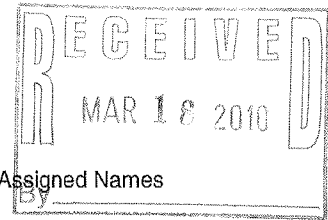




INTERNATIONAL
OLYMPIC
COMMITTEE



Internet Corporation for Assigned Names
and Numbers (ICANN)
Mr. Rod Beckstrom
President/CEO
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601
United States

Lausanne, 16 March 2010
Ref 0109/HMS/mcs
By mail and email

ICANN-IOC meeting

Dear President,

The International Olympic Committee (IOC) is closely following the various ICANN projects currently being developed by ICANN, in particular the proposed expansion of generic Top Level Domains (gTLD).

Since the activities of ICANN have a material effect upon the activities of the IOC and other constituents of the Olympic Movement, such as the National Olympic Committees and the International Federations, the IOC believes that it would be of benefit to ICANN and the IOC that a meeting be held between the appropriate representatives from each of our organisations.

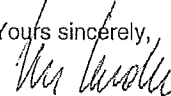
In particular, the IOC would like to address the following points in such a meeting:

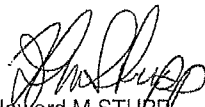
1. ICANN's structure and operations: The IOC would like to better understand ICANN's structure and how ICANN operates. Of course, the IOC would be happy to provide ICANN with further information on its own structure and operations, should ICANN so wish.
2. Protection of the Olympic Properties : The ICANN gTLD project gives rise to serious concerns for the IOC in terms of intellectual property protection. Please find attached, for your easy reference, a copy of the five letters already sent by the IOC to ICANN in relation to this matter. Due to the unique nature of the Olympic trademarks which are protected around the world in many different ways, measures should be taken by ICANN to have them protected accordingly in the scheme of ICANN's projects. For example, the Olympic properties could be added to the list of reserved trademarks, in the same way that ICANN has done to protect its own trademarks. The IOC understands that ICANN is currently considering the uniqueness of the Olympic properties and the manner in which they are protected internationally. Of course, the IOC strongly welcomes such initiative and wishes to assist ICANN in its endeavour.
3. New extension ".sport" : The IOC would like to discuss with ICANN the status of the development of the new extension ". sport".

In view of the above, the IOC would be grateful if you could provide us with the names and contact information of the appropriate persons that IOC representatives should meet with and propose some dates for a meeting, taking into account that the IOC hopes to convene such meeting in the middle of April.

The IOC thanks you very much for your attention to this correspondence.

Yours sincerely,


Urs LACOTTE
Director General


Howard M STUPE
Legal Affairs Director

Enc.

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Legal Affairs

Lausanne, 27 January 2010

DRAFT EXPRESSIONS OF INTEREST:
Pre-Registrations Model for New gTLDs.

Dear Sir/Madam,

The International Olympic Committee ("IOC") submits this letter in response to ICANN's invitation for public comment on the Expressions of Interest Pre-Registration Model for New gTLDs.

The IOC remains opposed to the introduction of new gTLDs as a whole. Without waiving this opposition, IOC has sought to contribute helpful information to ICANN regarding proposals for trademark protection in new gTLDs. Accordingly, we write to oppose the draft expressions of interest pre-registration model as premature.

The IOC agrees with previously filed comments, "moving forward with an EOI process will be perceived as moving forward without having resolved the overarching issues," especially trademark protection. The speculative benefits of unlimited expansion of the domain name system represented by the proposed new gTLDs are outweighed by the risks, harms and costs it poses to trademark owners and the public. Specifically, the proposed pre-registration process will force trademark owners to defensively pre-register to protect their trademarks at great expense. This is not a "minority view" – contrary to that characterization by ICANN staff. Many trademark owners, including the IOC, have expended an inordinate amount of time and resources to ensure that new gTLDs do not result in unmitigated cyber-piracy. Most notably, the Governmental Advisory Committee has stressed "the need for more effective protection of intellectual property rights" and the "lack of analysis of end user confusion and/or harm."¹

Offering pre-registration for new gTLDs before ensuring meaningful trademark protection is unacceptable to all those who have opposed ICANN's new gTLD program or sought to temper a hasty rush to implementation. Again, these statements should not be taken as a waiver of the IOC's right to proceed against ICANN for damages resulting to the IOC or the Olympic Movement from the implementation of an unlimited number of new gTLDs.

Yours Sincerely,

Urs LACOTTE
Director General

Howard M. Stupp
Legal Affairs Director

¹ Governmental Advisory Counsel, GAC Communique – Sydney, available at <http://www.omic.pt/images/stories/Sydney%20communique%20vFINAL.pdf> (29 October 2009).



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Legal Affairs

Lausanne, 26 January 2010

SPECIAL TRADEMARK ISSUES REVIEW TEAM RECOMMENDATIONS:

The Trademark Clearinghouse and Uniform Rapid Suspension System.

Dear Sir/Madam,

The International Olympic Committee ("IOC") submits this letter in response to ICANN's invitation for public comment on the Special Trademark Issues Review Team Recommendations (the "team's report") on trademark protection mechanisms in new gTLDs.

I. INTRODUCTION

The IOC remains opposed to the introduction of new gTLDs as a whole. However, the IOC has sought to contribute helpful information to ICANN regarding proposed trademark protection mechanisms in new gTLDs.

Accordingly, we are pleased to see that the Special Trademark Issues Review Team has reached consensus on utilizing both the Trademark Clearinghouse and Uniform Rapid Suspension system. We are particularly relieved to see that the team reached "unanimous consensus" on mandatory use of the Uniform Rapid Suspension System. In the IOC's continued – and qualified – effort to provide insight and information regarding ICANN's proposed new gTLD program, we submit the following comments. These comments identify persisting deficiencies in the Trademark Clearinghouse and Uniform Rapid Suspension system and identify other new short-comings as well:

II. COMMENTS

A. THE TRADEMARK CLEARINGHOUSE

The Trademark Clearinghouse Must Recognize Special Statutory Trademark Protection (Sections 4.1 and 4.2).

