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# 2012 AGB LANGUAGE IN GRAY

## 1. Objections

### 1.1 Objections and Dispute Resolution Overview

#### 3.2 Public Objection and Dispute Resolution Process

The independent dispute resolution process is designed to protect certain interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows a party with standing to have its objection considered before a panel of qualified experts.

A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept the applicability of this gTLD dispute resolution process.

Similarly, an objector accepts the applicability of this gTLD dispute resolution process by filing its objection.

As described in section 3.1 above, ICANN's Governmental Advisory Committee has a designated process for providing advice to the ICANN Board of Directors on matters affecting public policy issues, and these objection procedures would not be applicable in such a case. The GAC may provide advice on any topic and is not limited to the grounds for objection enumerated in the public objection and dispute resolution process.

The dispute resolution process provides a path for parties with standing to file objections during evaluation of the applications and have them considered before a panel of qualified experts. In this context, all applicants should be aware that third parties, including other applicants, have the opportunity to file objections to any application on specific grounds. Applicants whose applications are the subject of an objection will have an opportunity to file a response. All applied-for gTLDs and applied-for allocatable gTLD variant strings will be subject to the objection processes.

Applicants are therefore encouraged to identify possible regional, cultural, property interests, or other sensitivities regarding TLD strings and their uses before applying and, where possible, consult with interested parties to mitigate any concerns in advance.

Commented [1]: Was included in general introduction.

In filing an application for a gTLD, the applicant agrees to accept the applicability of these gTLD dispute resolution processes. Similarly, an objector accepts the applicability of the relevant gTLD dispute resolution process by filing their objection.

Information on the criteria and procedures for filing and responding to objections, as well as on the dispute resolution process, can be found in this section of the AGB and in the relevant Dispute Resolution Service Provider (DRSP)'s procedures, which will be published [\[here\]](#).

[placeholder for overview table and text]

Commented [2]: Will be created later.

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## 1.1.1 Grounds for Objection

A formal objection may be filed on any one of the following four grounds:

**String Confusion Objection** – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied- for gTLD string in the same round of applications.

**Legal Rights Objection** – The applied-for gTLD string infringes the existing legal rights of the objector.

**Limited Public Interest Objection** – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

**Community Objection** – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these objection grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see <http://gns0.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>.

An objection may be filed only on the four grounds described below.

### 1.1.1.1 Ground for Objection: String Confusion

[placeholder]

Commented [3]: Will be discussed separately.

### 1.1.1.2 Ground for Objection: Legal rights

The applied-for gTLD string infringes the existing legal rights of the objector.

### 1.1.1.3 Ground for Objection: Limited Public Interest

The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

### 1.1.1.4 Ground for Objection: Community

There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

## 1.1.2 Standing to Object

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by a panel of experts designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection ground	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round. In the case where an IDN ccTLD Fast Track request has been submitted before the public posting of gTLD applications received, and the Fast Track requestor wishes to file a string confusion objection to a gTLD application, the Fast Track requestor will be granted standing.
Legal rights	Rightsholders
Limited public interest	No limitations on who may file – however, subject to a 'quick look' designed for early conclusion of frivolous and/or abusive objections
Community	Established institution associated with a clearly delineated community

As part of the dispute proceedings, all objections will be reviewed by a panel of experts designated by the applicable DRSP to determine whether the objector has standing to object. This review will occur as part of the quick look mechanism review. Standing requirements for the four objection grounds are described below.

### 1.1.2.1 Standing to Object: String Confusion

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.
- Any gTLD applicant in this application round may file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied, where string confusion between the two applicants has not already been found in the Initial Evaluation. That is, an applicant does not have standing to object to another application with which it is already in a contention set as a result of the Initial Evaluation.

In the case where an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4, String Contention Procedures). If an objection by one gTLD applicant to another gTLD application is unsuccessful, the applicants may both move forward in the process without being considered in direct contention with one another.

[placeholder]

Commented [4]: This is addressed in section 1.1.3 'Primary and Variant Strings in the Objection process'.

Commented [5]: Will be discussed separately.

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### 1.1.2.2 Standing to Object: Legal Rights

A rights holder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming (which may include either registered or unregistered trademarks) are infringed by the applied-for gTLD must be included in the filing.

