PROTECTING THE RIGHTS OF OTHERS
WORKING GROUP (PRO WG)
FINAL REPORT

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1. SUMMARY

1. This is the Final Report of the Protecting the Rights of Others (PRO-WG) Working Group. The PRO-WG was formed as a sub-group of the GNSO's Committee for the Introduction of New Top-Level Domains to consider issues that related to the registration of names at the second level in new TLD registries. The GNSO Council considered the request to form a Working Group at its 1 February 2007 meeting[1] and ratified the Statement of Work at its 15 March 2007 meeting[2], the minutes of which are posted on the GNSO's website[3].

2. There are six substantive sections to this Report that map directly to the Statement of Work in addition to the Annexes which contain background information[4]. This Report will be used as further input into the new TLDs Final Report which is due to be released in early June 2007.

3. The Statement of Work included the background and rationale for the work[5]. "There is a new gTLD committee of the GNSO that is developing policy recommendations with respect to the introduction of new gTLDs. In addition to policy recommendations, the committee is also considering guidelines that may assist the ICANN staff in preparing an application process, and also creating a framework agreement for registry operators. The current registrar accreditation agreement requires that Registered Name Holders represent that, to the best of the Registered Name Holder's knowledge and belief,

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[1] Agenda posted at http://gnso.icann.org/meetings/agenda-01feb07.shtml
[2] Agenda posted at http://gnso.icann.org/meetings/agenda-15mar07.shtml
[3] Minutes posted at http://gnso.icann.org/meetings/minutes-gnso-15mar07.shtml
[4] On 15 March 2007 two decisions were made which are recorded in the minutes. Decision 2: The GNSO Council approved the revised charter for the working group on "Protecting the rights of others and Decision 3: The Council extended the timeline for the working group on the Protection of the Rights of Others from the end of April to May 17, in order for the report to be considered at the GNSO Council meeting on 24 May 2007. This deadline was not met as the group needed more time to agree on the substantive recommendations.
[5] A full set of the proposed recommendations and implementation guidelines (as at 30 May 2007) are found in Annex Four. These provide the context for this work.

neither the registration of the Registered Name, nor the manner in which it is directly or indirectly used, infringes the legal rights of any third party. ICANN also has a Consensus Policy called the Uniform Dispute Resolution Policy (UDRP) that is intended for resolving disputes between the registrant and any third party over the registration and use of an Internet domain name. In past new gTLD rounds, applicants for new gTLDs have been required to implement measures that discourage registration of domain names that infringe intellectual property rights; reserve specific names to prevent inappropriate name registrations; minimize abusive registrations; comply with applicable trademark and anti-cyber squatting legislation; and provide protections (other than exceptions that may be applicable during the start-up period) for famous name and trademark owners. There have been a range of approaches used which vary in terms of both cost to registrants and third parties affected by registration, and effectiveness. As part of the new gTLD committee's deliberations, there has been some discussion about what additional protections beyond the current terms in the registration agreement and existing dispute resolution mechanisms should be in place to the protect the legal rights of others during the domain name registration process, particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names."

4. The Statement of Work then described the purpose of the work. "The purpose of the working group is to: (1) Document the additional protections implemented by existing gTLD operators beyond the current terms in the registration agreement and existing dispute resolution mechanisms to the protect the legal rights of others during the domain name registration process, particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names. The documentation should identify the problems that the protections were intended to solve. The working group should establish definitions of terms used in this document to ensure a

common understanding amongst members of the working group. These definitions would only be in the context of the document, and without prejudice to the meaning of these terms in other legal contexts. In addition, the work will "(2) Determine whether to recommend to Council a best practices approach to providing any additional protections beyond the current registration agreement and UDRP policy for the legal rights of others during the domain name registration process, particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names. A best practices document could be incorporated into the material for the application process for new gTLD applicants. The GNSO could elect in future to use the policy development process (PDP) to create a Consensus Policy in this area".

5. The work was conducted using teleconferences and one face-to-face meeting that coincided with ICANN's March 2007 meeting in Lisbon. The Working Group had a relatively diverse membership but patchy and inconsistent representation from some constituencies and none from the Internet Service Providers Constituency. The full set of participation data is found in Annex Two. In addition, MP3 recordings of the meetings can be found here http://gnso.icann.org/calendar/#may.

6. The GNSO PRO WG did not conclude its work on the Terms of Reference as specified by the GNSO Council. This report also provides a written summary of areas in which broad agreement and support were not reached and for which the PRO WG believes additional time is necessary. The WG discussed various approaches to providing additional protections beyond the current registration agreement and UDRP policy for the legal rights of others during the domain name registration process for new TLDs, but was unable to reach consensus on whether to recommend a "best practices" approach to providing such protections. The group was unable to agree on a common approach because of a wide variety of registry services business models and

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the diverse objectives of the working group participants. In addition, WG members who opposed recommending "best practice" guidelines stated a concern that, if "best practices" were developed and incorporated into the new TLDs implementation plan, there could be negative implications for new registry operators that chose not to implement them.

7. The WG was able to develop a list of draft principles that various WG members believe should be considered as policy statements for TLD operators to implement, but has yet to fully engage in discussion of that list of draft principles.

2. DEFINITIONS

The table below sets out the definitions for some key terms which were developed by the Working

Group.

Abusive Registration	Abusive Registration means a Domain Name which either: i . was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to another's Legal Rights; OR ii. has been used in a manner which took unfair advantage of or was unfairly detrimental to another's Legal Rights.
Authentication Agent	An Authentication Agent is the person or entity authorized by a new TLD registry to authenticate the Legal Rights claimed by a domain name applicant or to authenticate the identity of a domain name applicant.
Authentication of Legal Rights	Authentication of Legal Rights is the process performed by the Authentication Agent to confirm that the claimed Legal Rights are prima facie authentic based on documentary evidence and of a nature and class accepted by the TLD registry for its Rights Protection Mechanisms. Authentication of the Legal Rights has no bearing on their validity which is a matter for courts of competent jurisdiction.
Authentication of Applicant	Authentication of Applicant is a service conducted by the Authentication Agent to confirm the identity of the domain name applicant claiming a Legal Right in a Rights Protection Mechanism
Charter Eligibility Dispute Resolution Policy (CEDRP)	The CEDRP followed by certain TLDs (such as .aero, .biz, .coop, .museum, .name, .pro, and .travel), provides a mechanism for challenging a domain name registration on the grounds that the registrant does not meet the eligibility requirements set forth in the TLD charter. Any person or entity may bring such a challenge under the CEDRP.
Defensive Registrations	Defensive Registrations are domain name registrations by holders of Legal Rights primarily for the purpose of preventing third parties from registering strings that include names identical to or similar to their Legal Rights.
First Come First Served (FCFS)	FCFS is an allocation policy adopted by a TLD registry where a domain name registration is awarded to the first registrant that successfully submits a valid registration request for the requested string to the registry through its registrar.

IP Claim Service	An IP Claim Service is a service that permits a registrant to submit an Intellectual Property Claim ("IP Claim"), based on asserted Legal Rights. (NeuLevel, which used an IP Claim process for the .biz TLD, restricted the bases for IP Claims to registered or common-law trademarks.) Filing of an IP Claim does not automatically entitle the holder of that claim to registration of the domain name corresponding to the IP Claim; rather, the filing ensures that any potential applicant for a domain name registration corresponding to the IP Claim would be (1) notified of the IP Claim and (2) have to affirmatively agree to proceed with its application after such notification. The holder of an IP Claim may challenge any potential applicant through the Start-up Trademark Opposition Process ("STOP").
Land Rush	Land Rush is the commencement of the "go live" period of a new TLD launch where the registry begins accepting live domain registrations from registrants through registrars.
Legal Rights	Legal Rights are rights of a nature and class recognized by a TLD as, subject to Authentication, entitling owners to participate in a Rights Protection Mechanism. Legal Rights have included registered national and regional unitary marks and, in so far as recognized by the law of the nation state where they are held, unregistered trademarks, trade names, business identifiers, company names, geographical names and designations of origin and distinctive titles of protected literary and artistic works.
Name String Notification	A Name-String Notification is a paid subscription function where the owner of a Legal Right can be notified by a registry of an application to register a new domain name which includes the monitored name-string.
Protecting the commons[6]	*Language itself is not property and as such belongs to the commons available for free and unencumbered use by all people. While many legal entities are placing trademarks on common natural words when used in specific commercial contexts, these trademarks may not affect the rights of individuals to use these words or to register them as domain names. Within ICANN this can be taken to mean that these names are to remain available for registration according to the regular procedures, for example, first come first served or as determined by the registry, as long as the registrant is not in violation of provisions of the UDRP.*
Rights Protection Mechanisms	RPM Rights Protection Mechanisms are processes or mechanisms adopted and implemented by TLD registries for the purpose of protecting Legal Rights by discouraging or preventing registration of domain names that violate or abuse a participant's Legal Rights. Rights Protection Mechanisms are in addition to the protection afforded through the UDRP and Registration Agreement.

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[6] This definition, provided by Nominating Committee Representative Avri Doria, was not agreed upon by the Working Group but was used to illustrate differing points of view.

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Rights of Others[7]	*Rights of Others are the rights of the public to use descriptive and generic words, including where permitted by the law of the nation state where they reside, to use words which may be subject to Legal Rights in particular classes of the Nice Classification System–outside those classes. In relation to unregistered Legal Rights, they include the right to use words that are not subject to protection in their nation state or where no goodwill or reputation arises in their nation state in relation to such a word. They include the right to make fair and legitimate use of words in which others may claim Legal Rights.*
Start-Up Trademark Opposition Policy (STOP)	Start-Up Trademark Opposition Policy is a policy available only to an IP Claimant who properly claimed Legal Rights through the IP Claim Service. STOP is a unique dispute resolution process, similar to the UDRP, and put in place for dealing with disputes between IP Claimants and potential registrants. An IP Claimant shall prevail over the potential registrant in a STOP proceeding where it demonstrates that a TLD was either (1) registered in bad faith or (2) used in bad faith,
Sunrise Process	A process in which owners of Legal Rights have the opportunity to register domain names before the Landrush process open to the public. Registries that used a Sunrise Process identified the Legal Rights on which a Sunrise Process registration could be based.
Uniform Domain-Name Dispute Resolution Policy (UDRP)	ICANN-accredited registrars in all gTLDs have adopted UDRP. Under the UDRP, dispute proceedings arising from alleged abusive registrations of domain names (for example, cyber squatting) may be initiated by a holder of trademark rights. The UDRP is a policy between a registrar and its customer and is included in registration agreements for all ICANN-accredited registrars.