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Special trademark legislation from across the globe, such as the Olympic and Amateur Sports Act in the United States, recognizes the unique, non-profit nature of the Olympic Movement, and grants enhanced statutory protection to the Olympic Trademarks.¹ Numerous courts throughout the world have applied and upheld such legislation.²

Domain name registration authorities have also recognized special protection for the Olympic Trademarks, and have endeavored to abide by such national legislation. On 23 July, 1996, Network Solutions agreed with the United States Olympic Committee to memorialize its commitment to the Amateur and Olympic Sports Act:

Upon formal written notification from the Olympic Committee that a third-party has registered a second-level domain name which incorporates Olympic Committee Insignia protected under the Amateur Sports Act without the authorization of the Olympic Committee, Network solutions will, in turn, notify the third-party registrant that said domain name will be deleted within five (5) business days.³

In addition Network Solutions took "the added step of blocking domain name registration of the literal words 'Olympic', 'Olympiad', and 'Citius Altius Fortius', consistent with 36 U.S.C. § 380(a)." More recently, Nominet, the ccTLD registry for .UK, has explicitly warned its customers regarding the London 2012 Olympics and "Olympics-related domains":

In preparation for the 2012 Olympics and Paralympics, the Government has introduced new rights and powers to help the organizers of the Games protect their sponsor's investment and the reputation of the Games. These rights will apply to uses of various words and symbols with links to the 2012 Games, and can therefore affect .uk domain names.⁴

Moreover, Sedo.com blocks attempts to park domain names containing the Olympic Trademarks and informs customers, "Inserting this domain violates German trademark law." Indeed, online domain name auction houses – including Sedo, GoDaddy, eBay and Afternic – regularly remove names containing Olympic Trademarks upon request.

The team's report ignores special trademark legislation, despite the IOC's consistent advocacy of – and the lack of *any* opposition to – this issue. It is incumbent upon ICANN staff to recognize and account for the global, enhanced statutory protection of the Olympic Trademarks. Specifically, the Trademark Clearinghouse must include a reserved names list for the Olympic Trademarks and/or recognize special statutory protection as a basis for inclusion in the clearinghouse.

¹ 36 U.S.C. §22051 et seq.

² See e.g. *San Francisco Arts & Athletics, et al. v. United States Olympic Committee et al.*, 483 U.S. 522 (1987); *Deutsche Telekom AG v. Comité International Olympique*, OHIM Second Board of Appeal Case R 145/2003-2; *Benetton Group S.P.A. v. International Olympic Committee*, Court of Venice, Industrial and Intellectual Property Section, Case RG 6047/04 (2006); *Internationales Olympisches Komitee v. Alexandre SA Zurich*, Handelsgericht des Kantons Zurich, Geschäfts-Nr. HE040007 (2004).

³ Agreement between United States Olympic Committee and Network Solutions, Exhibit A.

⁴ Nominet, *.uk domain names and the 2012 Olympics*, available at <http://www.nominet.org.uk/disputes/legalinfo/olympics/> (last visited January 21, 2010).



The Trademark Clearinghouse Should Consider Confusing Similarity and Foreign Equivalents (Section 4.3).

The team's report also ignores domain name registrations that are confusingly similar to, or foreign equivalents of trademarks, with an oblivious focus on mere "identical matches." This approach improperly encourages cybersquatting, predominantly in the form of typo-squatting, and fails to ameliorate the significant burden trademark owners bear to register domain names defensively.⁵ An effective and efficient Trademark Clearinghouse must apply to both confusingly similar domain names, to protect against typo-squatting, and foreign equivalents, for protection in Internationalized Domain Names.

Trademark Owners Must Not Fund The Clearinghouse (Section 10.1).

ICANN is securing its long-term financial future with the New gTLD Program through application fees, fees under Registry and Registrar Agreements, and pre-registration fees for new gTLDs. Potential Registries and Registrars are poised to receive payment for each and every second-level domain name registration in each new gTLD. Registrants eagerly anticipate a virgin frontier in which to expand their speculation and trading practices. It is only fitting that the Trademark Clearinghouse be funded *entirely* by these parties and not by trademark owners.

B. UNIFORM RAPID SUSPENSION SYSTEM

Temporary Domain Name Suspension Is Not A Meaningful Remedy (Section 7.1).

As proposed by the team, if a complainant prevails under the Uniform Rapid Suspension system, "the domain name should be suspended for the balance of the registration period and would not resolve to the original website." However, the team ignores what will happen upon expiration. Will the domain name enter redemption or fall victim to back-ordering or auction by a domain name registrar? Either way, temporary domain name suspension – without more – leads to a perpetual cycle of registration and suspension under the Uniform Rapid Suspension system.⁶

The proper remedy under the Uniform Rapid Suspension system should be transfer of the domain name to the trademark owner. In the alternative, subsequent registrants should receive notice of prior suspensions, and should bear the burden of overcoming a presumption of bad faith in order to register.

Any Draconian "Strike" Policy Should Be Dropped (Section 9.1).

⁵ In the launch of a new gTLD, approximately forty-one percent (41%) of new domain names are registered by trademark owners for defensive purposes. Summit Strategies International, *Evaluation of the New gTLDs: Policy and Legal Issues* (July 10, 2004), available at <http://www.icann.org/en/tlds/new-gtld-eval-31aug04.pdf> (last visited December 16, 2009).

⁶ On June 18, 2009, the World Intellectual Property Organization noted, "the proposed remedy would not appear to meaningfully address the burdens on trademark owners" and this "remedy" is of limited effectiveness, lasting no more than a few months." WIPO, ICANN Implementation Recommendation Team Final Report, available at <http://www.wipo.int/export/sites/www/amc/en/docs/icann180609.pdf> (last visited January 21, 2010).



If one aim of the Uniform Rapid Suspension system is to help redress the hundreds of thousands of unauthorized – and infringing – domain name registrations that plague individual owners of well-known trademarks, then it is improper to have a quantitative “strike” policy for abuse of the process. This is especially true where the terms “abusive complaints” and “deliberate material falsehood” are left undefined.

The Proposed Safe Harbors Send The Wrong Message (Annex 6, ¶ 3).

Taken together, the proposed Safe Harbors to the Uniform Rapid Suspension system instruct that registrants may “trade in domain names for profit,” “hold[] a large portfolio of domain names,” and “connect[] domain names to parking pages and earn[] click-per-view revenue,” so long as any one putative domain name “is of a significantly different type or character to the other domain names registered by the Registrant.”

Without delving into the merits of which particular types of conduct evince bad faith registration and use of a domain name, the IOC submits that such safe harbors improperly distract from the original intent of the Uniform Rapid Suspension system – to address clear-cut cases of cybersquatting, reducing the need for expensive and protracted Uniform Domain Name Dispute Resolution procedures, which almost invariably result in respondent default. These safe harbors unnecessarily add obstacles to a system that was intended to be straight-forward and simple.

