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ALAC Statement on the Draft Final Report on Protection of IGO and INGO Identifiers in All gTLDs

Introduction

Alan Greenberg, ALAC member from the North American Regional At-Large Organization (NARALO) ALAC Executive Committee member, and ALAC Liaison to the GNSO composed an initial draft of this Statement after discussion of the topic within At-Large and on the Mailing Lists

On 22 October 2013, this Statement was posted on the At-Large Draft Final Report on Protection of IGO and INGO Identifiers in All gTLDs Workspace.

On that same day, Olivier Crépin-Leblond, Chair of the ALAC, requested ICANN Policy Staff in support of the ALAC to send a Call for Comments on the draft Statement to all At-Large members via the ALAC Announce Mailing List.

A version incorporating the comments received was later posted to the aforementioned website.

On 25 October 2013, the Chair of the ALAC requested that ICANN Policy Staff in support of the ALAC open a ratification vote on the Statement.

On 1 November 2013, Staff confirmed that the online vote resulted in the ALAC endorsing the Statement with 12 votes in favor, 0 votes against, and 0 abstentions. You may review the result independently under: http://www.bigpulse.com/pollresults?code=3528JsCI8A93GhiQ8pxfbyYi

Summary

1. The ALAC is particularly concerned that granting blocking-level protections may prohibit other reasonable uses of the same strings and the ALAC is not satisfied that the exception procedures outlined in the report would be effective.
2. This being the case, it may be important to consider the principles that guided the ALAC, in our participation in the activities that led to this report, and that the ALAC believes should guide ICANN in considering any special protections.
   a. ICANN should grant special protection to organizations that further the public interest and in particular, those with a strong track record of humanitarian activities. However, such protections should only be granted where there is a history or reasonable expectation that the lack of protections would lead to the misrepresentation of the organizations, fraud, deliberate confusion, or other malfeasance.
   b. Such protections, when granted, should not unreasonably impinge on the ability of others with a valid right to use the protected string, from registering such names for uses which do not negatively impact the protected organization nor use to the protected name with the intent to deceive users. Formal trademarks should not be necessary to demonstrate such a right.
   c. The procedures used to grant the protection exceptions identified in number 2 must be both inexpensive and fast.
   d. No top level protections are necessary. Existing or new objection processes are sufficient.

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This ALAC Statement is intended to serve the triple purpose of being a reply to the Public Comment on the Draft Final Report on Protection of IGO and INGO Identifiers in All gTLDs, an ALAC Minority Statement to be attached to the Final Report (modified as necessary based on the content of the Final Report compared to the draft version), and a Statement of Advice to the ICANN Board.

The ALAC has made a number of Statements on the protection of IGO and INGO names, and has participated actively in all GNSO activities related to this topic. Our views specific outcomes of this PDP are at the end of this Statement.

Given the wide range of views expressed in this paper, and noting that nothing presented here has received the unanimous support of the PDP Working Group, the ALAC would like to take this opportunity to comment on the nature of the Recommendations as well as identify the principles that have guided its positions.

The Draft Final Report includes a wide variety of "Recommendations" reflecting widely disparate levels of consensus. Not a single one was agreed to by all WG members (Full Consensus), a level of support that is more typical of most GNSO PDPs. For many, the WG views are Divergent.[1] It is unclear to the ALAC exactly how the GNSO and then the Board is supposed to treat such a mixed and confusing set of outcomes. Moreover, even if only the Recommendations with some level of consensus were implemented, there is no assurance that they form a cohesive and consistent set of policies.

The ALAC is particularly concerned that granting blocking-level protections may prohibit other reasonable uses of the same strings and the ALAC is not satisfied that the exception procedures outlined in the report would be effective.

This being the case, it may be important to consider the principles that guided the ALAC, in our participation in the activities that led to this report, and that the ALAC believes should guide ICANN in considering any special protections.

1. ICANN should grant special protection to organizations that further the public interest and in particular, those with a strong track record of humanitarian activities. However, such protections should only be granted where there is a history or reasonable expectation that the lack of protections would lead to the misrepresentation of the organizations, fraud, deliberate confusion, or other malfeasance.
2. Such protections, when granted, should not unreasonably impinge on the ability of others with a valid right to use the protected string, from registering such names for uses which do not negatively impact the protected organization nor use to the protected name with the intent to deceive users. Formal trademarks should not be necessary to demonstrate such a right.[2]
3. The procedures used to grant the protection exceptions identified in number 2 must be both inexpensive and fast.
4. No top level protections are necessary. Existing or new objection processes are sufficient.