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[7] This definition, provided by the NCUC, was not approved by the Working Group but is provided here as a reflection of the discussion.

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The tables illustrate the kinds of mechanisms which are used in a variety of registries – sponsored, generic and country code – to further explain the context for the work. See below for charts that set out the current proposals for the introduction of new top-level domains from the GNSO Committee.

TLD Eligibility and Name Selection

TLD Eligibility Requirements	TLD-Specific Eligibility Identification Number	Name Selection Requirements	Eligibility Challenge Mechanism
.aero	.aero	.museum	.aero
.cat	.museum	.travel	.museum
.coop	.travel		.name
.eu			
.museum			
.pro			
.travel			

Rights Bases and Validation

Rights Bases Tied to National Law	Rights Bases Other Than/In Addition to Registered Trademarks of National Effect	Validation by Registry of Claimed Rights	Online National Trademark Office Database(s) Used for Rights Verification
.cat	.cat	All – .cat, .eu, .us	.eu
.dk	.coop	Only if competing applications – .dk	.us
.eu	.dk	For limited purpose – .coop	
	.eu	Random selection – .mobi	

Rights Claim and Blocking Registration Mechanisms

Applicant Informed of Rights Claim and Required to Confirm Intent to Register Name	"Defensive" Blocking Registrations
.biz	.cat
.dk	.name
.name	.pro

Sunrise

First come, first served allocation	Phased Registration	Challenge Mechanisms
.cat	.cat	.eu
.coop	.eu	.info
.eu	.mobi	.mobi
		.us

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Watch Service and Category-Specific Processes

Watch Service	Place Name Process	Generic Terms Process
.name	.coop	.museum
	.museum	.mobi
	.travel	

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3. RECOMMENDATION SUMMARY

		Supported by (see table below)
1	That there is no universal rights protection mechanism (RPM).	VMcE, TR, KR, JN, AD, KWS, EC, JeffN
2	That each new gTLD should adopt and implement a dispute mechanism under which a third party could challenge another's use of that gTLD's RPM that results in obtaining a domain name registration.	VMcE, KR. PGO, KWS, EC, MR, JeffN
3	That the Legal Rights on which a party bases its participation and seeks to protect in a RPM should be subject to actual authentication, at least if the authenticity of such rights is challenged.	VMcE, KR, JN, PGO, KWS, EC, MR, JeffN
4	That if a new gTLD elects to use a Sunrise Process as its RPM, it should restrict eligible Legal Rights in such a manner as to discourage abusive registration.	VMcE ,TR, KR, JN, PGO, AD, KWS,
5	That regardless of other authentication of Legal Rights, all new gTLDs should institute measures to deter abuse of the RPMs and clearly false submissions. These measures could be automated or conducted on an ad hoc basis to focus on RPM submissions that are nonsensical or likely to be false (e.g., registration number is 12345, date is 00/00/00, name is John Doe).	VMcE,TR, KR, JN, PGO, AD, KWS, MR
6	That all Legal Rights to be protected in an RPM must be capable of being authenticated.	VMcE,TR, KR, JN, PGO, AD, KWS, EC, MR, JeffN

Abbreviation	Name	Constituency
AD	Avri Doria	Nom Com
EC	Edmon Chung	Registry
JeffN	Jeff Neuman	Registry
JN	Jon Nevett	Registrar
KR	Kristina Rosette	IPC
KWS	Kelly W Smith	IPC
MR	Mike Rodenbaugh	Business
PGO	Peter Gustav Olson	IPC
TR	Tim Ruiz	Registrar
VMcE	Victoria McEvedy	NCUC

4. DISCUSSION

1. The introduction of new top-level domains (TLDs) in 2000 (.aero, .biz, .coop, .museum, .name and .pro) included the introduction of several rights protection mechanisms which aimed to protect trademark and other rights from third party domain name registrations that may have violated those rights. These methods varied as did their complexity and ultimate success.[8]

2. In 2007, as ICANN considers the introduction of additional TLDs, the rights protection mechanisms used in the past are instructive but raise questions concerning the necessity and adequacy of such mechanisms. The PRO-WG was chartered to provide a report to the GNSO Committee on the Introduction of New Top-Level Domains with a view to assessing further steps to take, including the possible need for the creation of a Policy Development Process (PDP) on rights protection mechanisms beyond the protections embodied in the current Registration Agreement and the Uniform Domain Name Dispute Resolution Policy.

3. The GNSO Council provided the PRO-WG with the following Statement of Work:

    (1) Document the additional protections implemented by existing gTLD operators beyond the current terms in the registration agreement and existing dispute resolution mechanisms to the protect the legal rights of others during the domain name registration process, particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names. The documentation should identify the problems that the protections were intended to solve. The working group should establish definitions of terms used in this document to ensure a common understanding amongst members of the working

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[8] See Evaluation of the New gTLDs: Policy and Legal Issues, by Summit Strategies International, http://www.icann.org/tlds/new-gtld-eval-31aug04.pdf.; Registry Proof of Concept Reports, http://www.icann.org/registries/poc/.

group. These definitions would only be in the context of the document, and without prejudice to the meaning of these terms in other legal contexts.

(2) Determine whether to recommend to Council a best practices approach to providing any additional protections beyond the current registration agreement and UDRP policy for the legal rights of others during the domain name registration process, particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names. A best practices document could be incorporated into the material for the application process for new gTLD applicants. The GNSO could elect in future to use the policy development process (PDP) to create a Consensus Policy in this area.

4. To determine the answers to the questions posed in the Statement of Work, the Working Group used several different work methods. The first was an analysis of existing registry operations. Those summaries are found in full in Annex One, the majority of which were completed by WG members. In addition, some ccTLD registries were included in the summaries to see whether there were additional lessons to be learnt from the ccTLD environment. The Working Group also developed a questionnaire which posed a range of questions that were developed by the Working Group during a teleconference and refined through the mailing list. The questionnaire was distributed in both Word format and was posted using on-line polling software. The full results of the survey are found in Annex Two and the results are used throughout this work. The url for the poll results is http://www.bigpulse.com/pollresults?code=3bSZ4z3AQauWM7Ukrige. Finally, the Working Group utilized the expertise within the Group[9].

5. The Working Group was tasked to provide a report to the GNSO Council and conclude its work by 17 May 2007 to provide sufficient time for its report to be incorporated into the Final Report of the GNSO New gTLDS Committee.

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[9] It was brought to our attention, after the poll closed, that the online poll did not offer the full listing of countries from which respondents may have come. This was a deficiency in the proprietary software and respondent were also able to respond using email and a Word document attachment.

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Kristina Rosette of the GNSO Intellectual Property Constituency was elected Chair by the Working Group members.

6. Working Group members were encouraged to review the following five documents, in line with the Terms of Reference:

   a. [Draft Recommendations from the New gTLD PDP Committee](#)

   b. [December 2003 new sTLD Application Form, Part B](#)

   c. [IPC Evaluation Chart for Proposed TLDs (October 2000)](#)

   d. [Registry Proof of Concept Reports](#)

   e. [Evaluation of the New gTLDs: Policy and Legal Issues, Summit Strategies International, July 2004](#)

7. WG members recognized that any rights protection mechanism may be:

   a. controversial

   b. costly and complex for registries and registrars to operate

   c. costly and time consuming for registrants

   d. open to comprehensive and automated gaming

8. In addition, WG members recognize that registry and registrar business models may be different and that the introduction of IDN TLDs may present further layers of complexity which require deeper examination.

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5. OUTCOMES

1. The PRO WG discussed various approaches to protecting the rights of others including whether to provide additional protections beyond the current registration agreement and UDRP policy in new top-level domains. The Working Group was unable to reach consensus on whether to recommend a "best practices" approach to providing such protections.

2. The WG was able to develop a list of draft principles that some WG members believe should be considered as possible principles for new TLD operators to consider in their implementation plans but the Working Group has yet to fully engage in discussion of that list of draft principles.

3. The first table below set out where there is agreement on the approach. The second table illustrates where there is some support (either with or without alternative language). Section 6 sets out where additional work may be considered by the GNSO Council for future examination.

4. For the purposes here "agreement" means that there is broad agreement within the Working Group (largely equivalent to "rough consensus" as used in the IETF).   The PRO-WG did not use the word "consensus" because that term has a particular meaning as used by the GNSO Council.   An "alternative view" means that a differing opinion has been expressed, without getting enough following within the Working Group to merit either "agreement" or "support".   The WG used the RFC 2119 (ftp://ftp.rfc-editor.org/in-notes/rfc2119.txt) as the basis for determining where the words "should", "must" and "may" ought to be used.

5. The on-line questionnaire provides some interesting results which may have assisted the Working Group in their deliberations. Forty responses were received online with two others submitted by email. More than 50% of the online respondents (there were two offline respondents who identified themselves as IP rights owners or representatives) identified themselves as either IP rights owners or representatives.   Thirteen respondents identified themselves as civil society representatives. Five respondents identified themselves as either a registrar or

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registry. There was a 50:50 split between respondents who answered the question about whether "IP owners need new or enhanced protection rights". Most respondents indicated, for each of the TLDs identified, that the rights protections mechanisms were not applicable to them. Of those that did respond, the majority said that the rights protection mechanism provided by the registry operator met their needs. Most respondents used either an IP claim or a sunrise registration to protect their rights. A large proportion of respondents indicated that they did own defensive registrations even in registries where there were sponsored or chartered restrictions on domain name registrations. Respondents indicated varying percentages of defensive registrations in their portfolios.