III. CONCLUSION

Subject to the foregoing, the IOC maintains its position that ICANN's introduction of new gTLDs is inherently flawed and injurious to owners of famous trademarks – particularly non-profit trademark owners that rely in part on special statutory protection for their brands. If the new gTLD implementation does proceed, the IOC wishes to stress the need for a reserved names list of Olympic Trademarks, similar to the list previously recognized by Network Solutions.

Again, the IOC's recommendations should not be taken as a waiver of the IOC's right to proceed against ICANN for damages resulting to the IOC or the Olympic Movement from the implementation of an unlimited number of new gTLDs.

Yours Sincerely,

Handwritten signature of Urs LACOTTE in black ink.

Urs LACOTTE
Director General

Handwritten signature of Howard M. Stupp in black ink.

Howard M. Stupp
Legal Affairs Director



INTERNATIONAL
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Lausanne, 20 November 2009

NEW gTLD APPLICANT GUIDEBOOK VERSION THREE:
Proposed Rights Protection Mechanisms in New gTLDs

Dear Sir/Madam,

The International Olympic Committee (the "IOC") submits this letter in response to ICANN's invitation for public comment on the New gTLD Applicant Guidebook Version Three and the proposed rights protection mechanisms in New gTLDs.

I. INTRODUCTION

With each step along ICANN's march toward implementation of new gTLDs, the IOC has taken the opportunity to voice its serious concerns.¹

- ***The IOC Maintains Its Strong Opposition To The New gTLD Program.***

ICANN has pitted itself, registries, and registrars – all of whom stand to gain from an unlimited expansion of gTLDs – solely against trademark owners – who face impossible enforcement costs posed by the threat of trademark abuse in new gTLDs. Those costs would be worse for non-profit trademark owners like the IOC. It is inappropriate to force non-profit entities like the IOC to divert time and financial resources from their missions to preventing trademark abuse in the gTLD System.

Moreover, the New gTLD Program must not proceed while there remain unresolved issues on economic need and trademark protection. Despite the urging of this system, no one has shown any solid or substantial basis for concluding that it is truly needed.

- ***The IOC Is Disappointed With The Way ICANN Has Addressed Trademark Protection In New gTLDs.***

When ICANN released the First Draft Applicant Guidebook on 24 October 2008, only a glimmer of trademark protection was provided through pre-delegation Legal Rights Objections. A responsive outcry came from trademark owners insisting on measures to screen out infringing domain names, to reduce costs of defensive domain name registrations, and to shift costs to respondents in Legal Rights Objections.

¹ See IOC comments of 5th December 2008 and 9th April 2009 on the first and second Draft Applicant Guidebooks respectively; See also IOC comments of 6th May 2009 and 6th July 2009 on the preliminary and final reports of the Implementation Recommendation Team.



Moreover, the IOC asserted that ICANN's guidelines should explicitly acknowledge its unique and preeminent intellectual property rights in the Olympic Trademarks.

ICANN staff responded by "evaluating a number of options for further enhancing the mechanisms available within the processes for trademark rights holders [which] must also take into account the interests of non-trademark holder applicants." ICANN also conceded that "[i]t may be necessary to adopt formal steps to address issues of particular concerns to the community."²

When ICANN released the Second Draft Applicant Guidebook on 18 February 2009, the Guidebook still only reflected a pre-delegation Legal Rights Objection. Trademark owners responded with a unified outcry for stronger protection for brand owners, clarification of potential trademark protection systems and reevaluation of the New gTLD Program in light of these trademark concerns. The IOC again asserted that ICANN's new policy should expressly provide for a list of reserved Olympic Trademarks, just as ICANN has reserved its own marks.

In response, the ICANN Board of Directors commissioned the Implementation Recommendation Team, with tight deadlines to produce a preliminary and final report on trademark protection. The team was commissioned in March, and its final recommendations were due in early May.³

Ultimately, the Implementation Recommendation Team proposed four meaningful rights protection mechanisms: (1) an Intellectual Property Clearing House, including a Globally Protected Marks List; (2) a Uniform Rapid Suspension System; (3) a Post-Delegation Dispute Resolution Process; and (4) "Thick" Whois Requirements.

When ICANN released the Third Draft Applicant Guidebook on October 4, 2009, it surprised the trademark community with its response to the Implementation Recommendation Team's proposals. (1) It relegated the IP Clearinghouse for consideration by the Generic Names Supporting Organization. If that Organization did not reach consensus on the IP Clearinghouse within two months, the ICANN board would unilaterally determine whether, and, if so, how the Clearinghouse might be included in the new gTLD implementation." (2) It vetoed the Globally Protected Marks List – which was requested by an overwhelming majority of the trademark community. (3) It watered down the Uniform Rapid Suspension System by recommending it as a Best Practice and relegating it to the same fate as the IP Clearinghouse. (4) It distanced itself from the Post-Delegation Dispute Resolution Process instead of taking an active part in enforcing its own Registry Agreements. And (5) it affirmed its prior adoption of the least contentious mechanism, a "Thick" Whois requirement.

² ICANN, *New gTLD Draft Applicant Guidebook: Analysis of Public Comment*, available at <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf> (18 February 2009).

³ The trademark community, and Implementation Recommendation Team especially, sought reassurance that if at a time of scarce resources they expend time and money to propose rights protection mechanisms, then the process will result in a product that will be acted upon. ICANN, *New gTLD Draft Applicant Guidebook-Version 2: Analysis of Public Comment*, available at <http://www.icann.org/en/topics/new-gtlds/agv2-analysis-public-comments-31may09-en.pdf> (31 May 2009).



ICANN has raced forward toward gTLD implementation, and the financial gains it promises, but it has not taken the time to move forward with meaningful trademark protection in new gTLDs.

Trademark owners have long been held hostage by cybersquatting. Indeed, the newly empowered Governmental Advisory Committee has stressed "the need for more effective protection of intellectual property rights" and the "lack of analysis of end user confusion and/or harm."⁴ In the hope that ICANN will help alleviate this plight in new gTLDs, the IOC submits the following comments.

II. COMMENTS

A. The Trademark Clearinghouse (Formerly IP Clearinghouse).

The IOC lends qualified support to the Trademark Clearinghouse, in principle, as a meaningful service to provide notice to trademark owners of infringing second level registrations, as well as facilitate "sunrise" registration periods. However, in its current form, the Trademark Clearinghouse is deficient in several respects.