An intergovernmental organization (IGO) is eligible to file a legal rights objection if it meets the criteria for registration of a .INT domain name:

- An international treaty between or among national governments must have established the organization; and
- The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting the criteria.

The entities that have standing to object on the basis of Legal Rights are described below.

- A **rights holder**<sup>1</sup> may have standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming are infringed by the applied-for gTLD must be included in the filing (for example, documentation regarding either registered or unregistered trademarks).
- An **intergovernmental organization** (IGO) is eligible to file a legal rights objection if it meets the criteria for registration of a .INT domain name:
  - An international treaty between or among national governments must have established the organization; and
  - The organization that is established must be widely considered to have independent international legal personality and must be the subject of and governed by international law.

The specialized agencies of the UN and the organizations having observer status at the UN General Assembly are also recognized as meeting the criteria.

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<sup>1</sup> A rights holder could be a trademark holder, a trademark holder's licensee, or a party claiming rights to an unregistered trademark.

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### 1.1.2.3 Standing to Object: Limited Public Interest

Anyone may file a Limited Public Interest Objection. Due to the inclusive standing base, however, objectors are subject to a “quick look” procedure designed to identify and eliminate frivolous and/or abusive objections. An objection found to be manifestly unfounded and/or an abuse of the right to object may be dismissed at any time.

A Limited Public Interest objection would be manifestly unfounded if it did not fall within one of the categories that have been defined as the grounds for such an objection (see subsection 3.5.3).

A Limited Public Interest objection that is manifestly unfounded may also be an abuse of the right to object. An objection may be framed to fall within one of the accepted categories for Limited Public Interest objections, but other facts may clearly show that the objection is abusive. For example, multiple objections filed by the same or related parties against a single applicant may constitute harassment of the applicant, rather than a legitimate defense of legal norms that are recognized under general principles of international law. An objection that attacks the applicant, rather than the applied-for string, could be an abuse of the right to object.

The quick look is the Panel’s first task, after its appointment by the DRSP and is a review on the merits of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with Article 21 of the New gTLD Dispute Resolution Procedure.

In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place, and it is currently contemplated that the filing fee paid by the applicant would be refunded, pursuant to Procedure Article 14(e).

Commented [6]: Included in Quick Look section.

**Anyone** may file a Limited Public Interest Objection. Limited Public Interest Objections may only be brought on if the applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law; objections brought on other grounds will be dismissed for lack of standing.

### 1.1.2.3 Standing to Object: Community

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. To qualify for standing for a community objection, the objector must prove both of the following:

It is an **established institution** – Factors that may be considered in making this determination include, but are not limited to:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of a formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

**It has an ongoing relationship with a clearly delineated community** – Factors that may be considered in making this determination include, but are not limited to:

- The presence of mechanisms for participation in activities, membership, and leadership;
- Institutional purpose related to the benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its

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determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

Established institutions associated with clearly delineated communities are eligible to file a Community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection.

To qualify for standing for a community objection, the objector must show both of the following:

- **It is an established institution.** Factors that may be considered in making this determination include, but are not limited to:
  - Level of global recognition of the institution;
  - Length of time the institution has been in existence; and
  - Public historical evidence of its existence, such as the presence of a formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.
- **It has an ongoing relationship with a clearly delineated community.** Factors that may be considered in making this determination include, but are not limited to:
  - The presence of mechanisms for participation in activities, membership, and leadership;
  - Institutional purpose related to the benefit of the associated community;
  - Performance of regular activities that benefit the associated community; and
  - The level of formal boundaries around the community.

The panel will perform a balancing of the factors listed above, as well as other relevant information, in making its determination. It is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements.

### 1.1.3 Primary and Variant Strings in the Objection Process

[placeholder]

Commented [7]: Will be discussed separately.



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## 1.1.4 Dispute Resolution Service Providers

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, directly with the appropriate DRSP for each objection ground.

- The International Centre for Dispute Resolution has agreed to administer disputes brought pursuant to string confusion objections.
- The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed to administer disputes brought pursuant to legal rights objections.
- The International Center of Expertise of the International Chamber of Commerce has agreed to administer disputes brought pursuant to Limited Public Interest and Community Objections.

ICANN selected DRSPs on the basis of their relevant experience and expertise, as well as their willingness and ability to administer dispute proceedings in the new gTLD Program. The selection process began with a public call for expressions of interest followed by dialogue with those candidates who responded. The call for expressions of interest specified several criteria for providers, including established services, subject matter expertise, global capacity, and operational capabilities. An important aspect of the selection process was the ability to recruit panelists who will engender the respect of the parties to the dispute.