6. The overview of the results needs to be read in the context of a limited response rate and a statistically insignificant random sample from which the responses could be drawn. In addition, the questionnaire did not meet best practice survey methodology but was rather intended to get a general sense of direction from some interested stakeholders.

7. In summary, the PRO-WG reached agreement on the following areas:

1	That there is no universal rights protection mechanism.
2	That each new gTLD should adopt and implement a dispute mechanism under which a third party could challenge another's use of that gTLD's RPM that results in obtaining a domain name registration.
3	That the Legal Rights on which a party bases its participation and seeks to protect in an RPM should be subject to actual authentication, at least if the authenticity of such rights is challenged.
4	That if a new gTLD elects to use a Sunrise Process as its RPM, it should restrict eligible Legal Rights in such a manner as to discourage abusive registration.
5	That regardless of other authentication of Legal Rights, all new gTLDs should institute measures to deter abuse of the RPMs and clearly false submissions. These measures could be automated or conducted on an ad hoc basis to focus on RPM submissions that are nonsensical or likely to be false (e.g., registration number is 12345, date is 00/00/00, name is John Doe).
6	That all Legal Rights to be protected in an RPM must be capable of being authenticated.

Agreed Proposals 1

8. Alternative views which had some support are included in the following tables. "Support" is defined as "there is some gathering of positive opinion but competing positions may exist and broad agreement has not been reached. An "alternative view" indicates that a differing opinion has been expressed without getting enough following with the Working Group to merit either "agreement" or "support".

1	That all new gTLDs must provide an RPM. Alternative view: That all new TLDS may provide an RPM
2	Each gTLD applicant MUST describe in its application (a) the RPM(s) it intends to provide and; and (b) how that RPM/those RPMs will protect the rights of others and discourage abusive registrations. Alternative view: That each gTLD applicant MUST describe in its application the methods they will employ to protect the rights of others. Alternative view: That each TLD applicant MUST describe in its application the methods, if any, they will employ to protect the rights of others.
3	That if a new gTLD elects to adopt and implement an RPM that consists of eligibility or membership verification requirements <u>and</u> second-level name selection criteria (such as those used by the .museum, .aero, and .travel TLDs), an additional RPM MAY NOT be necessary. Alternative view that if a new gTLD elects to adopt a description that includes eligibility or membership verification requirements and second-level name selection criteria (such as those used by the .museum, .aero, and .travel) TLDs or another similar set of criteria, a RPM SHALL NOT be necessary.
4	That if a new gTLD elects to use a Sunrise Process as its RPM and second-level names are not awarded on a First-Come, First-Served basis, then competing applicants MAY be provided with an opportunity to reach an allocation decision between/among themselves.
5	That to the extent a gTLD is intended for/targeted to a particular geographic region, the Legal Right on which the owner or claimant bases its participation in the RPM SHOULD originate from the laws that apply to a country in the region or, in the case of a gTLD intended for/targeted to a region within a country, the laws that apply to the region.

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| 6 | That the creation of "Approved Model RPMs" (to be developed later) SHOULD be available at the registry's sole discretion to select, which standardizes the RPM across a registry/registrar to minimize the costs of implementation, and eliminates the need for ICANN to scrutinize this aspect of an application during the new TLD process.   A registry applicant that fails to pick an "Approved Model RPM" MUST not be prejudiced in any way if it elects not to use a "Approved Model PRM" as this is purely a voluntary standard that is meant to make the launch of new TLDs more efficient.   The list of Approved Model RPMs MAY be updated from time to time.

Alternative view that "Approved Model RPMs" (to be developed later) SHOULD be utilized by the new registry, unless there are reasonable grounds for non-use in the particular registry. Such use of a standardized RPM MAY minimize the costs of implementation for all interested parties, and would lessen the need for ICANN to scrutinize this aspect of an application during the new TLD process. The list of Approved Model RPMs could be updated from time to time.

Alternative view that the Supported principle is acceptable subject to the substitution of "and may eliminate the need for ICANN to scrutinize this aspect of an application during the new TLD process" for "and eliminates the need for ICANN to scrutinize this aspect of an application during the new TLD process." |

Supported Proposals 1

6. OUTSTANDING WORK

1. Some members of the Working Group have identified some proposals for principles which have not been fully discussed. Significant discussion took place on the mailing list and within the teleconferences about the scope and applicability of the Working Group's remit. Leaving that discussion aside, the following areas were identified as perhaps warranting more detailed analysis.

1	All potential registrants have legal rights. gTLD operators should not consider the legal rights of IP holders as superior to of the legal rights of others to register and use a domain name.
2	The Rights Protection Mechanisms used by gTLD operators should not presume that a registrant intends to infringe on or violate the legal rights of others simply by the act of registering a domain name.
3	All potential registrants should have an equal opportunity to register common words, phrases, labels or strings as domain names.
4	All principles relating to RPMs should equally apply to both ASCII/LDH TLDs and IDN TLDs.
5	Rights protection mechanisms for second level names SHOULD also apply to third and higher level names made available for general registration by the TLD operator.

Outstanding Work 1

2. In addition, some members of the WG proposed principles regarding fee-related aspects of RPMs. All such principles have been segregated into this section and no levels of support have been developed for any of them.

1	New gTLDs should accept payment for participation in RPMs by means other than credit cards.
2	The fees charged by a gTLD for participation in its RPM should be reasonable and each gTLD applicant MUST identify in its application the basis of its fee calculation.
3	The fees charged by a gTLD for participation in its RPM must be reasonably close to their actual or expected costs.
4	The fees associated with the use of Rights Protection Mechanisms must be established at the sole discretion of the gTLD operator.

RPM Fee Related Aspects Principles 1

3. Several members of the WG proposed new RPMs or RPM features. These proposals are listed below. The WG has not yet developed levels of support.

These proposals should be considered among the WG's Outstanding Work, but are identified separately for ease of reference.

1	Centralized Mechanism for Authentication of Legal Rights by Multiple Providers**.** Owners of Legal Rights would identify the Legal Rights on which they would rely in an RPM, would submit the documents required to authenticate such Legal Rights, and would designate the RPM in which they desired to participate. Once authenticated, the providers would convey the confirmed authentication to the registry or registrar. A Legal Rights owner could select among/between more than one provider. Legal Rights owners would be required to affirm periodically, most likely annually, that their Legal Rights remain valid and subsisting. Legal Rights claims that were not affirmed would be deleted from the database.
2	Standard Sunrise Mechanism. To adequately protect Legal Rights, owners of "Existing Names" should have - in addition to the traditional Sunrise Process which accompanies the launch of a new TLD - two new methods of combating abusive registrations, namely "Defensive Removals" and "Name-String Notification". The "sunrise" itself should be outsourced to an organisation which will provide sunrise registrations and defensive removals for all new TLDs.
3	Outsourced Sunrise: A "Standard Sunrise Service Provider" (SSSP) would administer all future sunrise processes. The SSSP should be an internationally qualified and respected NGO or not-for-profit corporation. The SSSP would provide a website where relevant data can be collected and recycled in the future. The collection of such sunrise data involves providing input access and data storage of "official" domain name-related correspondence and documentation. Thus ICANN or WIPO would appear to be an ideal candidate for SSSP. ICANN has the advantage that it already has contractual relations with accredited registrars, and could use these to control input, avoid abuse and to track problems.
	The SSSP will provide a standardised sunrise website at **tld.sunrise.sssp.org**. The information provided to the SSSP website is standard contact information, the type of "Existing Name" and the possibility of uploading a PDF showing the existence of the name. The owner of the "Existing Name" will indicate whether the domain name at issue is to be a used, i.e. traditional sunrise application, or whether the domain name should be permanently removed from the pool of available names. Thus at the completion of the sunrise period, the SSSP will provide to the TLD two lists: one for the sunrise names which should be registered and function, and another list of names which should be permanently removed.
	The SSSP will produce the list at an at-cost basis and provide it to the new TLD in digital format such that the new TLD can "plug it in" to its registration function. The price of such a defensive removal would thus be inexpensive, probably in the neighbourhood of 1 U.S. dollar. As long as the prospective new TLD is aware at the outset that a number of domain names will be permanently removed from the pool of available domain names, and does not base its business model on the registration and renewal of cybersquatted domains, then these permanently removed domain names have no value to the TLD.

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4	A "Defensive Removal" is the permanent removal of specific domain name from the pool of available domain names. An unlimited number of domain names may be removed as Defensive Removals based on the existence of a single Existing Name. In that the names are permanently removed, there is no administration and no need for renewal fees. The eligibility requirements would be the recognized Early Name rights from previous sunrises, including 1) Organisation names, 2) Public body names, 3) Geographical Indications 4) Registered trademarks, and 5) Other recognized commercial signs such as company names. Due to the possibility of challenging such defensive removals, there is no need to apply strict eligibility requirements. The basis of the removal would be a .pdf documenting the existence of the Existing Name, timely filed with the Standard Sunrise Service Provider (SSSP)
	Defensive Removals can also be made after the launch of the TLD, but there would be higher costs involved. The permanence of the defensive removal could be changed, either by the party who originally requested it, or by a Third Party Challenge (see below).
	It would not be possible to make a blanket Defensive Removal covering all new TLDs, but the SSSP would notify the owners of Existing Names by e-mail of the launch of new TLDs, and offer to reuse the existing documentation for new defensive removals. It can be anticipated that the choice of defensive removals will vary from TLD to TLD. For example, in the event that dot-xxx was a reality, an organisation like ICANN might have wanted to defensively remove
	icann.xxx
	icanngirls.xxx
	icann-girls.xxx
	icannbabes.xxx
	icann-babes.xxx
	etc. from the dot-xxx pool of available names.