- ***The Trademark Clearinghouse Must Recognize Special Statutory Trademark Protection.***

The IOC has detailed, in great length, the unique nature of and global protection for the Olympic Trademarks (including OLYMPIC, THE OLYMPICS and OLYMPIAD), as well as the special circumstances of non-profit entities like the IOC.⁵

In the United States, the Olympic and Amateur Sports Act (36 U.S.C. §220501 et seq.) specifically prohibits any unauthorized commercial or promotional use of the words OLYMPIC and OLYMPIAD, as well as any simulations or derivations thereof.⁶ "In the special circumstance of the USOC, Congress has a broader public interest in promoting, through the activities of the USOC, the participation of amateur athletes from the United States in 'the great four-yearly sport festival, the Olympic Games.'⁷ The Olympic and Amateur Sports Act "directly advances these governmental interests by supplying the USOC with the means to raise money to support the Olympics and encourages the USOC's activities by ensuring that it will receive the benefits of its efforts."⁸

The same is true globally. The Olympic Trademarks are protected by national legislation in a myriad of countries including, Argentina, Austria, Australia, Canada, China, France, Belgium, Brazil, Chile, Costa Rica, Czech Republic, Ecuador, Greece, Guatemala, Hungary, Lebanon, Luxembourg, Mexico, Poland, Portugal, Puerto Rico, Romania, Russia, Slovak Republic, South Korea, Spain, Turkey, the United Kingdom, the United States, Uruguay and Venezuela. Such special statutory protection directly advances, through the activities of the IOC's National Organizing Committees, the participation of amateur athletes from across the globe in the now two-yearly sport festival, the Olympic Games.

⁴ Governmental Advisory Counsel, *GAC Communiqué -- Sydney*, available at <http://www.umic.pl/images/stories/Sydney%20communiqué%20vFINAL.pdf> (29 October 2009).

⁵ See IOC comment 6 July 2009 and attached exhibits.

⁶ 36 U.S.C. §220501 et seq.

⁷ *San Francisco Arts & Athletics, et al. v. United States Olympic Committee et al.*, 483 U.S. 522, 538 (1987).

⁸ *Id.* at 539.



The non-profit mission of the IOC is dedicated toward "promot[ing] Olympism throughout the world and lead[ing] the Olympic Movement."⁹

Among other noble missions, the IOC strives to "endeavor to place sport at the service of humanity and thereby promote peace"; "encourage and support the organization, development and coordination of sport and sport competitions"; "dedicate its efforts to ensuring that, in sport, the spirit of fair play prevails and violence is banned"; "oppose any political or commercial abuse of sport and athletes"; "encourage and support the promotion of ethics in sport as well as education of youth through sport"; "ensure regular celebration of the Olympic Games"; and "promote a positive legacy from the Olympic Games to the host cities and host countries"¹⁰

Such global statutory protection and non-profit status warrant proper recognition by ICANN and by the Internet community – in the form of a reserved names list for the Olympic Trademarks.

The proposed "Globally Protected Marks List" may have failed due a perceived inability to establish applicable criteria. However, it is ironic that ICANN – which is also a non-profit organization – plans to implement new gTLDs while placing only its own trademarks – which do not enjoy special statutory protection – on a reserved names list.

- ***Trademark Owners Should Not Be Forced To Fund The Clearinghouse.***

ICANN, Registries and Registrars stand to benefit financially from the implementation of new gTLDs with a disappointing indifference toward the undue enforcement burdens that will be placed on owners of famous trademarks. It is clear that cybersquatters eagerly anticipate a virgin frontier in which to expand their piracy.

ICANN is securing its long-term financial future with the New gTLD Program through application fees and fees under Registry and Registrar Agreements. Registries and Registrars are poised to receive payment for each and every second-level registration. It is only fitting that the Trademark Clearinghouse be funded *entirely* by these parties and not by trademark owners.

- ***The Trademark Clearinghouse Should Consider Internationalized Domain Names In Conjunction With ASCII Scripts.***

The New gTLD Program includes Internationalized Domain Names.¹¹ Accordingly, the Pre-Launch Trademark Claims Service under the Trademark Clearinghouse should also accommodate Internationalized Domain Names.

For example, when a registrant seeks to register a non-ASCII domain name (e.g. Олимпийская – Russian Cyrillic for "OLYMPIC") the registrar should notify the registrant that the name is identical to a trademark included in the clearinghouse (e.g. OLYMPIC).

⁹ IOC, *Olympic Charter*, available from http://www.olympic.org/Documents/olympic_charter_en.pdf (7 July 2007).

¹⁰ *Id.* at 14-15.

¹¹ ICANN, *IDN Fact Sheet*, available from <http://www.icann.org/en/topics/idn/factsheet-idn-program-05jun09.pdf> (last visited 6 November 2009).



B. The Uniform Rapid Suspension System.

- ***Adherence To The Uniform Rapid Suspension System Must Be Mandatory.***

A Uniform Rapid Suspension System that is recommended as a Best Practice is a rights protection mechanism that is ineffective. Indeed, the debate on this point at ICANN's Seoul, Korea meeting was characterized by agreement from the Generic Names Supporting Organization. All interested stakeholders agree that the Uniform Rapid Suspension System must be mandatory.

"I do believe that the URS should be mandatory ... I hope it's made mandatory because I believe on the balance, ... it's in the interests of the Internet community. But please do not make it optional. It is really unfair to do that," said Jeff Neuman, Vice President of Law and Policy for NeuStar (October 30, 2009). "[T]he GNSO should report back to the staff and the board, in our view, with a recommendation for an effective URS. Yes, that is mandatory for it to have its full effect ..." agreed Steve Pinkos of ENUM (October 30, 2009).

- ***Limited Duration Of Domain Name Suspension Is Not A Meaningful Remedy.***

The Uniform Rapid Suspension System creates an unreasonable situation in which trademark owners face increased costs in filing repetitive complaints for the same domain names after a locked registration expires. Indeed, the World Intellectual Property Organization has argued that "the proposed remedy would not appear to meaningfully address the burdens on trademark owners" and this "remedy" is of limited effectiveness, lasting in most cases no more than a few months."

The URS must be revised to strengthen this remedy so that infringing domain names will not be resurrected. Though domain name transfer may not be a feasible remedy under the Uniform Rapid Suspension System, it should at least incorporate some mechanism to place subsequent registrants on notice of prior successful actions.

- ***A Draconian "Three Strikes" Policy Ignores Practical Considerations And Should Be Dropped***

The IOC stands by its original assertion that the "three strikes" policy pays no regard to the sheer amount of infringement that a famous trademark owner suffers on a regular basis. Moreover, the IOC knows of no other enforcement policy in the world that periodically suspends a trademark owner's right to enforce their valid, registered trademarks.

In contrast to the Post-Delegation Dispute Resolution Policy, the Uniform Rapid Suspension System will likely see a myriad of complaints filed because there are simply more registrants than registries. No "strike" policy should be implemented under the Uniform Rapid Suspension System, but if it is, it should also account for the number of successful challenges brought by a trademark owner.