**Commented [8]:** This information will be available in the Program Manual.

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, directly with the appropriate DRSP for each objection ground:

- String Confusion: [placeholder]
- Legal Rights: [placeholder]
- Limited Public Interest: [placeholder]
- Community: [placeholder]

Before the opening of the application submission period, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

**Commented [9]:** Implementation Guidance 31.13: Information about fees and refunds for the dispute resolution processes should be readily available prior to the commencement/opening of the application submission period.

Links to the respective DRSP webpages, including information on the fees, will be published on the [Next Round website].

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## 1.1.5 Independent Objectors

A formal objection to a gTLD application may also be filed by the Independent Objector (IO). The IO does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Limited Public Interest and Community.

Neither ICANN staff nor the ICANN Board of Directors has authority to direct or require the IO to file or not file any particular objection. If the IO determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.

**Mandate and Scope** – The IO may file objections against “highly objectionable” gTLD applications to which no objection has been filed. The IO is limited to filing two types of objections: (1) Limited Public Interest objections and (2) Community objections. The IO is granted standing to file objections on these enumerated grounds, notwithstanding the regular standing requirements for such objections (see subsection 3.1.2).

The IO may file a Limited Public Interest objection against an application even if a Community objection has been filed, and vice versa.

The IO may file an objection against an application, notwithstanding the fact that a String Confusion objection or a Legal Rights objection was filed.

Absent extraordinary circumstances, the IO is not permitted to file an objection to an application where an objection has already been filed on the same ground.

The IO may consider public comment when making an independent assessment whether an objection is warranted. The IO will have access to application comments received during the comment period.

In light of the public interest goal noted above, the IO shall not object to an application unless at least one comment in opposition to the application is made in the public sphere.

**Selection** – The IO will be selected by ICANN, through an open and transparent process, and retained as an independent consultant. The Independent Objector will be an individual with considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

Although recommendations for IO candidates from the community are welcomed, the IO must be and remain independent and unaffiliated with any of the gTLD applicants. The various rules of ethics for judges and international arbitrators provide models for the IO to declare and maintain his/her independence.

The IO’s (renewable) tenure is limited to the time necessary to carry out his/her duties in connection with a single round of gTLD applications.

**Budget and Funding** – The IO’s budget would comprise two principal elements: (a) salaries and operating expenses, and (b) dispute resolution procedure costs – both of which should be funded from the proceeds of new gTLD applications.

As an objector in dispute resolution proceedings, the IO is required to pay filing and administrative fees, as well as advance payment of costs, just as all other objectors are required to do. Those payments will be refunded by the DRSP in cases where the IO is the prevailing party.

In addition, the IO will incur various expenses in presenting objections before DRSP panels that will not be refunded, regardless of the outcome. These expenses include the fees and expenses of outside counsel (if retained) and the costs of legal research or factual investigations.

Commented [10]: Will be included in Program Manual.

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An objection to a gTLD application may also be filed by one of the three Independent Objectors (IOs). The IOs do not act on behalf of any particular persons or entities, but solely in the best interests of the public who use the global Internet.

To mitigate possible conflict of interest issues that may arise from having a single panelist serving as the IO, ICANN has established a standing panel of three IOs. Neither ICANN.org nor the ICANN Board has authority to direct or require the IOs to file or not file any particular objection.

**Commented [11]:** Implementation Guidance 31.9: A mechanism should be established (e.g., standing panel of multiple IO panelists) that mitigates the possible conflict of interest issues that may arise from having a single panelist serving as the IO.

If an individual IO determines that an objection should be filed, the IO will initiate and prosecute the objection in the public interest. The IO may file objections against highly objectionable gTLD applications to which no objection has been filed solely on the grounds of Limited Public Interest and Community, notwithstanding the regular standing requirements for such objections.<sup>2</sup>

The IOs:

- Shall not object to an application unless at least one comment in opposition to the application is made in the public sphere or in a confidential manner (should the comment relate to a confidential portion of the application), in light of the public interest goal noted above.
- Are not permitted to file an objection to an application where an objection has already passed the quick look review on the same ground, absent extraordinary circumstances<sup>3</sup>.
- Must consider application comments when making an independent assessment whether an objection is warranted. The IOs will have access to application comments received during the comment period.

