

# Internationalized Domain Names Expedited Policy Development Process

E2, E7



IDN-EPDP Team Meeting #66 | 19 January 2023

# Agenda

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1. Roll Call and SOI Updates (2 mins)
2. Welcome and Chair Updates (5 min)
3. Deliberate on Charter Question E2 (55 min)
4. Deliberate on Charter Question E7 / B5 - Evaluation Criteria for TLDs with Restrictions (55 min)
5. AOB (3 mins)

# E2

## Objection Processes

# Draft Recommendations Based on EPDP Team Agreement

**Recommendation 3.1:** All requested allocatable variant gTLD labels must be subject to the objection process.

## Recommendations to be drafted:

### 1. String Confusion Objection

a. Objection can be filed based on the ground established by the hybrid model used for String Similarity Review

i. In the objection, the objector to specify which strings are being compared within the limits of the hybrid model

ii. The only pair of comparison that can't be the basis of String Confusion Objection is the blocked variant of one label being confusingly similar to the blocked variant of another label

**b. Outcome of String Confusion Objection – is a recommendation needed?**

### 2. Limited Public Interest Objection

a. An objection may contain one of the following options:

i. Only the applied-for primary string

ii. One or more requested allocatable variant label(s)

iii. A combination of applied-for primary string + one or more requested allocatable variant label(s)

b. Outcome of Limited Public Interest Objection:

i. If objection prevails against the primary string (including the combo situation), application is ineligible to proceed

ii. If objection prevails only against one or more requested variant label(s), primary string and other unaffected requested variant label(s) are eligible to proceed; the affected variant label(s) are ineligible to proceed

# Legal Rights & Community Objection Option 1 - Pending EPDP Agreement

## Legal Rights Objection & Community Objection:

1. What strings can be part of the objection?
2. What are the outcomes of a successful objection?

## **Preliminary outcome in Meeting #60 on 1 December 2022:**

- 1. Only applied-for strings can be objected (Option 1)**
2. A Legal Rights Objection or Community Objection may contain one of the following options:
  - a. Only the applied-for primary string
  - b. One or more requested allocatable variant label(s)
  - c. A combination of applied-for primary string + one or more requested allocatable variant label(s)
3. If objection prevails against the primary string (including the combo situation), application is ineligible to proceed
4. If objection prevails only against one or more requested variant label(s), primary string and other unaffected requested variant label(s) are eligible to proceed; the affected variant label(s) are ineligible to proceed

## *Rationale:*

- If Option 2 is chosen that non-requested allocatable variants and blocked variants are allowed to be objected to:
  - The only meaningful outcome is successful objections against those labels will render the entire application ineligible to proceed;
  - Variants, including those that will never be in the root, will have a very important consequence to the actual applied-for strings that the applicants seek to operate;
  - Option 2 seems to be overly conservative.

## **A. Assumptions for Confirmation**

1. EPDP Team does not intend to recommend a new standard for review and that this output only refers to the allowable strings that can be objected against.
2. If an objection can be raised against a blocked variant label that can never be allocated, and the objector prevails, then the application will not move forward (the primary label and all applied for variant labels are not allowed to proceed).

## **B. Input Regarding “Blocked” Variants**

- 1. ICANN org suggests being explicit on whether the blocked variants that can be objected against only include single-script blocked variant labels, or also include mixed-script blocked variant labels**
  - a. There are two types of blocked variant labels:
    - i. Blocked variant label within the same script
    - ii. Blocked variant label created by mixing various scripts
  - b. Blocked variant labels discussed in Option 2 seem to be only within the same script and excludes the mixed-script blocked variant labels (except in cases allowable in the RZ-LGR).
- 2. ICANN org seeks to confirm whether a holder of mixed-script trademark is allowed to file an objection.**
  - a. If that’s the case, mixed script blocked variant labels will also need to be maintained.
  - b. Marks can be in mixed-scripts, and if mixed-script blocked variant labels are not included in possible objection terms, any mark holder that has a mixed script trademark would not be able to object against the mixed-script blocked variant labels.
- 3. ICANN org would also like to know if there is an expectation that the tool we provide would list all of blocked variant labels?**
  - a. If that’s the case, having to consider all mixed scripts as well would lead to millions of permutations creating a high level of complexity and issues.
  - b. Would it be sufficient to enumerate allocatable variant labels but only respond against a specific input label if it is a blocked variant label of a primary one, without enumerating the blocked variant labels?

## E7 / B5

### Evaluation Criteria for TLDs with Restrictions



# Draft Recommendations Based on EPDP Team Agreement

**Recommendation 2.8:** In future new gTLD application processes, the primary applied-for gTLD and its allocatable variant labels requested by the applicant are to be treated as different versions of the same string and will be bound by the same restrictions.

## Recommendations to be drafted:

1. If a registry operator of an existing gTLD applies for an allocatable variant label, that label is to be treated as a different version of the existing gTLD and will be bound by the same restrictions.
2. Applicant must submit required documentation(s) covering both the applied-for primary string and the requested allocatable variant label(s)
  - a. **Community-based TLD application:** the written endorsement by established institution(s) representing the community must cover both the primary string and the requested allocatable variant label(s)
  - b. **GeoTLD application:** a documentation of support or non-objection from relevant governments or public authorities must cover both the primary string and the requested allocatable variant label(s)

# Evaluation of Variant of .Brand TLDs & Relevant ICANN Org Input

## Question for Consideration

**Given that a .brand TLD must be identical to a registered trademark, should the requested allocatable variant label of a .brand TLD also be an exact match of a registered trademark? Should the applicant submit proof that the requested allocatable variant label is identical to a registered trademark?**

## ICANN Org Input

*(Input provided in the context of Rec 2.4 – “Any existing or future IDN gTLD along with its variant labels (if any) will be subject to one Registry Agreement” – but also applicable to discussion here)*

- ICANN org notes that there are different types of gTLDs such as .Brand TLDs, Geographic Names, etc.
- **Does the EPDP Team envision different rules for each type of TLD?**
- For example: Looking at .Brand TLDs, an applicant may only receive Specification 13 and the associated brand designation if, among other elements, the string matches a trademark. While the SubPro recommendations widened that limit slightly, variants were not mentioned.
- Would a brand only be allowed to obtain variants for which they have trademarks?
- Or would the brand designation only apply to the primary string and variants would be operated differently?
- Or would the evaluation only be upon the primary string and variants would be allowed per the expression of need mentioned previously and the RO would have the obligation to operate variants under the same rules as the primary?
- Similar questions may be applicable to other gTLD types.