5	Name-String Notification. Name-String Notification (NSN) is a paid subscription function whereby the owner of Legal Rights can be notified of an application to register a new domain name which includes the name-string, and given the opportunity to file a Protest within a short timeframe, e.g. 20 days. For example, if ICANN were notified of the following:
	hot-icann-girls.xxx or tammicannotsayno.xxx
	they might find only the first of these to be a problem and file a protest.
	If the NSN subscriber filed the protest, the applicant would be asked to confirm that the domain name application should proceed, despite the existence of the Legal Rights, and the domain name would be sent to a UDRP-like function. Each party (the owner of the Existing Name and the domain name applicant) would pay full price for a one-person UDRP, i.e. a full double payment, such that the winner would receive a refund, paid by the loser. If the domain name applicant did not pay the UDRP price (US $ 1500 at WIPO), the domain name would not be registered, and conversely, if the subscriber/protestor did not pay the UDRP price within the specified time, the domain name would be registered. The onus would be on the domain name applicant to demonstrate that the domain name could be used without infringing the Existing Name, as set forth below. It can be assumed that the "loser pays US $ 1500" will discourage both abusive registrations and overzealous rights owners.
	The NSN would be fully automated and e-mail based, and thus relatively inexpensive. To be most effective, it would have to be in place prior to the launch of the traditional sunrise. It should be administered by the TLD (though if this also could be centralised and outsourced like the sunrise, this would be an advantage for all involved).
	For the duration of the NSN process, the domain name will not function. If the NSN subscriber does not utilize the opportunity to lodge a protest, the he or she can still initiate a UDRP or other proceedings at a later date.
6	Challenge. It is well settled that to be successful in a UDRP proceeding, the complainant must demonstrate that all three of the following conditions are met:
	(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and (ii) the respondent has no rights or legitimate interests in respect of the domain name; and (iii) the respondent's domain name has been registered and is being used in bad faith.
	If the UDRP complainant fails on any one of these 3 elements, the UDRP Complaint should fail. Thus in a Challenge process, either under NSN or to challenge a Defensive Removal, the domain name applicant has to prove that one or more of the following elements is present:
	(i) the domain name is not identical or confusingly similar to a trademark or service mark in which the complainant has rights; or (ii) the respondent has rights or legitimate interests in respect of the domain name; or (iii) the respondent's domain name will be used in good faith.
	In other words that a regular UDRP brought against this domain name applicant would fail.

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7	Traditional sunrise: The traditional sunrise, whereby owners of Existing Names get an opportunity to register domain names before the "land rush", will be available, but due to the availability of the defensive removals and the name-string notification, this will be effectively limited to the new domain names which the owners actually intend to use. No validation need take place as a general rule, but only in the case of conflict. Traditional sunrise and defensive removals can be made at the same time, on the SSSP website mentioned above. Conflicts can arise in several situations: 1) Two or more parties request defensive removals, no sunrise: here there is no conflict. All are interested in not having the domain name be registered. Both parties should be noted as having this defensively removed, which means that if one of them changes their mind, or if the removal is challenged, both will be heard. If the one party who removed the domain name now wants to use and register it, the parties can either agree, or the UDRP-type function with loser pays described above will apply. Again, it will be up to the new applicant to show that its registration of the domain name will not be harmful to the owner of the Existing Name. Thus it is unlikely that a abusive registration with a bogus Existing Name could first remove icann.xxx and thereafter activate it by registration, if ICANN had also established a defensive removal of the same name. 2) One or more parties want the domain name defensively removed and one or more parties want it registered under the sunrise. Firstly the parties should be given an opportunity to discuss this among themselves, given a one-month deadline, extendible at the joint request of all parties. If there is no agreement, the UDRP-type function with loser pays described above will apply. 3) No defensive removals, but two or more sunrise applications. Firstly the parties should be given an opportunity to discuss this among themselves, given a one-month deadline, extendible at the joint request of all parties. If there is no agreement, the parties will firstly have to validate their rights (self validation). If both parties validate their rights, there will be an auction, where the new TLD retains the proceeds. The UDRP-type function with loser pays described above will also apply.

| 8 | Principles for resolving conflicts: As regards competing rights owners who seek different goals, there are as I see it four main scenarios:
1) two competing genuine rights of about the same size (like United Airlines and United Van lines)
2) two competing genuine rights of very different sizes (like WENDY'S chain of restaurants and a single WENDY's hair salon)
3) two competing rights, where one can be considered in bad faith (e.g. GOOGLE from Palo Alto on the one hand and a Uzbeki registration from 2006 for GOOGLE for clothing; the bad faith could also be generic, e.g. APPLE for computers on the one hand and a Benelux registration from 2006 for APPLE for paints on the other hand)
4) two competing bad faith rights (e.g. any two of the more than 200 Benelux, Danish and other registrations for SEX in various classes that were competing for SEX.EU)

Guiding principles should be
1) first let the parties try to sort it out, much like the "cooling-off" period of the CTM, e.g within two months (extendible at the joint request of both parties).
2) mediation, e.g. WIPO Arbitration and Mediation Center with UDRP panelists. Here the mediators would be given wide latitude to take all aspects of the matter into consideration, such as the size of the each rights owner, the TLD, languages etc., and may either find for one party or end in a draw. For instance for WENDYs.ASIA, the mediator might find for the restaurant chain that had over 1000 restaurants in Asia; but if the new TLD was WENDYS.HAIR, the mediator might find for the hair salon. UNITED.[TLD] would end in a draw (but the parties would probably have sorted this out themselves, probably agreeing that one of them would register the domain name and that neither would use this and similar domains during the "cooling-off" period). It is difficult to consider a scenarios where a mediator reasonably could find for the Uzbeki GOOGLE registration, but it could be GOOGLE.[TLD meaning "clothes" in Uzbeki]. The parties split the cost of the mediation.
3) auction: in the case of a draw, the parties can bid for the domain name. |

Electronic documents, once printed, are uncontrolled and may become outdated.
Refer to the electronic document at http://gnso.icann.org/issues/_____ for the current revision.

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9	Name-String Watch Service and Notification (modeled on .biz IP Claim and .name Name Watch Service): Name-String Watch Service and Notification (NSWSN) is a paid subscription function whereby the owner of an authenticated Legal Right will receive notification of every applied-for domain name that matches the watched name-string. The domain name applicant would receive notification that its name had matched a watched string and information about the watched-string right basis and claimant. The domain name applicant would then be required to confirm that it wished to proceed with registering the domain name. The Legal Rights owner would receive notification of the registrant's intention to proceed and would be provided a relatively short (not more than 30 days) period within which to initiate a proceeding to block the name's registration.
	To prevail in a challenge, the Legal Rights owner would be required to show that (a) the applied-for name is identical or confusingly similar to its authenticated right; (b) the applicant has no right or legitimate interest in the applied-for name; and (c) the applicant has registered or seeks to use the name in bad faith. [Alternative requirements noted above.] The Legal Rights Owner would be required to pay the dispute resolution fee. However, the applicant would be required to pay a small fee (USD 50) as a "bond." If the applicant did not submit the bond, the proceeding would not go forward, the dispute resolution provider would not issue a decision, and the applicant's registration would be blocked. If the applicant submitted the bond, the proceeding would go forward to resolution. [If the applicant prevailed, it would be refunded the bond amount.] An unsuccessful challenge would have no preclusive effect on the Legal Rights owner's right to later initiate a UDRP proceeding.
	The applied-for domain name would not resolve until any proceeding challenging the name was decided. Multiple Legal Rights owners could participate in NSWSN for the identical string, and multiple Legal Rights owners could challenge the applied-for domain name. Multiple challenges would be consolidated into one proceeding, the filing fee would be divided among/between the Legal Rights owners on a pro rata basis, and only one applicant bond would be required. Any one successful Legal Rights owner would be required to block the name.
	The NSWSN would be automated and e-mail based. All proceedings would be filed and conducted solely electronically; paper filings would not be permitted.
10	Rapid Suspension Procedure. Registries should institute a rapid suspension procedure in which a response team of independent experts (qualified UDRP panelists) will be retained to make determinations shortly after they receive a short and simple statement of a claim involving a well-known or otherwise inherently distinctive mark and a domain name clearly used in bad faith, or for which no conceivable good faith basis exists. Such determinations MUST result in an immediate suspension of resolution of the domain name, but will not prejudice either party's election to pursue another dispute mechanism. The claim and procedural requirements SHOULD be modeled after the *Digital Millennium Copyright Act*.

Proposals: Not discussed 1

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ANNEX ONE – REGISTRY SUMMARIES

A key piece of the analysis was to look at previous rights protection mechanisms from other top-level domains.

The tables below include all the summaries that were completed by members of the Working Group or constituencies represented in the Working Group. Note that there is a mix of generic, sponsored and country code registries.

Internet Corporation for Assigned Names and Numbers

.aero (prepared by Paul D. McGrady, Jr. (IPC Member) and Kristina Rosette)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
An Aviation Community Membership ("ACM") ID is a necessary prerequisite for registering or maintaining a .aero domain name registration.	In addition to the UDRP, the .aero domain name is governed by the Eligibility Reconsideration Policy ("ERP") and the Charter Eligibility Dispute Resolution Policy ("CEDRP").	Societe Internationale de Telecommunications Aeronautiques SC (SITA), the .aero sponsor, restricts registration to members of the aviation community. SITA recognizes 18 registrant categories including, for example, aerospace, airlines and commercial operators, airports, and pilots.	When .aero first launched, a two-step process applied. First, the applicant was required to obtain an ACM ID. Once issued, the applicant could then apply for registration of .aero domain names through one of about a dozen registrars. SITA later introduced a consolidated process in which an applicant could apply simultaneously for both the ACM ID and the desired .aero domain name.	There is no submission cost for applying for the ACM ID. There are registrar costs associated with the actual registration, which costs vary by registrar.