The IOs will monitor the application comments and objections as they are submitted and will start working on their objections as they identify potentially highly objectionable applications. After the results of the Quick Look review are published, the IOs will have a 7 calendar day window to file their objections.

**Commented [12]:** New process.

### 1.1.6 Options in the Event of an Objection

[placeholder]

**Commented [13]:** Will be updated once there is clarity on withdrawals in the context of the resolution of contention sets.

## 1.2 Objection Filing and Processing

The information below provides an overview of the process by which objectors can file and respond to objections, as well as by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure (“Procedure”). In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail. Note that the rules and

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<sup>2</sup> See [cross-reference standing requirements](#).

<sup>3</sup> Should the IOs file an objection to an application where an objection has already passed the quick look review on the same ground based on extraordinary circumstances, they will describe such extraordinary circumstances in their objection.

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procedures of each DRSP specific to each objection ground, which will be published [\[here\]](#), must also be followed.

The Objection period will open [\[x\]](#) days after reveal day and will close after 120 days. An additional String Confusion objection window will open for 30 days after the final contention sets are published.

## 1.2.1 Filing an Objection

The information included in this section provides a summary of procedures for filing:

- Objections; and
- Responses to objections.

For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure ("Procedure") included as an attachment to this module. In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.

Note that the rules and procedures of each DRSP specific to each objection ground must also be followed. See <http://newgtlds.icann.org/en/program-status/objection-dispute-resolution>.

### 3.3.1 Objection Filing Procedures

The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. Should an applicant wish to file a formal objection to another gTLD application, it would follow these same procedures.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date. Objections will not be accepted by the DRSPs after this date.
- All objections must be filed in English.
- Each objection must be filed separately. An objector wishing to object to several applications must file a separate objection and pay the accompanying filing fees for each application that is the subject of an objection. If an objector wishes to object to an application on more than one ground, the objector must file separate objections and pay the accompanying filing fees for each objection ground.

Each objection filed by an objector must include:

- The name and contact information of the objector.
- A statement of the objector's basis for standing; that is, why the objector believes it meets the standing requirements to object.
- A description of the basis for the objection, including:
  - A statement giving the specific ground upon which the objection is being filed.
  - A detailed explanation of the validity of the objection and why it should be upheld.
- Copies of any documents that the objector considers to be a basis for the objection.

Objections are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant.

The DRSP will publish, and regularly update a list on its website identifying all objections as they are filed. ICANN will post on its website a notice of all objections filed once the objection filing period has closed.

### 3.3.2 Objection Filing Fees

At the time an objection is filed, the objector is required to pay a filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid, the DRSP will dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

Funding from ICANN for objection filing fees, as well as for advance payment of costs (see subsection 3.4.7 below)

**Commented [14]:** Recommendation 24.7: The deadline for filing a String Confusion Objection must be no less than thirty (30) days after the release of the String Similarity Evaluation results. This recommendation is consistent with Program Implementation Review Report recommendation 2.3.a. [PIRR Recommendation 2.3.a states: "Review the relative timing of the String Similarity evaluation and the Objections process."]

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is available to the At-Large Advisory Committee (ALAC).

Funding for ALAC objection filing and dispute resolution fees is contingent on publication by ALAC of its approved process for considering and making objections. At a minimum, the process for objecting to a gTLD application will require: bottom-up development of potential objections, discussion and approval of objections at the Regional At-Large Organization (RALO) level, and a process for consideration and approval of the objection by the At-Large Advisory Committee.

Funding from ICANN for objection filing fees, as well as for advance payment of costs, is available to individual national governments in the amount of USD 50,000 with the guarantee that a minimum of one objection per government will be fully funded by ICANN where requested. ICANN will develop a procedure for application and disbursement of funds.

Funding available from ICANN is to cover costs payable to the dispute resolution service provider and made directly to the dispute resolution service provider; it does not cover other costs such as fees for legal advice.

The procedures outlined in this subsection must be followed by any party wishing to file an objection to a gTLD application.