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[1] In one case, the views were represented as being "divergent" where in fact there was a strong consensus that the Recommendation NOT be implemented.

[2] Although not a gTLD, cern.ca is a good example. The Centre d'exposition de Rouyn-Noranda in northern Quebec has no connection or even a vague relationship with the Conseil Européen pour la Recherche Nucléaire, but they do happen to share an acronym. In the gTLD space, Olympic.diy is a prime example of a new registration that might not be allowed under the proposed rules even though the TLD (diy = Do-it-yourself) is a logical registration for Olympic Paints.

ALAC Positions on Draft Recommendations

Red Cross Red Crescent Movement (RCRC) Recommendations

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6) o **Scope 2 Identifiers**: 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC & IFRC protected in UN6)***			
1	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the *Red Cross Red Crescent Movement* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus	Can live with
2	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Divergence	Can live with
3	**Top-Level** protections of <u>Exact Match, Acronym</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Divergence	No
4	For *Red Cross Red Crescent Movement* identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the **Top-Leve**l, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level	Consensus	Can live with
5	**Second-Level** protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the *Red Cross Red Crescent Movement* are placed in Specification 5 of the Registry Agreement	Consensus	Support
6	**Second-Level** protections of only <u>Exact Match, Full Name</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are placed in Specification 5 of the Registry Agreement	Divergence	Support
7	**Second-Level** protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are placed in Specification 5 of the Registry Agreement	Divergence	No

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: "Red Cross", "Red Crescent", "Red Lion and Sun" and "Red Crystal" (Language: UN6) o **Scope 2 Identifiers**: 189 recognized National Red Cross and Red Crescent Societies; International Committee of the Red Cross; International Federation of Red Cross and Red Crescent Societies; ICRC, CICR, CICV, MKKK, IFRC, FICR (Language: in English, as well as in their respective national languages; ICRC & IFRC protected in UN6)***		
8	For *Red Cross Red Crescent Movement* identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the **Second-Level**	Consensus	Support
9	**Second-Level** protections of only <u>Exact Match, Full Name</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are bulk added as a single list to the Trademark Clearinghouse (TMCH)**	Consensus	Support
10	**Second-Level** protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the *Red Cross Red Crescent Movement* are bulk added as a single list to the Trademark Clearinghouse**	Consensus	Support
11	*Red Cross Red Crescent Movement* Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>90 Day Claims Notification</u> phase of each new gTLD launch for **Second-Level** registrations	Consensus	Support

International Olympic Committee (IOC) Recommendations

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: olympic, olympiad (Language: UN6, + German, Greek, and Korean)**		
1	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the *International Olympic Committee* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus	No
2	For *International Olympic Committee* Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the **Top-Level**, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level	Consensus	No

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: olympic, olympiad (Language: UN6, + German, Greek, and Korean)**			
3	**Second-Level** protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the *International Olympic Committee* are placed in Specification 5 of the Registry Agreement	Consensus	No, since exceptions for other orgs not mentioned
4	For *International Olympic Committee* identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the **Second-Level**	Consensus	No

International Governmental Organizations (IGO) Recommendations

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: GAC List (22 March 2013) - Full Name (Language: Up to two languages)			
o **Scope 2 Identifiers**: GAC List (22 March 2013) - Acronym (Language: Up to two languages)			
1	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the *International Governmental Organizations* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus	Can live with
2	**Top-Level** protections of <u>Exact Match, Acronym</u> Scope 2 identifiers of the *International Governmental Organizations* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Divergence	No
3	For *International Governmental Organizations* Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the **Top-Level**, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the **Top-Level**	Consensus	No, since exceptions for other orgs not mentioned
4	**Second-Level** protections of only <u>Exact Match, Full Name</u> Scope 1 identifiers of the *International Governmental Organizations* are placed in Specification 5 of the Registry Agreement	Consensus	Can live with