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Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
SITA implemented an applicant eligibility verification process. After supporting documentation was reviewed, the ACM ID was either issued or the application was rejected. By way of example, an applicant seeking to demonstrate its eligibility as a member of the "pilots" registrant subgroup could submit a copy of a website; a copy of a Pilot's license; or the date on which the applicant's Pilot's license issued. For the majority of categories, SITA verifies once an application is submitted online.	Yes	WIPO; its website does not list filing fees for CEDRP.	ERP: The applicant seeking reconsideration must identify the registrant group(s) in which it claims membership, identify the ACM ID and domain name for which reconsideration is sought, and specify how it meets the Eligibility Requirements or, as applicable, the manner in which the domain name complies with the .aero Domain Management Policy. CEDRP: The Registered Name violated the Eligibility Requirements.	None. No published decisions.

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References

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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
n/a (no challenges)	unknown	n/a	• .aero website • WIPO registry-specific procedures for .aero • Unpublished manuscript prepared by Paul D. McGrady, Jr., Esq. Summary submitted to SITA for review, but no comments were received before the final report deadline.

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.cat (prepared by Tim Ruiz)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Sponsored TLD. Prospective registrants may be located anywhere in the world but they must demonstrate a relationship with Catalan linguistic and cultural community. It is estimated that worldwide 10 million speak the Catalan language, of which 9 million live in Spain.	Three phase Sunrise. Phase I – Feb 13 through Apr 21, 2006. Businesses, institutions, public bodies, and others engaged in the promotion of the Catalan language and/or culture. Applicants also needed to be included in third-party identified lists, registries or databases. So the listings of schools, universities, members of writers' associations, cultural associations, etc. were checked to verify eligibility. Phase II – Feb 20 through Apr 21, 2006.	Phase I – Applicants had to be prepared to demonstrate their eligibility and agree to cancellation of their domain name if they were later found not to qualify. Phase II – Applicants had to provide a URL to a website that was at least partially in Catalan. Phase III – These Entities were pre-determined and if had to request an authorization code from the registry to register their names. Defensive Registrations – The Entity must provide the mark, registration number, date of issue, and country where the trademark was issued. Defensive registrations may not have name servers assigned to them and so cannot be live sites.	Applications were taken by ICANN Accredited registrars and submitted through the EPP SRS.	Phases I and II €75 first year + €25 second year (but two years minimum, so €100). Phase III Entities of any kind: same as above. Individuals: €10

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TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
	Entities proving prior online presence and communications in Catalan. Phase III – Feb 27 through Apr 21, 2006. Entities who were involved in the support and/or establishment of the .CAT gTLD. Applicants were required to have provided their formal support and contact details beforehand in the campaign official Web site. They were then provided with corresponding codes needed to register a name. Defensive Registrations – Feb 13 through Apr 21, 2006. Entities that do not qualify to apply during any of the three			

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TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
	Sunrise Phases but are able to prove rights in a string through trademark registration. If there is a Phase I application for the same string, the Phase I applicant has priority.			

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
Applications were verified as they arrived. Phase I applicants had priority. No applications in Phase II or Phase III were considered or verified until after review and conclusion of all Phase I applications. In all Phases, after validation, names were assigned on a first come first served basis. puntCAT reserved the right to cancel a registration at any time for non-compliance.	Yes	ERDRP: €1300 (Eligibility Requirements Dispute Resolution Policy) Mediation: €1000 (This is a non-binding option to the ERDRP or UDRP. None have been started to date.)	This ERDRP is available to whoever thinks that a .cat domain name (or a defensive registration) has been registered improperly and not honoring the .cat eligibility requirements and may want to ask for its cancellation. The policy does not intend to substitute for the UDRP, nor the decisions of any judge or court. It is intended to complement them, offering a way to cancel (and if required, transfer) registrations made not complying the .cat requirements. Sunrise applicants were obliged to participate in the process and comply with its result. The ERDRP is a mediation process intended to be a tool to reach good will agreements by means of experienced professionals.	1

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations

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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations
Successful – 0 (only 1 filed)	22,100 (As of April 18, 2007)	Names Applied For All Phases – 11,400 (An additional 86 names were applied during the Defensive Registrations phase.) Successful Registrations All Phases – 9,247 plus 9 pending for various reasons. Challenges – 1	The following documents and materials were referenced: The .CAT out of the Bag by Amadeu Abril i Abril / Werner Staub: http://www.dotcym.org/dogfennau/cat-Studienkreis06v2.pdf .CAT Registry Agreement Appendix S: http://www.icann.org/tlds/agreements/cat/cat-appendixS-22mar06.htm domini puntCAT Website: http://www.domini.cat/en_index.html Data verified by Jordi Iparraguirre (puntCAT) and Amadeu Abril I Abril.

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.coop (prepared by Victoria McEvedy)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Applicant can bring itself within one of the following seven categories, member of the National Cooperative Business Association (NCBA); i. member of the International Co-operative Alliance (ICA); ii. association of cooperatives; iii. cooperative that is committed to the seven cooperative principles (voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and concern for community) and whose status as a cooperative has been verified by a designated verification partner of dotCoop; iv. company that is an affiliate of a cooperative (a) falling within categories (i) or (ii) above or (b)	Sunrise for Founders During pre- launch period (7/01-01/02), members of Founder organizations (that were all eligible), were able to register names prior to general registration on a first come, first served basis.	Phase 1. Founders are the organizations that provided specific monetary and functional support to dotCoop during the pre-launch period. Founders continue to provide .coop with valuable input on business and functional aspects of the TLD post-launch. These organizations have made .coop available to cooperatives world-wide with their support. Phase 2. First come, first served subject to two special classes: (a) registration of geographic and geopolitical names under the Community Names program, which allows apex organizations or	The pre-launch process was a registry-based registration process. All names were migrated to accredited registrars after registrar-based services were implemented. The Community Names program is described on the registry site at http://www.nic.coop/information.asp. Each registrant must provide, in essence a proposal with information on the following: 1. Information on the cooperatives focus, sector and interest in .coop. 2. a list or description of the features proposed for the .coop Community Names site. Provide information about the history of cooperatives in [location or sector].	Pre-launch costs were the same as those immediately following launch. No premium although Founders contributed to start-up costs. Registration fees were $160 for a 2-year registration during pre-launch and until registrar services were introduced. At that time the average DNY cost became $99. Registry

whose status has been verified in accordance with (iv); v. entity whose operations are dedicated to serving cooperatives, as determined by dotCoop or as verified by a designated verification partner of dotCoop; or vi. a registrant whose use of a .coop domain name, in the opinion of the DotCoop Board of Directors, would advance the interests of the cooperative sector in general or would assist in the development of cooperatives worldwide.		leading co-ops in a country or geopolitical area to register these domain names. (b) the "Brandsafe" program which allows trademark holders to reserve a domain name even though they are not eligible to use the domain name based on the Charter.	1. Provide a directory of cooperatives in [location or sector]. 2. Provide links to the web sites of cooperatives in [location or sector], government agencies related to cooperatives, and to the main cooperative organizations in [location] and the world as appropriate for the [sector.] 3. Provide information about cooperative laws and legislative projects that may affect cooperatives in [location or sector]. 4. Publish a calendar of cooperative activities of the [location or sector.] 5. Publish an online version of the [location or sector publications.] 6. Provide statistics about the cooperative movement in [location or sector.] 7. Discussion of relevant issues in [location or sector.] 8. Provide access to the portal with all appropriate [location or sector] cooperatives so they can be identified within the community. 3. Information on how access to the site will be determined. 4. Proposed date of site activation.	charges remained the same at $64/DNY, Community names originally required a 5 year registration but that requirement was dropped. These names were sold at the standard rate. The Brandsafe program originally required a 5 year minimum but that was dropped. These were originally $2000 for a 5-year registration but the cost was dropped to $500. This

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			The Brandsafe program requires either: 1. Documentary evidence of a registered trademark being registration certificates. This will be sufficient to extend the reservation to the mark and close variants. 2. In the case of unregistered marks and trade names, documentary evidence of letterhead and other evidence of actual use of the name in trade over a period.	was the price to the registrar. .Coop currently requires the standard 1-year initial registration.

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
(1)DotCoop validated that all registrants met the eligibility criteria as agreed to in the Charter using information from the Internet, the Sponsors, the Verification Partners and co-operative organizations around the world to verify the eligibility of registrants. dotCoop has a verification process that uses input from outside sources to assist in verification. Verification Sponsors are organizations or individuals that are supplied by the registrant that can confirm the eligibility of the registrant for the domain name. Verification Partners are organizations that dotCoop has contracted with in locations around the world that agree to be contacted by dotCoop for verification assistance for registrations from particular countries. **Statistical Verification**	Yes	Charter Eligibility Dispute Resolution Process (CEDRP) (any evidence submitted by third party challengers is considered and respondent must establish its eligibility under any of the 7 criteria in the first box in A of this table)	Evidence that the organization falls within one of the following seven categories (see eligibility requirements above), and demonstration of rights or legitimate interests to the domain name for purposes of Paragraph 4(a) (see below).	No CEDRP or DCDRP challenges to date.

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
1. Registrations of names by a new registrant are statistically selected based on the Country information contained on the registration transaction that is received by the registry. This sampling is not related to the registrar that submitted the registration. Verifications do not imply that the registration is suspect - it is just part of the verification process to check for compliance with the eligibility requirements of the TLD. The registration is marked "Pending." 2. An e-mail is sent to the Registrant alerting them that eligibility for registration is being reviewed and that they will be notified within five (5) days of the result of the process. It is also noted that dotCoop may contact the Sponsors that they noted in their registration for verification of eligibility. They are instructed to contact dotCoop at			As to Prior Rights and Legitimate Interests: Any	

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
verification@communicate.coop with specific questions on the process. 3. At the same time, an e-mail is sent to the appropriate Verification Partner providing the information about the registrant, including the contact information for the Verification Sponsors. Verification Partners have signed agreements that all information on registrants, including the names that are being registered, is confidential. Verification Partners are asked to respond within the time specified in their agreement with a recommendation based on the information they have about the registrant or that they can elicit from the Verification Sponsors. 4. Based on the recommendation for the Verification Partner and additional research performed by dotCoop, plus any response that may have been provided by the registrant, a preliminary determination of eligibility is			of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(b)(ii): i. before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services, or as part of the operations of a cooperative; or ii. you have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or iii. you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.	