- All objections must be filed electronically with the appropriate DRSP by the posted deadline date. Objections will not be accepted by the DRSPs after this date.
- All objections must be filed in English.
- Each objection must be filed separately. An objector wishing to object to several applications must file a separate objection and pay the accompanying filing fees for each application that is the subject of an objection, unless the objector is filing several objections against applications for the same string, as described in [1.1.2.1]. If an objector wishes to object to an application on more than one ground, the objector must file separate objections and pay the accompanying filing fees for each objection ground.
- Objections are limited to 5000 words excluding attachments.
- An objector must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant.

Each objection filed by an objector must include:

- The name and contact information of the objector.
- A statement of the objector's basis for standing; that is, why the objector believes it meets the standing requirements to object.
- A description of the basis for the objection, including:
  - A statement giving the specific ground upon which the objection is being filed.
  - A detailed explanation of the validity of the objection and why it should be upheld.
- Copies of any documents that the objector considers to be a basis for the objection.

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At the time an objection is filed, the objector is required to pay a filing fee in the amount set and published by the relevant DRSP.<sup>4</sup> If the filing fee is not paid, the DRSP will dismiss the objection without prejudice.

To support the multistakeholder model, certain funding possibilities are offered to the At-Large Advisory Committee (ALAC) and national governments, as described below:

- Funding for **ALAC** objection filing and dispute resolution fees is contingent on publication by ALAC of its approved process for considering and making objections. At a minimum, the process for objecting to a gTLD application will require: bottom-up development of potential objections, discussion and approval of objections at the Regional At-Large Organization (RALO) level, and a process for consideration and approval of the objection by the At-Large Advisory Committee.
- Funding from ICANN for objection filing fees, as well as for advance payment of costs, is available to individual **national governments** in the amount of USD 50,000 with the guarantee that a minimum of one objection per government will be fully funded by ICANN where requested. Funding available from ICANN is to cover costs payable to the dispute resolution service provider and made directly to the dispute resolution service provider; it does not cover other costs such as fees for legal advice. More information will be published on [this page].

## 1.2.2 Administrative Review

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's right to submit a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for filing an objection.

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within **[14]** calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline. The administrative review includes the determination whether the objection was filed with the correct DRSP.

The possible outcomes of the administrative review are described below.

- If the DRSP finds that the objection complies with procedural rules the objection will be deemed filed, and the proceedings will continue;
- If the DRSP finds that the objection does not comply with procedural rules, the DRSP will notify the objector, who will have [x] days to rectify the issue(s) identified.

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<sup>4</sup> Information on the objection fees in the 2012 round is available here: [WIPO](#), [ICDR](#), [ICC](#).

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- If the objector rectifies the issue(s) within the specified timeframe, the objection will be deemed filed.
  - If the objector does not rectify the objection within the specified timeframe, the objection will be dismissed.

Commented [15]: Suggested improvement to the process compared to 2012.

### 1.2.3 Notification

The DRSP will publish, and regularly update, a list on its website identifying all objections that have passed the administrative review, and notify ICANN. ICANN will then post on [\[this page\]](#) a notice of all objections that pass the administrative review. After an applicant has been notified that an objection is filed against its application, they may decide to withdraw their application for a new gTLD, in which case the objection would be dismissed.

### 1.2.4 Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of a circumstance in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

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New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

ICANN continues to strongly encourage all of the DRSPs to consolidate matters whenever practicable.

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## 1.2.5 Appointment of the Panel

A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an expert for lack of independence.

There will be one expert in proceedings involving a string confusion objection.

There will be one expert, or, if all parties agree, three experts with relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.

There will be three experts recognized as eminent jurists of international reputation, with expertise in relevant fields as appropriate, in proceedings involving a Limited Public Interest objection.

There will be one expert in proceedings involving a community objection.

Neither the experts, the DRSP, ICANN, nor their respective employees, directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

The DRSP will appoint a panelist or panel for each objection that passes the Administrative Review. The parties to a proceeding will be given the opportunity to mutually agree upon a single panelist or a three-person panel, bearing the costs accordingly. Absent agreement from all parties to have a three-expert panel, the default will be a one-expert panel.

A panel will consist of appropriately qualified experts appointed to each proceeding by the designated DRSP. Experts must be independent of the parties to a dispute resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing an expert for lack of independence.

The panel will consist of one or three experts:

- In proceedings involving a string confusion objection.
- With relevant experience in intellectual property rights disputes in proceedings involving an existing legal rights objection.
- Recognized as eminent jurists of international reputation, with expertise in relevant fields as appropriate, in proceedings involving a Limited Public Interest objection.
- In proceedings involving a community objection.

