

**New gTLD Subsequent Procedures PDP Working Group
Work Track 5 Geographic Names
20 October 2018**

Actions:

ACTION ITEM 1 re: Initial Report -- Staff will develop suggested outreach materials and WT5 members should provide feedback on what is useful.

ACTION ITEM 2 re: Non-capital city names -- Staff will check to see what definition/process was used for a city by the geonames panels in the last round to determine what is a city, if this was captured. See: <https://newgtlds.icann.org/en/program-status/evaluation-panels>.

ACTION ITEM 3 re: Board resolutions – WT5 members should read the resolutions in detail and comment on the list.

Notes:

Session 1: 9:00 – 10:15

Agenda:

- ⦿ WT5 scope and mandate
- ⦿ Update on WT5 status and next steps
- ⦿ Approach to Initial Report

- Need to have clear and concise outreach materials for outsiders to understand the report.
- WT5 members should provide feedback on what outreach materials would be useful.
- May want to include recommendations up front.
- Make it clearer what has to change from the 2007 and 2012 rounds.
- Add paragraph numbers.
- Should have a must-read section, background, etc. with links.
- Helpful to have a more streamlined perspective.
- Could include an excel spreadsheet as to what the options/questions are (as in WT1-4 Initial Report).
- To the extent that there are new preliminary recommendations that the community had previously commented on, how will these be presented?
- Could put together a small drafting team to look over the final draft Initial Report from staff (Paul McGrady volunteers to join that small group).
- Would help to get the spreadsheet or summary translated.
- Any spreadsheet or summary would be the last step prior to publication to avoid confusion/duplication.
- Creating a small drafting group will take time and we have to make sure we stick to our timeline.
- Helpful to know if there is something we can leave out or de-emphasize.

Session 2: 10:30 – 12:00

Agenda: Focused discussion on topics that need additional input at this stage. Participants will pick discussion topics.

Possible topics for discussion:

- ⊙ Alpha-3 code listed in the ISO 3166-1 standard at the top level
- ⊙ Non-capital city names at the top level
- ⊙ Terms not included in the 2012 Applicant Guidebook (“non-AGB terms”) at the top level
- ⊙ Other suggestions?

-- Geographical indications should be included in the top level and not open to third-party registration. Would like to know how it would be done. To the extent that they are trademarks they would be protected.

-- Three-level currency codes should be included in the Initial Report as they are based on 3166 alpha codes. If not considered in scope it could be raised in the full WG.

-- Unwise not to try to avoid some of the conflicts and risks that have already been identified. Identify the potential parties to these conflicts to be proactive.

-- Address issues that happened from the 2012 round and show how they have been/will be solved. Several comments focused on this – governments and trademark conflicts.

Additional issues:

Currency Codes:

-- Great potential for abuse.

-- Could argue that they are geographic because of the link between the currency code and the country.

-- Seems to be a solution in search of a problem.

-- Regardless of whether they are in scope or are put into Work Tracks 1-4 that is fine as long as there is a determination to protect them. Would fall under the topic of reserved names in general. Work Track 2 determined that there was no need for additional categories of reserved names, although this determination is out for public comment. Note that Work Track 2 no longer exists. There will be opportunity to comment when the Working Group puts out its final report.

-- Could we use the current objection procedure for any conflicts? There is no formal objection process but there could be GAC warnings/advice, or an independent objector if that applied. So we would have to create a process.

-- Concern in relation to geography could be like a confusingly similar string against reserved or geographic names and how the objection processes might work.

-- ISO-4127 Alpha 2 code plus another letter (USD etc.). Not all currency codes follow this pattern and these things can change – every 2 to 3 months – and the list is not complete. It is just an application of ISO 3166 codes.

-- What is the problem? Just because it seems like a geographic issue doesn't mean they belong in Work Track 5. Put it back to the full WG.

Geographical indications:

- Had a problem in 2012 and if we don't do anything then they will be an even bigger problem.
- Should point to specific problems and then decide if we need a preventative solution or whether to deal with them as they occur.
- GIs are a form of intellectual property that has become a politicized issue in other fora – ways of protecting GIs and how. WIPO has been looking at GIs for many years.

Non-AGB Terms:

- Concerns about increasing the number of names that are protected, such as generic terms. Could come up with greater clarity but not giving governments blocking rights.
- Need to apply these criteria to other geographic names and provide incentives for different interests to resolve issues when they share something.
- This isn't binary. Look at the measures that have been proposed.
- Could decide how to deal with different groups wanting to use the same geographic terms, but shouldn't decide to give new protections to a term that has already been allowed as a trademark.
- 2012 was a success; would be interested in statistics – numbers of geonames approved in the last round. Patagonia was a success because the system worked.
- Need something in between the objection process or nothing – maybe like a mediation process. Would that be mandatory or a best practice. Could be like the GAC early warning that triggers a mandatory process.
- Question for the group: Are the current policies the optimal ones for predictability for something like .cat?

Non-Capital City Names:

- Non-capital city names treated quite differently from capital city names.
- Don't have a string indication that we should create new protections or change the current processes.
- Accept that we will not have agreement on what is a city.
- On the list there are people who believe that cities of more than a million people deserve protection. Should be in its own category.
- What was the definition of a city that was used by the geonames dispute panels in 2012. Did they encounter problems when they defined a city? First premise was to look at whether or not it was a city; second premise was what is the intended use.
- Propose to change the procedure for city names to: an application for a city name will not be subject to a capital city requirements of support/non-objection if the applicant agrees to not use the name in a geographic use.
- Is there any exception for disputed geographic designations?
- Registries are able to control how their names are used, if there is a plan (.law, .bank, .insurance, .doctor, etc.).
- Figure out what we are trying to protect against.

- Do you put measures in at the beginning of the process to minimize who can apply, or do you have measures that apply after the application?
- Don't have data on how well the objection panels did their job. We should try to get the data from ICANN.
- Intended use needs to be more nuanced, that the applicant is obligated to do some research.
- Should we look at the actual mechanisms in place to see if they are working?

Session 3: 12:15 – 13:15

Agenda: Discussion of Recent Board Resolutions

- Why are we not discussing the proposals being considered by WIPO? Answer: It is not ripe, but we will do so when they are put to us.
- What is the takeaway from what is going on in .amazon and other cases? We need to learn from these cases and not repeat the same mistakes.
- The draft Initial Report supports the parties sitting down together to come up with solutions.
- It is a reflection of the fact that the 2012 procedures did not go according to plan.
- Use this as a lesson for the need to have the parties talk together before an application goes forward.
- Board's decision in .persiangulf (to not delegate) where there is a community interest, seems to conflict with .halal, .islam, and .cat. But note that these are not geographic terms.