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
made by dotCoop. 5. If the registrant is eligible, then the registrant is Verified and the domain names can then be activated. 6. If dotCoop cannot confirm the registrant as eligible, then the registrant is sent another e-mail that notifies them that they have 30 days in which to provide information to help confirm their eligibility. First, they should supply other Verification Sponsors that might be able to provide verification confirmation. Secondly, they can fax or e-mail various documents that would demonstrate their co-operative status such as: a. A copy of the organization's bylaws, b. A copy of the organization's most recent annual report or the most recent past two years of audited financials c. Financial statements provided to members over the past five years,				

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
d. A listing of the organization's board of directors with contact information, e. A sample of the organization's membership application forms and/or membership materials, f. Promotional, sales or informational material that reference the organizations status as a cooperative, g. A list of members of the applicant. h. A copy of the cooperative act in the country of origin or other legal definition of a cooperative of the jurisdiction in which the applicant operates and to which it conforms. 7. If dotCoop does not get a response to the e-mail request for information within the 30 days, an attempt is made to contact the registrant via telephone. Both valid e-mail and telephone numbers are required at time of registration. If these are not provided, then it is a breach of the registration		For other matters the DotCoop Domain		

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
agreement with dotCoop. 8. If additional information is supplied, then dotCoop will re-evaluate the eligibility decision. Again, if it is decided that the registrant is eligible, then the name(s) can be activated and the registrant is marked as Verified. An e-mail that provides a confirmation of this finding is sent to the registrant. 9. If the registrant is still determined by dotCoop to be ineligible, then the name is revoked with no refund of registration fees irregardless of any other grace period. An e-mail notifying the registrant of the revocation is sent to the e-mail addressed supplied at the time of registration. 10. Once the registrant is revoked, the registrant record is marked as deleted and the names that were registered by that registrant are available for registration by others. **Manual Verification**		Name Dispute Resolution Policy (DCDRP). (similar to UDRP) (WIPO) has been selected by dotCoop to provide dispute resolution services to .coop domain name holders. WIPO conducts a formal, independent Administrative Proceeding in which the two parties present their respective views of a conflict to a neutral and impartial third party - the WIPO Panel. The Panel hears the parties' claims in conformity with ICANN's UDRP www.icann.org/udrp, the CEDRP (Attachment A), ICANN's Rules, and WIPO's Supplemental		

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1. Registrations can be selected for verification after they have been accepted into the registry system even if they have not been selected for verification by the statistical sampling process of the system. These registrations are called Manual or "Spot Check" verifications. The registry can do a manual verification for any reason but typically these are related to incomplete or inconsistent date in the registration. The registry can also do a manual verification in response to a query concerning eligibility of a registrant from a third-party. An example of this is when a co-op wants to register a name that is already registered by someone else. The third party may not be able to tell from the .coop WHOIS whether the registrant is an eligible organization and may bring this concern to the attention of dotCoop. In any case of manual verification, dotCoop does a preliminary determination using immediately available information before taking any action on the		Rules.		

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system. If, after a reasonable effort is made using the information provided at the time of registration, eligibility cannot be confirmed. dotCoop will mark the registrant as "Under Investigation." A process with similarities to the statistical process ensues. 1. Community Names – Anyone registering a community name is well known by contacts at the International Co-operative Alliance in Geneva or at the National Cooperative Business Association in the US. 2. Brandsafe – requires the documentary evidence dealt with above as to registered and unregistered trade marks and names.				

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Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References

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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
As to the number of CEDRP and DCDRP challenges that succeeded- There were none. All issues were resolved informally.	Currently registered – approximately 6,000. Over 10,000 have been registered ITD.	Nil CEDRP and DCDRP claims to date.	See Proof of Concept Report at: www.**icann**.org/tlds/agreements/coop/poc-dcllc-102602.pdf

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.dk (prepared by Peter Gustav Olso n)

Part A – IDNs introduction

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
None. The expansion of Danish letters Æ, Ø, Å, Ä, Ë, Ö, Ü and É to the .dk character set was open to anyone, anywhere, worldwide. However, the letters can only readily be written with a Danish (or Swedish or Norwegian keyboard) and the words were mostly understood by Scandinavians, so the market was *de facto* limited to the Scandinavian countries (Denmark, Norway and Sweden)	IP Claim.	"Special Rights", which included 1) a right to a surname 2) a trademark [including registered as well as unregistered rights]or 3) a statutory exclusive right to use a given designation [such as a company name]]	In the 30-days prior to the general landrush, anyone could file an application for a new specific domain name containing an IDN character. On the pre-launch application form, it was possible to indicate that the applicant had a "special rights" by checking the appropriate box. All filers during this 30 day period were given the same filing date, namely February 1, 2004. If more than one applicant had filed for the same domain name, all applicants were informed of any applicants which had declared that they had a special right to a domain name, and were asked to confirm (by accessing a secure website) that they wished to proceed despite the assertion of the special right. If more than one applicant confirmed, all applicant's remaining were required to deposit DKK 5000 (about US$ 850). If more than one applicant paid DKK 5000, the remaining applicants were all asked to pay a further DKK 5000. This	DKK 75 (about US$ 13), the standard application price. However, if an auction/lottery took place the price could rise to about US$ 2550.

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			"auction" went on for three rounds. If more than one applicant paid a total of DKK 15000 (about US 2550), there was a lottery among the remaining applicants. The domain name was locked for 60 days during which any party could challenge the validity of the registration via the Danish DRP. In case the challenger was successful, the deposit paid by the successful applicant (up to US$ 2550), could be used to offset the challengers attorney's fees.	

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
There was no pre-conflict validity of asserted "special rights". This meant that if one asserted a special right, and the other applicants withdrew, the domain name was registered with no validation whatsoever. In the event of a conflict, such rights were "validated" or rather tried by the trier of fact.	Yes	DKK 500 (about US$ 85), refunded if the challenge is successful. Arbitration at the DIFO Complaints Board for Domain Names.	Challenger must show that the registration of the domain name was "in contravention of Danish law". This intentionally broad and open-ended policy includes all Danish legislation, including legislation concerning Personal Names, Unfair Competition, Contracts and Trademarks, as well as "general legal principles". The first Challenger to win received the domain name registration.	Approximately 23,000domain names comprising the IDNs were registered during the first year. Checking now with DK-Hostmaster whether there are statistics

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
Checking now with DK-Hostmaster	About 23,000 Danish .dk domain names comprising IDNs were added during the first six months	Checking now with DK-Hostmaster	DK-Hostmaster Terms and Conditions, see http://www.dk-hostmaster.dk/fileadmin/filer/pdf/generelle_vilkaar/General_conditions_under_DK_ver-02.pdf, in particular section 12.2 (this is in English) For statistics, see DK-Hostmaster: http://www.dk-hostmaster.dk/index.php?id=209

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eu (prepared by Margie Milam)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
(i) undertaking having its registered office, central administration or principal place of business within the EU; (ii) organization established within the EU; or (iii) natural person resident within the EU	Sunrise- During Sunrise, names were awarded first come first serve, for rights holders, subject to validation by PWC Each registrar was given one connection to the registry, which resulted in the significant numbers of registrars accredited.	Phase 1: ▪ registered National and Community Trademarks ▪ geographical indications or designations of origin, public bodies ▪ Phase 2: ▪ Unregistered trademarks ▪ Trade names ▪ Business identifiers ▪ Company names ▪ Family names ▪ Distinctive titles of protected literary and artistic works Note: ▪ Figurative Design marks allowed only if the general impression of the word is apparent, without any possibility of misreading the characters ▪ Exact match of domain name to the characters of the prior right, with the following exceptions: (1) characters of	For Sunrise submissions, there were two processes involved: #1. Submission of the requested name to EURid through standard EPP protocol. #2. Submission of documentary evidence (either electronic or physical) to appointed validation agent for EURid (PWC), required within 40 days of application (due to EC Regulation (874/2004)) Note: Strict Compliance with documentary rules required, with no ability to correct errors. Specific Documentary Rules: ● Signed Coversheet requiring Bar Code, and language of documentary evidence ● Applicant must match the holder of the prior right (licensees were only allowed withDeclaration of License) ● Copies of prior right documentation required from	- 10 EUR for domain submission - 45 EUR for registered TM holders (30 EUR refunded back if application not reviewed) - 85 EUR for registered TM holders (70 EUR refunded back if application not reviewed)

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TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
		punctuation not allowed in domains can be transcribed, omitted or replaced with hyphen, and (2) names in otherwise standard latin script used generally accepted transliteration standards	official databases • No staples, folds allowed, letter size, printed only on one side	

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Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
Phase 1: - Copy of trademark / renewal certificate - Extract from official trademark register - Print out from the official online trademark register (if available) Phase 2: - All of Phase 1 for registered TMs - Varying requirements based on type of prior right claimed and country in which such rights are being asserted. Multiple applications were allowed for the same name and validation was done in order…if the first applicant was denied, the second would have their evidence reviewed, etc, etc…	Yes	Alternative Dispute Resolution process put in place for challenges AFTER a decision was rendered by the registry. No other challenge mechanism in place. Czech Arbitration Court oversees the .eu ADR process Costs start at 1,850 EUR for one panelist handling 1-2 domain names up to 5,020 EUR for three panelists handling up to 9 domains.	-the complainant must be the holder of a right that is recognised or established by national and/or Community law; -the name for which complainant holds a right must be identical or confusingly similar to the name for which complainant holds such a right; -the domain name has been registered by its holder (i) without rights or legitimate interest in the name, or (ii) in bad faith, or the domain name is being used in bad faith.	~540 (as of 3/7/07)