Neither the experts, the DRSP, ICANN, nor their respective employees, directors, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

Upon notification of the appointment of the Panel by the DRSP, the parties will be given the chance to express any conflicts of interest concerns on its member(s). Should the DRSP assess that there is indeed a conflict of interest, a new Panel will be appointed.

**Commented [16]:** Recommendation 31.10: For all types of formal objections, the parties to a proceeding must be given the opportunity to mutually agree upon a single panelist or a three-person panel, bearing the costs accordingly. Following the model of the Limited Public Interest Objection in the 2012 round, absent agreement from all parties to have a three-expert panel, the default will be a one-expert panel.



## 1.2.6 Quick Look Review

The “quick look mechanism” is designed to identify and eliminate objections that are manifestly unfounded and/or an abuse of the right to object.

An objection will be considered manifestly unfounded and/or an abuse of the right to object in the following cases:

1. The objection is not filed on one of the accepted objection grounds; and/or
2. The party filing the objection does not have standing; and/or
3. Insufficient or no evidence is provided to support the objection; and/or
4. The objection is far-fetched, clearly invented, manifestly contrary to common sense, or so ambiguous that it is objectively impossible for the DRSP to make sense of it; and/or
5. The objection spreads, incites, promotes, or justifies hatred based on intolerance towards a certain group; and/or
6. Multiple objections on the same ground are filed by the same or affiliated parties against the same applicant in a manner that constitutes harassment of the applicant; and/or
7. The objection criticizes the applicant solely on grounds beyond the evaluation criteria, rather than the applied-for string; and/or
8. Other facts that may clearly show that the objection is manifestly unfounded and/or an abuse to the right to object.

The quick look review is the Panel’s first task and is dispositive of the objection. The dismissal of an objection that is manifestly unfounded and/or an abuse of the right to object would be an Expert Determination, rendered in accordance with [\[Article x\]](#) of the New gTLD Dispute Resolution Procedure.

In the case where the quick look review does lead to the dismissal of the objection, the proceedings that normally follow the initial submissions (including payment of the full advance on costs) will not take place.

## 1.2.7 Payment of the Fees

### 1.1.7 Dispute Resolution Costs

Before acceptance of objections, each DRSP will publish a schedule of costs or statement of how costs will be calculated for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP’s administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while Limited Public Interest and community objection proceedings will involve hourly rates charged by the panelists.

Within ten (10) calendar days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ten (10) calendar days of receiving the DRSP’s request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Commented [17]: New section.

Recommendation 31.15:

The “quick look” mechanism, which applied to only the Limited Public Interest Objection in the 2012 round, must be developed by the Implementation Review Team for all formal objection types. The “quick look” is designed to identify and eliminate frivolous and/or abusive objections. [The Working Group expects the Implementation Review Team to determine in greater detail how the quick look mechanism will identify and eliminate frivolous and/or abusive objections for each objection type. The Working Group anticipates that standing will be one of issues that the quick look mechanism will review, where applicable.]

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[The Working Group expects the Implementation Review Team to determine in greater detail how the quick look mechanism will identify and eliminate frivolous and/or abusive objections for each objection type. The Working Group anticipates that standing will be one of issues that the quick look mechanism will review, where applicable.]

Commented [18]: Removed. To be determined with DRSPs/included in procedure.

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Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DSRP will sustain the objection and no fees paid by the applicant will be refunded.

After the hearing has taken place and the panel renders its expert determination, the DRSP will refund the advance payment of costs to the prevailing party.

Within ten (10) calendar days of completing the Quick Look review, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant. Each party must make its advance payment within ten (10) calendar days of receiving the DRSP's request for payment and submit to the DRSP evidence of such payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings. Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded. If an applicant fails to pay these costs in advance, the DSRP will sustain the objection and no fees paid by the applicant will be refunded.

## 1.2.8 Responding to an Objection

Upon notification that ICANN has published the list of all objections filed (refer to subsection 3.3.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, an applicant responding to several objections must file a separate response and pay the accompanying filing fee to respond to each objection.
- Responses must be filed electronically.

Each response filed by an applicant must include:

- The name and contact information of the applicant.
- A point-by-point response to the claims made by the objector.
- Any copies of documents that it considers to be a basis for the response.