C. The Trademark Post-Delegation Dispute Resolution Process.

The IOC lends qualified support to Post-Delegation Dispute Resolution Process, in principle, as substantial step toward discouraging registry-level malfeasance in new gTLDs.



- ***It Is Appropriate To Deny Panel Review In Instances Of Respondent Default And To Maintain A System Of "Loser-Pays" Cost Allocation.***

Malicious intent – on the part of potential gTLD registry operators – to profit from systemic registration of infringing domain names or otherwise misuse gTLD registries, is especially troubling. In all likelihood, risks of registry abuse will be significantly increased by the New gTLD Program. This type of registry level corruption would not just trickle down, but pour down, to registrars and registrants in the gTLD – resulting in a hierarchy of cyberpiracy.

To avoid this risk, panel review should be denied when the respondent defaults, and costs should be refunded to prevailing parties.

- ***ICANN Must Not Attempt To Shirk Responsibility In Enforcing Its Contracts with Registry Operators.***

At least one commentator has argued that ICANN has removed itself entirely from the Post-Delegation Dispute Resolution Process.¹² The IOC agrees – “[w]hy should an aggrieved third party have to spend money in an arbitration-type proceeding when ICANN could simply do its job and enforce the Registry Agreement?”¹³

Like most trademark owners in the Internet community, the IOC feels strongly that ICANN needs to do a better job enforcing its agreements, not only with registries, but with registrars. ICANN should take a larger role in the Post-Delegation Dispute Resolution Process, rather than passing the entire onus on to trademark owners.

D. “Thick” Whois Requirement for New gTLDs.

- ***ICANN Should Enforce Current Registrar Accreditation Agreements And Set Universal Proxy Standards Before Opening The Domain Name Floodgates.***

Although ICANN accredited registrars are already contractually obligated to display a “thick” set of data for all sponsored registrations, ICANN has been widely criticized for failing to enforce these obligations. Whois information is notoriously inaccurate or incomplete.

Current proxy registration practices add to Whois inaccuracies. In fact, certain registrars have been alleged to collude with cybersquatters in listing fictitious registrants for domain names that incorporate or imitate registered trademarks.¹⁴

While it is true that “being able to access the thick data at both the registry and registrar level will ensure greater accessibility of the data”, that alone is inadequate to remedy the infirmities of the current Whois model. Greater accessibility to Whois information will not necessarily result in greater accuracy of Whois information.

ICANN must take responsibility and enforce its Registrar Accreditation Agreements to ensure accurate Whois information. ICANN must also set, and enforce, universal proxy

¹² See Jeff Neuman, *Comment on Post Delegation Dispute Resolution Process* (October 7, 2009).

¹³ *Id.*

¹⁴ See e.g. *Transamerica Corporation v. Moniker Online Services, LLC*, Case No. 0:09-cv-60973-CMA (S.D.Fla. August 28, 2009).



standards. Merely studying the issue, while marching forward with an unbridled gTLD expansion, displays a serious disregard for the interests of trademark owners.

E. Potential Limited Release of City gTLDs.

Recently, Mr. Peter Dengate Thrush – Chairman of the ICANN Board of Directors – stated that “[t]here aren’t obvious trademark problems arising from the names of key capital cities of the world ... [s]o it could be that, if we come to a problem where we’re still struggling to solve all aspects of IP right protection, we may go to some [types of application] that don’t have those problems.”

Contrary to Mr. Thrush’s assertion, names of key capital cities of the world raise clear trademark problems for entities with trademarks comprised partially of city names.

Trademarks like the IOC’s “LONDON 2012 SUMMER OLYMPIC GAMES” or “VANCOUVER 2010 WINTER OLYMPIC GAMES”, and other marks including “LLOYDS OF LONDON”, “NEW YORK YANKEES”, “PHILADELPHIA PHILIES”, “SAN FRANCISCO FORTY NINERS” and “LOS ANGELES LAKERS” would be plagued with infringing second-level domains in their respective city gTLDs.

In sum, if the New gTLD Program is permitted to proceed at all, adequate trademark protection must be in place before *any* implementation.

III. CONCLUSION

Subject to the foregoing, the IOC maintains its position that ICANN’s New gTLD Program is inherently flawed and injurious to owners of famous trademarks – particularly non-profit trademark owners. But if the New gTLD Program does proceed, the IOC wishes to stress the need for a reserved list of Olympic Trademarks.

Again, the IOC’s recommendations should not be taken as a waiver of the IOC’s right to proceed against ICANN for damages resulting to the IOC or the Olympic Movement from the implementation of the New gTLD program.

Yours Sincerely,

Handwritten signature of Urs LACOTTE in black ink.

Urs LACOTTE
Director General

Handwritten signature of Howard M. Stupp in black ink.

Howard M. Stupp
Legal Affairs Director



INTERNATIONAL
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COMMITTEE

Legal Affairs
Ref. No 550

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United States

Lausanne, 6 July 2009

FINAL REPORT ON TRADEMARK PROTECTION IN NEW GTLDS

Dear Sir/Madam,

The International Olympic Committee (the "IOC") submits the following comments in response to ICANN's invitation for public comment regarding the Implementation Recommendation Team's Final Report on Trademark Protection in New generic top level domains (the "Final Report").

I. INTRODUCTION

The IOC has previously submitted comments to ICANN regarding the first and second drafts of the gTLD Applicant Guidebook (see the IOC comments submitted on 5th December 2008 and 9th April 2009, respectively) as well as the preliminary report of the Implementation Recommendation Team (the "IRT") on Trademark Protection in New generic top level domains (see the IOC comments submitted on 6th May 2009).

In each of its comments to ICANN, the IOC has announced its opposition to the New gTLD Program as a whole because it creates an unnecessary invitation for pervasive cybersquatting. The IOC has, moreover, detailed its grave concerns about the program's shortcomings in protection for trademark owners in general and for non-profit trademark owners in particular.

The IOC shares the sentiment expressed by the IRT that participation in this process is in no way an endorsement of the New gTLD Program and thanks the members of the IRT for their diligence and hard work. The IRT's Final Report is a meaningful foundation--a starting point--toward addressing the potential for otherwise unmitigated cybersquatting in new gTLDs. The Final Report does not, however, sufficiently address or protect the interests of non-profit trademark owners like the IOC.

Despite the IOC's expressed concerns, which were shared by numerous other trademark owners, the Final Report continues to exhibit a dangerous disregard for the circumstances of trademark owners--particularly non-profit trademark owners. These non-profit trademark owners could be forced to divert their financial resources from fulfilling their missions to preventing gTLD cybersquatting upon their trademarks.

