DATE: March 14, 2012

TO: ICANN Board of Directors

CC: Kurt Pritz, John Jeffrey

FROM: gTLD Registries Stakeholder Group (RySG)

SUBJECT: REQUEST FOR NEW GTLD APPLICANT GUIDEBOOK CHANGE REGARDING THE
               TREATMENT OF CONFUSINGLY SIMILAR STRINGS

The RySG observes that the recently updated IDN ccTLD Fast Track Implementation Plan
(http://www.icann.org/en/resources/idn/fast-track/idn-cctld-implementation-plan-15dec11-en)
has incorporated a substantive update regarding special considerations for applications involving
potentially confusingly similar TLD strings. More specifically, in Section 5.6.3:

> *If, at the time of the request or within two months after receiving the notification of the findings of
> the DNS Stability Panel, the requestor, and, if considered necessary by ICANN, the relevant public
> authority, provide(s) a clarification that documents and demonstrates to ICANN that:*
>   1. *The intended manager for the requested IDN ccTLD and the manager for the existing two-
>   letter ASCII ccTLD are one and the same entity; and*
>   2. *The intended manager shall request the delegation for the IDN ccTLD string if validated; and*
>   3. *The IDN ccTLD and ccTLD shall remain to be managed by one and the same entity, and*
>   4. *The intended manager shall agree to specific and pre-arranged conditions with the goal to
>   mitigate the risk of user confusion as of the moment the IDN ccTLD becomes operational,
>   then the requested string is deemed to have passed the DNS Stability Panel evaluation.*

The RySG commends the reasonable approach that was amended to the IDN ccTLD Fast Track Process
and we also point to a similar situation that requires implementation action in the new gTLD process.
This will ensure consistency in considering potentially confusingly similar TLD strings, and will avoid
compromising the security and stability of the DNS by introducing technical inconsistency between
ccTLDs and gTLDs.

In this regard, we bring your attention to a previous GNSO Council resolution on the subject matter
(http://gnso.icann.org/resolutions/#20100715-1):

> *The GNSO Council requests a change to Module 2 of the Draft Applicant Guidebook. Specifically, we
> request that the section on "Outcomes of the String Similarity Review" be amended to allow
> applicants to request an Extended Review under applicable terms similar to those provided for other
> issues such as "DNS Stability: String Review Procedure". We further request that a section be added
> on "String Similarity - Extended Review" that parallels other such sections in Module 2. This request
> is seen as urgent because there are conditions under which it may be justified for applicants for a
> string which has been denied further processing based on confusing similarity by the Initial
> Evaluation to request an extended evaluation. This Extended Review would evaluate extenuating
> circumstances in the application which may be such that the similarity is not actually detrimental.*

The RySG notes that the Applicant Guidebook has not been updated to reflect the suggested changes in the GNSO resolution. One of the primary reasons that the GNSO recommended string similarity review was to avoid user confusion. If a new string is similar but does not cause confusion, it should not be denied simply because there is visual similarity. Unfortunately, in the current version of the Guidebook it is possible that an application for a string that is similar to an existing gTLD and/or ccTLD or to another applied for string could be rejected even if there is little or no possibility for user confusion.

Therefore, the RySG requests that the new gTLD Applicant Guidebook be changed to correct this problem. We believe that this could be done in a relatively simple manner using procedures and elements that are already provided in the Guidebook; we provide the following example of one way it could be done:

1. Allow applicants to request an Extended Review under applicable terms similar to those provided for other issues in the Guidebook (as recommended in the GNSO Council motion referenced above)
2. Require applicants requesting such an Extended Review to submit a brief paper describing how their string offering will mitigate user confusion with the similar string
3. Use the existing independent String Similarity Panel to perform the Extended Review.

We do not understand why this issue was not resolved a long time ago but point out that it needs to be addressed expeditiously now. We are more than willing to assist if needed.

Respectfully submitted,

Keith Drazek
Alternate Chair, gTLD Registries Stakeholder Group