Responses are limited to 5000 words or 20 pages, whichever is less, excluding attachments.

Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector.

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### 3.3.4 Response Filing Fees

At the time an applicant files its response, it is required to pay a filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

After both parties have made their payment, the DRSPs will notify the applicant that they have **x** calendar days of receipt of the notice to file a response to the objection. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, an applicant responding to several objections must file a separate response and pay the accompanying filing fee to respond to each objection.
- Responses must be filed electronically.
- Responses are limited to 5000 words or 20 pages, whichever is less, excluding attachments.
- Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector.

Each response filed by an applicant must include:

- The name and contact information of the applicant.
- A point-by-point response to the claims made by the objector.
- Any copies of documents that it considers to be a basis for the response.

At the time an applicant files its response, it is required to pay a filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded, which will result in the objector prevailing.

## 1.2.9 Adjudication

The panel may decide whether the parties shall submit any written statements in addition to the filed objection and response, and may specify time limits for such submissions.

In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the panel may require a party to produce additional evidence.

Disputes will usually be resolved without an in-person hearing. The panel may decide to hold such a hearing only in extraordinary circumstances.

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## 1.2.10 Mediation and Settlement

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in mediation aimed at settling the dispute. Each DRSP has experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel constituted to issue an expert determination in the related dispute.

There are no automatic extensions of time associated with the conduct of negotiations or mediation. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. Absent exceptional circumstances, the parties must limit their requests for extension to 30 calendar days.

The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

### 1.2.10.1 Mediation and Settlement Overview

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in mediation aimed at settling the dispute. Each DRSP has experts who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel constituted to issue an expert determination in the related dispute. The parties are free to negotiate without mediation at any time, or to engage a mutually acceptable mediator of their own accord.

It should be noticed that ICANN will at no stage be involved in the mediation, but will provide guidance if a settlement is reached.

### 1.2.10.2 Cooling Off Period

There are no automatic extensions of time associated with the conduct of negotiations or mediation but, after the applicant has filed a response to the objection, the parties may request a cooling off period by submitting a joint request to the DRSP according to its procedures. The DRSP or the panel, if appointed, will decide whether to grant the request.

Absent exceptional circumstances, the parties must limit the cooling off period to 30 calendar days. However, it must be noted that if the applicant files an application change request in

**Commented [19]:** Affirmation with Modification 31.3 Implementation Guideline R from 2007 states: "Once formal objections or disputes are accepted for review there will be a cooling off period to allow parties to resolve the dispute or objection before review by the panel is initiated." The Working Group modifies this Implementation Guideline to read: "Once a response to the formal objection has been filed by the applicant(s), there may be a cooling off period for negotiation or compromise by agreement of both parties if the parties formally notify the dispute resolution provider that they would like to initiate a cooling off period."

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response to concerns raised in an objection, the dispute resolution process might be put on hold for a longer time, if both parties agree and as described in [section below on change requests].

### 1.2.10.3 Settlement

[placeholder]

### 1.2.10.4 Application Change Requests in the Objections Process

[placeholder]

#### 1.2.10.4.1 Application Change Requests Before the Expert Determination

[placeholder]

#### 1.2.10.4.2 Registry Voluntary Commitments as a Remedy

[placeholder]

## 1.2.11 Expert Determination

The DRSPs' final expert determinations will be in writing and will include:

- A summary of the dispute and findings;
- An identification of the prevailing party; and
- The reasoning upon which the expert determination is based.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

The findings of the panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process.

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The findings of the Panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process.

After the hearing has taken place and the panel renders its expert determination, the DRSP will refund the advance payment of costs to the prevailing party.

**Commented [20]:** Will be updated once there is clarity on withdrawals in the context of the resolution of contention sets.

**Commented [21]:** Will be discussed separately, also in the context of PICs/RVCs.

**Commented [22]:** This was under 'DRSP costs'.

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## 1.2.12 Appeals

[placeholder]

Commented [23]: Will be discussed separately.

## 1.3 Dispute Resolution Principles

[placeholder]

Commented [24]: Will be discussed separately.

### 1.3.1 Principles: String Confusion

[placeholder]

### 1.3.2 Principles: Legal Rights

[placeholder]

### 1.3.3 Principles: Limited Public Interest

[placeholder]

### 1.3.4 Principles: Community

[placeholder]