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: GAC List (22 March 2013) - Full Name (Language: Up to two languages) o **Scope 2 Identifiers**: GAC List (22 March 2013) - Acronym (Language: Up to two languages)			
5	**Second-Level** protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the *International Governmental Organizations* are placed in Specification 5 of the Registry Agreement	Divergence	No
6	For *International Governmental Organizations* identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the **Second-Level**	Consensus	Can live with
7	**Second-Level** protections of only <u>Exact Match, Acronym</u> Scope 2 identifiers of the *International Governmental Organizations* are bulk added as a single list to the Trademark Clearinghouse**	Strong Support but Significant Opposition	Support
8	*International Governmental Organizations* Scope 2 identifiers, if added to the TMCH, allowed to participate in <u>90 Day Claims Notification</u> phase of each new gTLD launch for **Second-Level** registrations**	Consensus	Support

International Non-Governmental Organizations (INGO) Recommendations

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: ECOSOC List (General Consultative Status) (Language: English only) o **Scope 2 Identifiers**: ECOSOC List (Special Consultative Status) (Language: English only) *****Note, this list of Identifiers are INGOs other than the RCRC and IOC** o See http://csonet.org/content/documents/E2011INF4.pdf			
1	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 1 identifiers of the *International Non-Governmental Organizations* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Consensus	Can live with
2	**Top-Level** protections of <u>Exact Match, Full Name</u> Scope 2 identifiers of the *International Non-Governmental Organizations* are placed in the Applicant Guidebook section 2.2.1.2.3, Strings "Ineligible for Delegation"	Divergence	Can live with

#	Recommendation	Level of Support	ALAC
o **Scope 1 Identifiers**: ECOSOC List (General Consultative Status) (Language: English only) o **Scope 2 Identifiers**: ECOSOC List (Special Consultative Status) (Language: English only) ***Note, this list of Identifiers are INGOs other than the RCRC and IOC o See http://csonet.org/content/documents/E2011INF4.pdf			
3	For *International Non-Governmental Organizations* Identifiers, if placed in the Applicant Guidebook as ineligible for delegation at the **Top-Level**, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the Top-Level	Consensus	Can live with
4	**Second-Level** protections of only Exact Match, Full Name Scope 1 identifiers of the *International Non-Governmental Organizations* are placed in Specification 5 of the Registry Agreement	Divergence	Support
5	**Second-Level** protections of only Exact Match, Full Name Scope 2 identifiers of the *International Non-Governmental Organizations* are placed in Specification 5 of the Registry Agreement	Divergence	Can live with
6	For *International Non-Governmental Organizations* identifiers, if placed in Specification 5 of the Registry Agreement, an exception procedure should be created for cases where a protected organization wishes to apply for their protected string at the **Second-Level**	Consensus	Can live with
7	**Second-Level** protections of only Exact Match, Full Name Scope 1 (unless otherwise reserve protected) & Scope 2 identifiers of the *International Non-Governmental Organizations* are bulk added as a single list to the Trademark Clearinghouse (TMCH)	Consensus	Support
8	**Second-Level** protections of only Exact Match, Acronym Scope 1 (unless otherwise protected) & Scope 2 identifiers of the *International Non-Governmental Organizations* are bulk added as a single list to the Trademark Clearinghouse	Divergence	Support
9	*International Non-Governmental Organizations* Scope 1 (unless otherwise protected) & Scope 2 identifiers, if added to the TMCH, allowed to participate in 90 Day Claims Notification phase of each new gTLD launch for **Second-Level** registrations	Consensus	Support

General Recommendations

#	Recommendation	Level of Support	ALAC
1	The WG recommends that the respective policies are amended so that curative rights of the UDRP and URS can be used by those organizations that are granted protections based on their identified designations.	Consensus	Support
2	IGO-INGO organizations be granted a fee waiver (or funding) for objections filed against applied-for gTLDs at the Top-Level	Divergence	Support
3	IGO-INGOs allowed to participate in Sunrise phase of each new gTLD launch	Strong Support but Significant Opposition	Support
4	Fee waivers or reduced pricing (or limited subsidies) for registering into the Trademark Clearinghouse the identifiers of IGO-INGO organizations	Divergence	Support, BUT ONLY IF OTHER TMCH USERS DO NOT PAY FOR THIS SUBSIDY
5	IGO-INGOs allowed to participate in permanent Claims Notification of each gTLD launch	Divergence	Support, BUT ONLY IF APPLICABLE TO TRADEMARKS AS WELL
6	Fee waivers or reduced pricing for IGO-INGOs filing a URS or UDRP action	Divergence	No