



Geographic Terms at the Top Level

25 April 2017



Use of Geographic Terms at the Top Level

BRG Position

The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.



Rationale

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1. A trademark-branded top level domain (dotBrand) enables a trusted space, protecting consumers from many of the problems that exist across open registries.
2. Many terms have more than one meaning/use – context is key.
3. Some branded terms may also have a geographically-related context. There is no justification for a geographical-related use at the top level taking priority over a brand-related use.



Examples

EARTH can be geographic (the third planet from the sun), generic (soil and dirt) or a trademark (Earth for amusement park services, US registration 3339608). These uses all co-exist because they are used in different ways and have different meanings.

Other trademarks may coincide with geographic terms, but there is no relationship between the geographic term and the origin of the goods. For example **CLEVELAND** golf clubs which are made in the US State of California (by a company started by Roger Cleveland in 1979) have no relationship to the city of Cleveland in the US State of Ohio. In fact, the city was founded by Moses Cleveland, so the geo term is derived from a person's surname.



Rationale (cont.)

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4. There is no evidence to suggest that the use of a geographic term at the top level by a trademark owner creates any risk or confusion to users. Indeed, by creating a trusted Brand TLD space, where registrants are limited to the brand owner and closely related parties vetted by the brand owner, the context of the use makes such confusion extremely unlikely.



Rationale (cont.)

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5. There is no sovereign or other ownership right of governments in country or territory names, including ISO 3166-1 codes:
 - There is no legal basis for government veto power on allocation of these codes as gTLDs.
 - Restrictions to use geographic terms at the top level should, therefore, be minimal.
 - Restrictions must be clear, with reference to defined lists, providing predictability.
 - Two-character restrictions are already applied at the top level, due to a longstanding practice, for country codes corresponding to the ISO-3166. These are premium online real estate are reserved for or used by the applicable country/government.



Rationale (cont.)

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6. Protective measures still remain - vetting and objection processes through the application process as well as post-delegation objections. Contractual obligations and applicable national/international laws also remain in force.



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