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/ Claims	References/Observations
19% of Sunrise Challenges were successful	~2.5 million	~300,000 Sunrise names and 398 Sunrise decisions rendered via the ADR process	Materials referenced in the collection of this data were: - www.eurid.eu - www.adr.eu - "Validation Services for EURid; Rules and Procedures for Dot-eu Sunrise" presentation provided by PriceWaterHouse Coopers - http://www.pwc.com/Extweb/service.nsf/docid/D854DA8844872EF880256FA20035C724/$file/web.pdf - http://www.eurid.eu/images/Documents/Sunr_Presentation/general-presentation-eurid_f[1].pdf Observations: • Rules complex and convoluted • Expedited Benelux trademarks allowed numerous generic names to be registered without requirement of usage of marks • No correction mechanism available • Good transparency in sunrise procedures through Eurid's publication of queues with WHOIS info and submission dates, allowing challenges where appropriate • Strict Compliance with documentary evidence requirements resulted in significant numbers of sunrise names failing validation

Internet Corporation for Assigned Names and Numbers

.info (prepared by Damian Broadley (International Trademark Association Internet Committee Member)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
No restriction – open gTLD.	.info had an IP sunrise and uses the UDRP to protect trademark rights post the start-up period.	Trademarks registered before 2 October 2000. The nationality and number of the trademark had to be provided in the sunrise application. The textual element of the trademark had to be identical to the domain name, but stylized marks were accepted. There was a sunrise challenge period during which third parties could challenge the applicant's basis for their sunrise claim. WIPO was appointed to determine these challenges. If challenged, an applicant had to file evidence of their trademark.	Sunrise claims had to be filed between 25 July and 27 August 2001. Apart from the additional trademark detail, the applications were typical of a domain name registration. Competing sunrise claims were prioritized using a randomized round robin queuing system.	There was no additional cost for a sunrise application, but there was a minimum 5 year registration period and a 180 non-transfer period.

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Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
There was no formal verification in .info. However, there was a sunrise challenge mechanism and the registry itself challenged many names in what were known as 'Challenges of Last Resort.' In addition, the registry reportedly cancelled 7000 Sunrise registrations when the registrants failed to respond to registry inquiries for trademark information.	Yes	Sunrise challenges could be filed from 28 August to 26 December 2001. Challengers had to pay a non-refundable $75 fee and if more than one challenge was filed to a name they were ranked in order of priority. The 'priority challenger' then had to pay $225. The applicant had to pay $295 to defend their sunrise claim. The arbiter was WIPO.	If more than one challenge was filed against a sunrise application the challenges were ranked in order of priority. The challenger needed to show: • At the time of registration of the domain name, no current trademark or service mark registration was issued in the registrant's name. • The domain name registered is not identical to the textual or word elements of the trademark or service mark that is registered • The registration of the trademark or service mark registered is not of national effect or was not issued prior to October 2, 2000. There were no other grounds for challenging a sunrise application.	15172 challenges were filed, but 13593 of these were Challenges of Last Resort filed by the registry itself. Only 1579 were 'regular' challenges.

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Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
Of the total 15172 challenges, the outcome was as follows: 88.6% name cancelled, 5.1% name transferred. 5.4% challenge terminated 0.9% challenge dismissed For the 1579 Regular challenges, the outcome was as follows: 26.5% name cancelled, 49.2% name transferred. 20.8% challenge terminated 3.5% challenge dismissed For the 13593 Challenges of Last Resort, the outcome was as follows: 95.8% name cancelled, 3.6% challenge terminated 0.6% challenge dismissed	The 4 millionth .info name was registered in March 2007.	51,764 names were registered during the Sunrise registration period.	WIPO did a report on its involvement in the .info sunrise challenges: http://www.wipo.int/amc/en/domains/reports/info-sunrise/report/index.html Summary submitted to Afilias for review, but no comments were received before the final report deadline.

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.jobs (prepared by Mike Rodenbaugh)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
.Jobs reserves all domain names at the second level to ensure fair and equitable treatment for all employers to acquire their legal or commonly known trade name at the point in time they desire to do so.	Other ("Trade Name Period")	Legal or commonly known trade names.	Initial 60-day 'Trade Name Period" for companies to apply for registration with equal standing whether submitted on Day One or Day Sixty.	No cost additional to registration fee.

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Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
All applications were validated by the registry, to ensure domains would be used by companies with legal or other commonly known names corresponding to requested domain name.	Yes.	No cost.	At the close of the Trade Name Period, registry examined the duplicate applications and based upon various criteria to determined a clear differentiator (criteria based upon the best interests of the community, i.e. one IBM employs 10,000 people and none of the others employed more than 10). If registry could not determine a clear differentiator, with one of the mechanisms allowing the parties to work out amongst themselves if they wanted to, it simply went to a coin flip.	Only one name was contested to a coin flip.

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Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
All but one contended string was resolved through registry validation or consent of competing parties.			Via email correspondence with Ray Fassett, manager of .jobs registry. Numerical data was requested from the registry, but was not received before the final report deadline.

Internet Corporation for Assigned Names and Numbers

.mobi (prepared by Tim Ruiz)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Sponsored TLD. DotMOBI domain name registrants that have websites accessible through port 80 must agree to implement the mandatory registrant rules listed in the dotMOBI Switch On! Web Developer Guide. Note that dotMOBI registrants are not required to have a website accessible through port 80. In summary, the mandatory elements of the current version of the Switch On! Web Developer Guide are: Valid XHTML Mobile Profile: Requests for URIs consisting only of "example.mobi" or	Two phase Sunrise. Phase I – Limited Industry Sunrise. This initial phase ran for one week and was reserved for participating mobile/wireless Trade Associations. The participating associations were: • AMTA • CTIA • CWTA • GSMA • MMA • MEF • NZWF • RCA Phase II – General Trademark Sunrise. This phase ran for 10 weeks and was open to all holders of trademarks and service marks whose	During both Phases, mark holders were required to provide the following information: • Trademark name (must be three or more ASCII characters). • Trademark identification number. • Date of Trademark application (this date must be before July 11th 2005). • Date of granting of trademark (this date cannot be in the future). • Country of trademark registration. Trademark Name Criteria **Insert the textual or word elements of the trademark here. (For example, "Cadbury Creme Egg" or "AT&T".) This field can accept ASCII letters and numbers, spaces, and these characters: .,&#()-_'~`!@$%^*+={ }[ ]|:;<>?/\"</. Other characters are not allowed (for example: ö, è, Ø, Σ, etc.).**	Phase 1 – Limited Industry Sunrise. Applications were taken by ICANN Accredited registrars and submitted through the EPP SRS from 22 May through 29 May 2006. This Phase of submissions was followed by a quiet period from 30 May through 11 June 2006. Phase II – General Trademark Sunrise. Applications were taken by ICANN Accredited registrars and submitted through the EPP SRS from 12 June through 21 August 2006. This Phase of submissions was followed by a quiet period until Landrush and General Registration began on 28 August 2006.	Both Phases $100 per year. 2 year minimum.

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"www.example.mobi" must result in a response that is encoded in a format the device supports or valid XHTML-Mobile Profile 1.0 or later released version [XHTMLMP], where "example" stands for any domain name. If the site provides its home page by redirection then all intermediate pages that are delivered in the course of the redirection must comply with this rule. Second-Level Domain Site: Domains that operate a site at www.example.mobi must also implement a site at example.mobi. Use of Frames: Do not use frames	marks qualified under the rules.	Trademark Country Criteria **This is the country or national jurisdiction in which the trademark was registered. Use "EU" for European Union trademarks, "BX" for Benelux trademarks, or "OT" for other trademarks of national effect.** Trademark Number Criteria **Insert the trademark's REGISTRATION number here. Note that a trademark application number may be different from the trademark's actual registration number. This field can accept ASCII letters and numbers, spaces, and these characters: .,&#()-_'~`!@$%^*+={ }[ ]|:;<>?/\"</** Date Trademark Applied Criteria **Insert the date that the trademark office received or logged in the application. Many trademark offices call this the "Filing Date."**		

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(standard or inline) unless the target client is known to support them.		**If not listed on the trademark certificate, the information should be available from the trademark office, especially if it offers an online database. This date must be prior to July 11, 2005.** Date Trademark Registered Criteria **Insert the date that the trademark office formally granted the trademark. Many trademark offices call this the "Registration Date." This date cannot be in the future.**		

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges

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Applications were randomly checked for accuracy and compliance. Otherwise, mTLD relied on the Sunrise Challenge procedure to resolve compliance challenges.

mTLD reserved the right to cancel a registration at any time for non-compliance. | Yes | $750 WIPO | dotMobi is provided a service for the resolution of disputed domain names registered during either Phase of the Sunrise Registration Period. This service was available during the Sunrise Registration Challenge period which began on 28 August 2006 and continued until 15 December 2006.

Dispute resolution services were provided exclusively by the World Intellectual Property Organisation (WIPO); and challenges had to be submitted directly to WIPO. WIPO made guidelines, forms, and lists of cases available on its website.

The only bases for a valid challenge to a Sunrise Registration was any one or more of the following conditions:
- At the time of the Respondent's registration of the Domain Name, no current (non-expired) trademark or service mark registration was registered in the Respondent's name.
- The Domain Name was not identical to the textual or word elements of the trademark or service mark registration on which the registration of the Respondent's Domain Name was based.
- The trademark or service mark registration on which the registration of the Respondent's Domain Name was based | 18 |

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			was not of national effect. • The trademark or service mark on which the registration of the Respondent's Domain Name was based was not registered or applied for, prior to July 11, 2005, with the trademark authority with which the mark is registered.	