The IOC, as a non-profit trademark owner, has striven to emphasize the unique nature of the Olympic Marks (including OLYMPIC, THE OLYMPICS and OLYMPIAD) and the need for broad and complete protection of such marks in new gTLDs. By virtue of the unique

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nature of the Olympic Movement, the IOC's Olympic Marks are unquestionably both well known and protected the world over. Yet the system proposed in the Final Report – which severely limits the criteria for protection of a “globally protected mark” – unduly prejudices the IOC in its efforts to protect the Olympic Marks.

For this reason, the IOC submits the following recommendations and comments regarding the Globally Protected Marks List and the Uniform Rapid Suspension System as well as other generalized comments.

II. COMMENTS

A. The Globally Protected Marks List.

The Olympic Marks have many unique indicia of global recognition that the Final Report's Globally Protected Marks List fails to acknowledge.

- ***The Unique Nature Of The Olympic Marks: Statutory Protection, Registrations, Court Rulings, and Marketing Evidence of Global Recognition.***

The Olympic Marks are protected by national legislation in many countries including Argentina, Austria, Australia, Canada, China, France, Belgium, Brazil, Chile, Costa Rica, Czech Republic, Ecuador, Greece, Guatemala, Hungary, Lebanon, Luxembourg, Mexico, Poland, Portugal, Puerto Rico, Romania, Russia, Slovak Republic, South Korea, Spain, Turkey, the United Kingdom, the United States, Uruguay and Venezuela.

Indeed, in the United States, the Olympic and Amateur Sports Act (36 U.S.C. §220501 et seq.) specifically prohibits any unauthorized commercial or promotional use of the words OLYMPIC and OLYMPIAD, as well as any simulations or derivations thereof. The United States Supreme Court has explained “[i]n the special circumstance of the USOC, Congress has a broader public interest in promoting, through the activities of the USOC, the participation of amateur athletes from the United States in ‘the great four-yearly sport festival, the Olympic Games.’” *San Francisco Arts & Athletics, et al. v. United States Olympic Committee et al.*, 483 U.S. 522, 538 (1987). The Olympic and Amateur Sports Act “directly advances these governmental interests by supplying the USOC with the means to raise money to support the Olympics and encourages the USOC’s activities by ensuring that it will receive the benefit of its efforts.” *Id.* at 539. “The [U.S. Supreme] Court construes this section to give the USOC authority over the word ‘Olympic’ which far surpasses that provided by a standard trademark.” *Id.* at 560-561, Justice BRENNAN *dissenting*.

Additionally, the IOC holds over eighty (80) trademark registrations of national effect issued in more than sixty (60) countries around the world for the word OLYMPIC, and another eighty (80) trademark registrations of national effect issued in more than sixty (60) countries for the words THE OLYMPICS. These figures are in addition to the trademark registrations held by various National Olympic Committees, such as the United States Olympic Committee. There are, in addition to that, numerous registrations for other Olympic Marks.

Moreover, numerous courts throughout the world have recognized the vital importance of protecting the Olympic trademarks, and thus the Olympic Movement. *San Francisco Arts & Athletics, et al. v. United States Olympic Committee et al.*, 483 U.S. 522, 538 (1987)(acknowledging the “special circumstances” of the USOC and the Olympic Games);



Deutsche Telekom AG v. Comite International Olympique (Association), OHIM Second Board of Appeal Case R 145/2003-2 (Considering "that the word 'OLYMPIC' has been used as the title of the games for more than a century and that the popularity and success of the games exceeds that enjoyed by any other sports event, it is concluded that internationally there is a high degree of recognition of the sign 'OLYMPIC' by the public at large..."); *Benetton Group S.P.A. and Bencom S.R.L. v. International Olympic Committee*, Court of Venice, Industrial and Intellectual Property Section, Case RG 6047/04 (2006)(As confirmed several times by OHIM "and by courts of foreign states, the IOC's 'Olympic' mark enjoys a high degree of recognition by virtue of its immediate association by the general public of the entire world ... not only with the organization of the modern Olympic Games but with all the activities and sports infrastructure in general at world level covered by the words "Olympic Movement", of which the Games are the main manifestation") See also *Internationales Olympisches Komitee v. Alexandre SA Zurich*, Handelsgericht des Kantons Zurich, Geschäfts-Nr. HE040007 (2004).

"Almost all the countries in the world participate in the games ... Considering that the word "OLYMPIC" has been used as the title of the Olympics for more than a century and the popularity and success the games enjoy, it may be concluded that there is a high degree of recognition of the sign 'OLYMPIC' internationally, by the public at large." *Comite International Olympique v. Belmont Olympic S.A.*, OHIM Decision No. 81/2000 ("Since their revival in 1896, the Olympic Games have been the most celebrated international athletic event, with ever increasing participation, media coverage and turnover").

As one scholar has stated, "one of the great values of the Olympics is its international quality, allowing people from different countries to form bonds of commonality, both directly through participation by athletes and indirectly through shared viewing and interest." Cass R. Sunstein, *Republic.com 2.0*, p. 102, Princeton University Press (2007). Indeed, "the IOC takes all necessary steps to ensure the fullest news coverage of the different media and the widest possible audience in the world for the Olympic Games." Paragraph 1 of Rule 49, Olympic Charter: July 2007. In fact, the 2008 Beijing Olympic Games were broadcast to over 220 countries/territories around the world to an audience of over four billion viewers. IOC, *IOC Marketing Guide: Beijing 2008*, available at http://multimedia.olympic.org/pdf/en_report_1428.pdf (last visited June 23, 2009). In 2008, "[m]ore than two out of three people worldwide tuned in for the Beijing Olympic Games ... In the United States, where NBC and several sister networks aired extensive coverage [a record 3,600 hours], the 2008 Olympics took the record as the most-viewed event in American television history." Associated Press, *Beijing TV Coverage 4.7 Billion Viewers Worldwide*, available at <http://sports.espn.go.com/espn/print?id=3571042&type=story> (last visited June 23, 2009).

