

THE FUTURE OF CLOSED GENERIC gTLDS

DEVELOPING AN AT-
LARGE POSITION

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The Question

What should happen with applications for Closed Generic gTLDs in a New Round?

Where are we now?

- March 7, 2022: ICANN Board proposes a Board-Facilitated GAC/GNSO “small group” dialogue regarding the future of Closed Generics gTLDs and issues a “Framing Paper”
- April 22, 2022: GAC responds in Letter
- June 11, 2022: GNSO responds with Recommendations
- July 2022: GAC invites ALAC to participate; GNSO supports
- Small Group has not yet met
- ALAC has proposed Greg Shatan as participant, with Alan Greenberg as alternate

How did we get here?

- 2007: GNSO PDP on Introduction of New gTLDs does not address the issue, implicitly allowing Closed Generics
- 2013: GAC Beijing Advice states that any New gTLD featuring “exclusive registry access” for “strings representing generic terms” “should serve a public interest goal”
- 2015: ICANN Board resolution
 - Exclusive Generic gTLDs are prohibited for 2012 Round
 - Requests that GNSO include “issue of exclusive registry access for generic strings serving a public interest goal” in Subsequent Procedures PDP
- Sub Pro PDP does not develop policy on ERAFGSSAPIG (“eraf-jess-a-pig”)

What is a Closed Generic gTLD (aka “ERAFGSSAPIG”)?

- A gTLD that includes two elements:
 - Exclusive Access: Limits registrations exclusively to a single person or entity and/or that person’s or entity’s “Affiliates”
 - Generic String: “a string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things”
 - (“as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others”)

Source: gTLD Registry Agreement, Spec. 11.3(d)

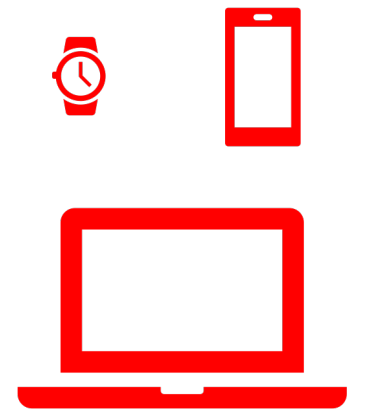
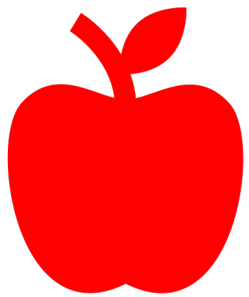
- Huh. What does that mean?

Exclusive Access

- A gTLD where Second Level Domains can only be registered by a single entity and its affiliates
 - (We will ignore the “rabbit hole” of publicly-registrable Third Level Domains within an exclusive taxonomy of Second Level Domains)
 - (We will also ignore the “rabbit hole” of exclusive SLD registrations where the registrant enters into contracts for third party use of the SLD)

Generic String

- A string consisting of a word or term that denominates or describes a general class of goods, services, groups, organizations or things, as opposed to distinguishing a specific brand of goods, services, groups, organizations or things from those of others
 - The string must be a generic term AND
 - The string must use that term in a generic (i.e., “non-brand”) manner
- Context is key
 - .APPLE for apples is a Generic String
 - .APPLE for a particular brand of technology products is not a Generic String



Public Interest Goal

ICANN Rule #137: Any discussion that involves defining the “Public Interest” will never move beyond a discussion of how to define the “Public Interest”

Back to the Question ... and more questions

- What should happen with applications for Closed Generic gTLDs in a New Round?
 - Should Closed Generic gTLDs (aka ERAFGSSAPIGs) be prohibited entirely?
 - Should Closed Generic gTLDs be allowed, provided that they serve a “public interest goal”?
 - If so, what are the policy and implementation issues?
 - What are the ALAC’s policy positions on those issues?
- How should the ALAC/At-Large approach the Small Group discussions?



Thank you.

To be continued...