
International Intergovernmental Organizations in the Domain Name System

November 1, 2010

Dear Mr. Beckstrom,
Dear Mr. Dengate-Thrush,

The current letter seeks your clarification on the status of envisaged protection for the names and acronyms of international intergovernmental organizations (IGOs) in the DNS, in particular in relation to envisaged rights protection mechanisms available under ICANN's New gTLD Program.

As ICANN progresses in its deliberations to resolve this issue in the global interest of public trust and DNS credibility, please allow me to recall the broader relevant legal framework as well as some of ICANN's prior exchanges on the issue.

The names and acronyms of IGOs are protected under international law

The names and acronyms of IGOs are protected under international law within the scope of Article 6^{ter} of the Paris Convention for the Protection of Industrial Property, as further referred to in Article 16 of the Trademark Law Treaty and Article 2 of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights. The protection of the names and acronyms of IGOs in the

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context of their abusive registration as domain names was addressed through the Second WIPO Internet Domain Name Process culminating in a recommendation to amend the UDRP in order to provide protection for such identifiers, thus reflecting in the DNS existing international legal principles for IGO protection. (It should be noted in this regard that the class of IGOs that may receive protection is strictly limited, and that since 1958 when the applicable Paris 6^{ter} protection was established, a correspondingly limited number of IGOs have received such protection.) This recommendation was transmitted to ICANN in February 2003, and subsequently endorsed by the GAC in a number of Communiqués.

In lieu of addressing protection for IGOs through the UDRP applicable to gTLDs, ICANN staff in June 2007 published an Issues Report on Dispute Handling for IGO Names and Abbreviations, recommending, *inter alia*, “that new gTLD agreements may provide for protection of IGO names and abbreviations as a contractual condition for new gTLDs; [...] that a separate Dispute Resolution Procedure [DRP] be developed for IGO names and abbreviations as domain names at the second or third level in new gTLDs and that a framework be developed for handling objections or challenges related to IGO names and abbreviations in the upcoming application round for new gTLDs.” It is our understanding that ICANN staff have since then produced a draft IGO Domain Name Dispute Resolution Procedure which remains under consideration for implementation.

GAC New gTLD Principles call for protection of the names and abbreviations of IGOs

Paragraph 2.3 of the GAC Principles Regarding New gTLDs calls for the process for introducing new gTLDs to make proper allowance for prior third party rights, in particular trademark rights, as well as rights in the names and acronyms of IGOs. (Additionally, paragraph 2.7 calls for applicants to adopt appropriate procedures for Governments, public authorities or IGOs to block and/or challenge names at the second level.) Correspondence from ICANN through Mr. Pritz to the GAC in May 2008 confirmed that this principle is considered by ICANN to be addressed by GNSO Recommendation 3 insofar as it is foreseen in the implementation planning that such rights would be protected through an objection procedure (notably, such formulation seems to be limited to applied-for TLD strings themselves).

Nevertheless, to date we are not aware of any provision in the DAG or otherwise providing such envisaged protection for the names and acronyms of IGOs – whether expressly in the context of ICANN’s pre-delegation processes (either by blocking or objection mechanism, the latter appearing to exclude IGOs as currently formulated in the DAG), or in the form of post-delegation rights protection mechanisms, including for second level registrations; the need for which is illustrated by abuse such as that described in the 2007 ICANN staff Report: abusive registrations of the names and acronyms of IGOs “were used in millions of fraudulent e-mail messages to solicit [tsunami relief] donations from unsuspecting individuals.”

The Affirmation of Commitments calls for ICANN decisions to promote consumer trust

Paragraph 9.3 of the Affirmation of Commitments calls for ICANN to commit to promoting consumer trust.

In this regard, the following statement from the 2001 Report of the Second WIPO Internet Domain Name Process finds even greater application today:

“The registration and use of domain names to create misleading associations with the duly constituted international authorities for public health, labor practices, peace-keeping operations, nuclear test bans, the containment of the proliferation of chemical weapons, trade disciplines,

children's rights, refugees, AIDS and so forth is unacceptable, offensive to numerous public policies established by the international community and conducive to undermining the credibility and reliability of the DNS.”

Further steps

In light of the foregoing, we would welcome ICANN's clarification on the status of protection in the DNS for the names and acronyms of IGOs, in particular within the framework of currently planned DNS expansion.

We trust that all ICANN stakeholders understand the importance of providing appropriate protection for IGOs in the global interest of public trust and DNS credibility.

We are posting a copy of this letter on the [WIPO website](#) for public information.

By way of information, we are also forwarding a copy of this letter to the GAC including a request for distribution to those IGOs which are GAC observers.

Yours sincerely,



Erik Wilbers
Director
WIPO Arbitration and Mediation Center