Finally, the IOC and its National Olympic Committees have successfully taken action to protect the IOC's OLYMPIC Marks in numerous UDRP Proceedings. See *U. S. Olympic Comm. v. TRI B-U-N ECO. Project*, WIPO Case No. D2000-0435 (July 13, 2000)(transferring domain names usaolympiconlinestore.com and olympiconlinestore.com); *Int'l Olympic Comm. v. More Virtual Agency*, NAF Case No. FA0204000112584 (June 13, 2002)(transferring domain name olympic.biz); *Int'l Olympic Comm. and the U. S. Olympic Comm. v. Domain for Sale, Inc., a/k/a John Barry*, NAF Case No. FA0208000117893 (October 1, 2002)(transferring domain name olympiccommittee.com); *Int'l Olympic Comm. v. Richard Freeman a/k/a Return Pty Ltd.*, NAF Case No. FA0210000127799 (December 19, 2002)(transferring domain name olympic.tv); *Int'l Olympic Comm. and U. S. Olympic Comm. v. Russell Ritchey d/b/a EZ Fixin's*, NAF Claim NO. FA0211000128817 (January 20, 2003)(transferring domain names olympicbrand.com, olympicsbrand.com, olympic-brand.com, olympics-brand.com, and



olympianbrand.com); *Int'l Olympic Comm., U.S. Olympic Comm. and CTV Inc., v. Texas Int'l Prop. Ass. NA-NA*, NAF Claim NO. FA0903001253280 (May 6, 2009)(transferring domain name civolympics.com).

- ***The Globally Protected Marks List Must Account For Special Statutory Trademark Protection And Other Indicia Of Global Recognition.***

It is clear that the envisioned Globally Protected Marks List is not intended to be "a consolidated list of what may constitute 'well known' or 'famous' marks under national trademark laws." Rather, according to the Final Report, "only marks that are globally protected", or in other words "trademark supernovas", will find a place on the Globally Protected Marks List.

It is, however, unreasonable for the Globally Protected Marks List to adopt such narrow qualification criteria that it fails to recognize the unique nature of the Olympic Marks. The International Trademark Association (INTA) has argued – and the IOC agrees – that the criteria for the Globally Protected Marks List should be more inclusive "in terms of not arbitrarily favoring one type of mark or legal regime over another, and in terms of accommodating those marks with true global scope, while at the same time keeping the bar high." In other words, while the criterion of trademark registrations of national effect may remain high, another criterion – special statutory protection – must be considered to determine the true global scope and strength of a mark.

The worldwide legislative protection accorded the Olympic Trademarks demonstrates an unparalleled level of strength and "global protection." This legislative protection is, in fact, a much stronger indicator of global protection than national registrations, which, in some jurisdictions, may be granted without use in commerce. Recognizing such widespread legislative protection in the Globally Protected Marks List would reflect the intent of the multiple national legislatures that expressly provided this protection, and thus better adhere to the Final Report's policy of "protect[ing] the existing rights of trademark owners" while not creating additional rights and "accommodat[ing] territorial variations in trademark rights."

Lastly, failure to consider global statutory protection of trademarks ignores the special circumstances of non-profit entities like the IOC, as explained above. If the Globally Protected Marks List focuses exclusively on a specific number of national registrations held, the effect is to unduly prejudice such non-profit entities who may rely more on special statutory protection – and less on national registrations – for global protection of their trademarks.

Given the statutes, court rulings, UDRP panel rulings and popularity referenced above, any Globally Protected Marks List that denies protection of the Olympic Marks is inherently flawed.

- ***The Globally Protected Marks List Should Protect Against Typosquatting.***

By its terms, inclusion on the List would not protect a trademark against the common practice of typosquatting. The IOC firmly believes that the Globally Protected Marks List should initially block registration of both new gTLDs and Second-Level Domains in instances of clear-cut typosquatting.

In June 2000, the IOC joined by the United States Olympic Committee and the Salt Lake Organizing Committee for the Olympic Games, commenced an *in rem* lawsuit filed under



the Anti-Cybersquatting Consumer Protection Act against the unauthorized use of the OLYMPIC Mark in over 1,800 domain names. *U.S Olympic Comm., Int'l Olympic Comm., and Salt Lake Org. Comm. For the Olympic Winter Games of 2002 v. 2000Olympic.com et al.*, 00-CV-1018-A (E.D.Va., filed 2000). Many of these domain names were slight misspellings of the word OLYMPIC or the phrase THE OLYMPICS – including “olimpic” and “olympix”. Certainly both judicial resources and funding for the Olympic Movement can be conserved in the future through a Globally Protected Marks List which initially blocks registration in obvious instances of typosquatting.

B. The Uniform Rapid Suspension System.

- ***The Limited Duration Of The Uniform Rapid Suspension System Creates Additional Burdens On Trademark Owners.***

As proposed, the Uniform Rapid Suspension System creates an unreasonable situation whereby trademark owners actually face increased costs in filing repetitive complaints for the same domain names after a locked registration expires. Indeed, the World Intellectual Property Organization has argued that “the proposed remedy would not appear to meaningfully address the burdens on trademark owners” and this “remedy” is of limited effectiveness, lasting in most cases no more than a few months.” The IOC agrees with this point, and recommends that ICANN revise the Uniform Rapid Suspension System to strengthen this remedy.

- ***The Draconian “Three Strikes” Policy Ignores Practical Considerations And Should Be Dropped.***

The proposed “three strikes” policy against trademark owners under the Uniform Rapid Suspension system pays no regard to the sheer quantity of infringements that a famous trademark suffers on a regular basis. Moreover, the IOC knows of no other enforcement policy in the world that periodically suspends a trademark owner’s right to enforce their valid, registered trademarks.

No “strike” policy should be implemented, but if it is, it should also account for the number of successful challenges brought by a trademark owner.

- ***The Uniform Rapid Suspension System Should Adopt a Bad Faith Registration “OR” Use Standard.***

The “bad faith registration and use” standard of the UDRP is ill fit for the evolving nature of cybersquatting. Indeed, the “and” standard has been rejected by a number of ccTLD registries in favor of the “or” standard.

“Normally speaking, when a domain name is registered before a trademark right is established, the registration of the domain name was not in bad faith because the registrant could not have contemplated the complainant’s non-existent right. *However, [i]n certain situations, when the respondent is clearly aware of the complainant, and it is clear that the aim of the registration was to take advantage of the confusion between the domain name and any potential complainant rights, bad faith can be found. This often occurs after a merger between two companies, before the new trademark rights can arise, or when the respondent is aware of the complainant’s potential rights, and registers the domain name to take advantage of any rights that may arise from the complainant’s enterprises.*” WIPO,



WIPO Overview of WIPO Panel Views on Selected UDRP Questions, available at <http://www.wipo.int/amc/en/domains/search/overview/index.html#31> (last visited July 1, 2009). Such "cyberpsychics" or "cyber-speculators" troll the internet looking for potential trademark rights of others and register corresponding domain names, thus creating a real problem for trademark owners.

