



PERÚ

Ministerio  
de Relaciones Exteriores

Lima, April 11, 2014

Mr. Steven D. Crocker  
Chair, ICANN Board of Directors

Dear mister Crocker:

Regarding your letter dated April 7th, in which it is attached the advice of an independent counsel, on the early warning presented by Peru and Brasil, and the negative GAC advise for the gTLD ".amazon", we would like the members of the Board to consider the following:

1. The procedure followed by Peru matches exactly ICANN's bylaws and it is grounded in sound principles of international law. ICANN shall pay due regard to the fact that an early warning by two sovereign subjects, a negative advice by the Intergovernmental Committee and a negative report by an independent objector have been duly issued and forwarded to the board according to such procedure. The Peruvian government shall clearly state that there has not been any request, contact or exchange of views between the Peruvian government and the independent objector in any stage of this procedure and that the report shall not be objected on those grounds.
2. Not sufficing the above, the Board has requested another legal report. That report however is not pertinent to this procedure. Expressly limits its scope to the provisions of applicable international intellectual property agreements. It clearly states that through the analysis, there will be "no reference to the provisions of the various regulations adopted by ICANN and their legal nature", among others, the Applicant Guidebook. Furthermore, the study purposely excludes the contents of the Applicant Guidebook, which is the only reference set up by ICANN to establish the rules for the procedure and the subsequent applicable framework. The opinion of the independent counsel solicited by ICANN to this respect, analyzes the case of ".amazon" in a setting that might be appropriate for an IPRs forum by ICANN. The Guidebook gives no authority to consider IPRs issues as paramount provisions, noting that domain names are not a subject matter ruled by IPRs.


4.- The Durban communiqué voices the opinion of the community of countries that integrate the ICANN. Such communiqué reiterates the rights of the countries to intervene in claims that include words that represent a geographical location of their own –which by the way in this case, is recognized by ISO codification – in particular when such terms evoke strategic, historical and cultural values for the eight countries of the Amazon basin and their people.

Claims based on one single element of one of the criteria established on the Guidebook which is not tantamount in the system (trademark ownership), cannot take precedence against the rest of the criteria established in the same guidebook and certainly cannot disregard public policy legitimate concerns raised by the GAC and by the community, considering the current debate regarding internet actual and future governance.

On the grounds of ICANN's regulations and multistakeholder approach, the government of Peru requests ICANN's Board to reject the application of ".amazon".

Regards,



  
Fernando Rojas Samanez  
Vice Minister of Foreign Affairs