The "bad faith registration or use" standard foils would be "cyberpsychics" by allowing trademark owners to fall back solely on bad faith uses exhibited by egregious patterns of past and present cybersquatting.

- **Default Cases Should Not Warrant Appointment Of A Panel.**

In its qualified participation in and commentary to ICANN's New gTLD Program, the IOC recommends that default cases in the Uniform Rapid Suspension System do not warrant appointment of a panel. The World Intellectual Property Organization has also noted that "[i]t remains then an open question whether appointing a panel in default cases responds to trademark owner needs." The ultimate goals of the Uniform Rapid Suspension System would be well served by dropping the unnecessary time and expense a panel determination entails in default cases.

C. The New gTLD Program Should Adopt A "Thick" WHOIS Model And Universal Proxy Standards.

The current WHOIS model is unsatisfactory to most trademark owners – including the IOC. Information under a "thin" model is indeed limited and current proxy domain name practices frustrate efforts to track down cybersquatters. In its qualified participation in and commentary to ICANN's New gTLD Program, the IOC supports both a "thick", i.e. robust registry-level model, and universal proxy standards.

III. CONCLUSION

Subject to the foregoing, the IOC maintains its position that ICANN's New gTLD Program is inherently flawed and injurious to owners of famous trademarks. Again, the IOC's recommendations should not be taken as a waiver of the IOC's right to proceed against ICANN for damages resulting to the IOC or the Olympic Movement from the implementation of the New gTLD Program.

Yours, Sincerely,

Urs LACOTTE
Director General

Howard M. STUPP
Legal Affairs Director

Encl.



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Lausanne, 5th December 2009

ICANN's proposed generic Top Level Domains

Dear Sir/Madam,

The International Olympic Committee (the "IOC") wishes to submit the following comments regarding ICANN's proposed generic Top Level Domains, in response to ICANN's invitation for public comments.

The IOC, founded in 1894, is the international, non-governmental, non-profit umbrella organization of the Olympic Movement. Since 1896, when the IOC held the first Olympic Games in Athens, it has conducted a total of 20 Olympic Winter Games and 25 Olympic Summer Games--most recently the Games of the XXIX Olympiad in Beijing in 2008.

The IOC owns all intellectual property rights regarding the Olympic Games, including the word OLYMPIC, and the Olympic City & Year Marks, such as "BEIJING 2008", (the "Olympic Trademarks"). All of the National Olympic Committees (the "NOCs"), including the United States Olympic Committee ("USOC"), use these Olympic Trademarks under the auspices of the IOC. The IOC and the NOCs have registered Olympic Trademarks throughout the world.

Several nations, including the United States, the United Kingdom, Canada, Greece, Australia and China have enacted legislation to protect the IOC's Olympic Trademarks. Since 1950, the Olympic Trademarks have been protected by U.S. statute, codified at 36 U.S.C. §220501 et seq. (the "Olympic and Amateur Sports Act"). Similarly, China enacted Regulations on Protection of Olympic Symbols on April 1, 2002. Such legislation has been successfully used to prevent infringement and cybersquatting of the Olympic Trademarks in the United States, China, and other countries.

The IOC has long been plagued by cybersquatters who illegally register and use Olympic Trademarks in Internet domain names and websites. To redress this problem, the U.S. Congress in 1999 incorporated the protection of the Olympic Trademarks into the Anticybersquatting Consumer Protection Act, granting special protection to Olympic Trademarks. 15 U.S.C. §1125(d)(1)(A)(ii)(III). Under this statute, among other court actions, the IOC filed suit in the year 2000 in the United States District Court for the Eastern District of Virginia against 1,800 illegal domain names containing Olympic Trademarks, and cancelled or took control of virtually all of the infringing domain names. Additionally, the IOC has regularly filed successful UDRP complaints against unauthorized parties in order to protect its Olympic Trademarks.

The Olympic Trademarks constitute a unique property right, unlike any other. As the U.S. Supreme Court has recognized, the IOC, together with the USOC, have used the word 'Olympic' at least since 1896, when the modern Olympic Games began" - *San Francisco Arts & Athletics v. Olympic Committee*, 483 U.S. 522, 533 (1987). The U.S. Congress has recognized that the value of the Olympic Trademarks derives from their "own talents and energy, the end result of much time, effort, and expense."

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With the unique nature of the Olympic Trademarks in mind, the IOC would like to point out the cybersquatting problems posed to those Olympic Trademarks by ICANN's proposed generic Top-Level Domain names. Nothing in the proposed guidelines acknowledges the preeminent rights, protected both by statutes and registrations, that are afforded the Olympic Trademarks. The ICANN guidelines for generic Top Level Domains should explicitly acknowledge the IOC's preeminent intellectual property rights in the Olympic Trademarks.

Otherwise, even though the IOC has vigorously monitored and taken action against Olympic cybersquatters, the addition of generic Top Level Domains--currently estimated to create numerous new domains--would result in a proliferation of infringing domains. It would render effective protection of the Olympic Trademarks virtually impossible. This could allow cybersquatting to proliferate to an unprecedented degree, and it would oblige the IOC to engage in costly dispute resolution proceedings to protect its intellectual property rights.

For the above reasons, the IOC opposes the proposed generic Top-Level Domain name project as a whole. However, if ICANN insists on moving forward with its proposal, the IOC's position is that it is ICANN's responsibility to find a solution in order to address the concerns of the IOC in a manner satisfactory to the IOC.

In particular, the IOC would be grateful if ICANN responded to the following two questions:

- 1) What preemptive measures can ICANN take to block or screen out unauthorized applicants who attempt to apply for, register, and use Olympic Trademarks in gTLD domains?
- 2) What preventive measures can ICANN take in order to ensure that the IOC does not have to expend funds chasing a proliferation of unauthorized uses of Olympic Trademarks?

The IOC stresses that many other entities outside the Olympic Movement will most certainly have concerns regarding potential abuses of their Intellectual Property rights, similar to those expressed above by the IOC. It is essential that ICANN addresses those concerns in a responsible manner in order to avoid the proliferation of unauthorized uses of Intellectual Property and the resulting waste in time, resources and money.

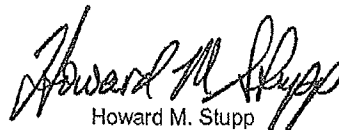
The IOC thanks you in advance for your understanding and cooperation regarding this matter.

Please do not hesitate to get back in touch with us in order to discuss further.

The IOC reserves all its rights regarding this matter.

Yours sincerely,


Urs Lacotte
Director General


Howard M. Stupp
Legal Affairs Director