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations

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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations
Of the eighteen challenges filed: Successful – 9 (50%) Canceled – 2 (11%) Terminated – 7 (39%)	443,149 (19/3/07)	<u>Registrations</u> Phase I – 1,706 Phase II – 13,081 Total – 14,787 <u>Claims/Challenges</u> 18	The following documents and materials were referenced: .mobi Switch On! Web Developer Guide (v1.0 Final Version) http://pc.mtld.mobi/documents/dotmobi_Switch_On_Web_Developer_Guide3.html Overview of Dispute Resolution on mTLD's Webiste: http://pc.mtld.mobi/switched/sr_dispresolution.html .mobi Sunrise Challenge Policy http://pc.mtld.mobi/documents/Sunrise-Challenge-Policy.pdf .mobi Sunrise Challenge Rules http://pc.mtld.mobi/documents/dotmobi-Sunrise-Challenge-Rules.pdf Summary reflects comments and information received from Caroline Greer, mTLD Top Level Domain Ltd.

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.museum (prepared by Kelly W. Smith)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Sponsored TLD. Eligibility for .museum names is restricted to museums, professional associations of museums, and individual members of the museum profession. "Museum" is defined as "a non-profit making, permanent institution in the service of society and its development, and open to the public, which acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment.:"	Other. <u>Rights-based Name Selection</u>. MuseDoma (Museum Domain Management Association) restricts name selection to a .museum name that is "clearly and recognizably derived from the name by which the entity to which it is assigned is otherwise widely known" and that "specifically designates the entity to which it is assigned." <u>Generic Terms/Place Names</u>. Generic terms, and country, city or other geographic identifiers, are not able to be registered without additional descriptive terms (e.g.	<u>Name Selection.</u> Eligible applicants may only register a name that is "clearly and recognizably derived from the name by which the entity to which it is assigned is otherwise widely known" and that "specifically designates the entity to which it is assigned."	All applicants are required to undergo an authentication process to confirm their eligibility for a .museum name. Applicants must apply to the Eligibility and Name Selection (ENS) Service for a "Community ID" before seeking to register a .museum name. To obtain a Community ID, applicants can submit a membership number of ICOM (International Council of Museums) or another professional museum organization or detailed info regarding the nature/scope of museum activities. MuseDoma awards all .museum names on a "first come, first served" basis to the first qualified and eligible applicant. Phase 0: June 30, 2001 – April 1, 2002. Naming Convention Development and Demonstration Period. Phase 1: April 1, 2002 – December 31, 2002. Formal start-up period.	ENS Service fee: $100 USD (as of 2004, MuseDoma will waive if authentication is straightforward and requires no dialogue with applicant (e.g. if based on ICOM membership number)). Domain name registration: Wholesale cost $60 USD, Average retail cost $100 USD (annually)

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	"whitney.art.museum.").			

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
Yes, MuseDoma uses an authentication process. Applicants must apply to the Eligibility and Name Selection (ENS) Service for a "Community ID" before seeking to register a .museum name. To obtain a Community ID, applicants can submit a membership number of ICOM (International Council of Museums) or another professional museum organization or detailed info regarding the nature/scope of museum activities. Applicant has one year to satisfy MuseDoma that it qualifies. At the end of one year, MuseDoma will ask applicant to address outstanding issues or will refer the matter to ICOM or an independent expert panel.	No Note: Formal concerns about a registrant's eligibility may be resolved through the Charter Eligibility Dispute Resolution Policy (CEDRP).	N/A	N/A	N/A

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References	Comments
N/A.	2,665 (as of 2004).	N/A	Registry website: http://www.museum .museum TLD Sponsorship Agreement: http://www.icann.org/tlds/agreements/museum/ Evaluation of the New gTLDs: Policy and legal Issues (prepared for ICANN July 10, 2004): http://www.icann.org/tlds/new-gtld-eval-31aug04.pdf	Adoption and implementation of strict eligibility and name selection requirements obviated the need for alternative protection mechanisms. Requested information from MuseDoma as to the current number of registered names.

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.name (prepared by Martin Schwimmer (IPC member) and Kristina Rosette

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Identity to personal name or name by which a person is commonly known. Owners of trademarks and service marks may purchase 10-year defensive registrations (DRs) to block a particular name.	Sunrise, Other	The registrant can register their legal name, or a numeric addition to their legal name (JOHN.SMITH55.NAME), or a name by which the person is commonly known, or a fictional name if they own rights to that name (HARRY.POTTER.NAME). These defensive registrations (DR) did not resolve. DRs could block at the second level (various.block), third level (block.various), or both (block.block). A Standard DR (SDR), targeted at the second- or third-level, would block a name only at the purchased level and not all levels. If a trademark owner wished to block a name at both levels, a Premium DR was necessary. Multiple persons or entities could obtain identical or overlapping DRs upon payment by each of the relevant registration fee.	Online registration, no verification of compliance. Phase I for DRs (start December 1, 2001): Applicants were required to identify the mark to which the DR corresponded, the mark's registration date, the country of registration, and registration number. Phase I requirements did not apply after Phase I. After June 13, 2002, any person could register a DR. DRs would not be granted if the DR conflicted with a prior Personal Name Registration or other reserved word or string. If applicant applied for name protected by DR, it would receive a notice of the DR. The applicant could seek consent from the DR holder or challenge the DR holder's eligibility for the name under the Eligibility Requirements Dispute Resolution Policy (ERDRP). If the	1 year minimum for personal name registrations $1000 (wholesale price to registrars) for PDR for 10-year term

| | | During Phase I, DRs had to match the textual element of the relevant mark, the mark had to be of national effect, and its registration was required to have issued before April 16, 2001. These requirements did not apply during Phase II. | applicant won an ERDRP challenge, it could register the name and the DR received a "strike." DRs were cancelled after three strikes.

Name Watch Service notified subscribers (generally trademark owners) if third party registers a particular domain name. Name Watch Service did not prevent the third-party registration, but notified the subscriber to allow the subscriber to challenge the name under ERDRP. | |

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
n.a.	Yes. ERDRP (general and for DRs).	WIPO and NAF were approved arbiters. Fees were standard WIPO and NAF fees.	ERDRP: Challenger had to establish that the registrant did not meet eligibility requirements and that the challenger itself was eligible for the name. UDRP: Usual three-prong test.	WIPO identified 6 .NAME UDRPs out of approx. 19,000, and 5 ERDRPS.

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References

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Doc. No.:	Date:
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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
No data	There were over 92,000 .name registrations as of February 2003.	Unknown.	Edelman, .NAME registrations not conforming to .NAME Registration Restrictions at http://cyber.law.harvard.edu/people/edelman/name-restrictions/. WIPO Press Release March 2007, Appendix A at http://www.wipo.int/export/sites/www/pressroom/en/articles/2007/docs/wipo_pr_2007_479a.pdf .name Registry Proof of Concept Reports Summary reflects review by and information from Hakon Haugnes and Asbjorn Mikkelsen of Global Name Registry.

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	26 June 2007

.pro (prepared by Lance Griffin)
Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Non-Sponsored TLD Persons/entities credentialed to provide professional services; currently limited to medical, legal, accounting and engineering professionals in U.S., Canada, Germany and U.K.	Sunrise Period allowing for four types of Defensive Registrations: (1) ProGuard: blocks all identical third level registrations in one third level domain (smith.law.pro); (2) ProBlock: blocks all current and future third level domains (smith.law.pro, smith.med.pro, etc.); (3) ProDefense: blocks registrations in second level domains (smith.pro); (4) ProReserve: professional outside U.S. can block second or third level. All four are non-resolving.	(1/2/3) ProGuard/ProBlock/ProDefense: Owners of trademark/servicemark of national effect registered prior to September 30, 2003; Supplemental or State/Province registrations not accepted; registration must cover identical ASCII text/word (may include design elements). (4) ProReserve: potential registrants, no basis requested for blocking.	ProGuard/ProBlock/ProDefense: Must attest to ownership of right and provide information on trademark, date of registration, country of registration and registration number. Click-though agreement. ProReserve: No submission of trademark information required. (process at domainpeople.ca)	Four year term: ProGuard $896 ProBlock: $2,699 ProDefense: $3,499 ProReserve: $896 (retail prices at domainpeople.ca)

Part B

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		26 June 2007

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
Checking with Registry	Yes	$500 WIPO Arbitration and Mediation Center	Must prove existence of active trademark registration at time of IP Defensive Registration, and specifically show; textual or word elements are identical to domain name; registration has national effect; for IP Defensive registrations during Sunrise Period, registration was achieved prior to 09/30/2003.	Checking with Registry

Part C

Doc. No.:

Date:

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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
Checking with Registry	Checking with Registry		Registration Agreement, specifically Appendix G, L and M: http://www.icann.org/tlds/agreements/pro/. RegistryPro web site: www. Registrypro.com Current registration process and retail pricing at www.domainpeople.ca and http://www.domainsite.com/pro/.

	Doc. No.:		Date:
			26 June 2007

.travel (prepared by Kristina Rosette)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
Sponsored TLD. Eligibility for .travel names was restricted to 'people, organizations, associations, and private, governmental and non-governmental agencies in the travel and tourism industry." Illustrative eligible industry categories include airlines; attractions/theme parks; bed & breakfast houses; bus/taxi/limousine operators; camp facility operators; car rental companies/airport specialty car park companies; computer reservation/travel technology provider; convention & visitor's bureaus; cruise lines; ferries; hotels/resorts/casinos;	Other. Rights-based Name Selection. Tralliance restricted name selection to the .travel names corresponding to names and marks owned or used by the applicant. After an Authentication Provider authenticated the applicant's eligibility for .travel names, the applicant was provided with a list of .travel names that, based on its eligibility application, it was entitled to register. Place Names: Tralliance created a list of country and place (city, county, continental regional,	Name Selection. .Travel name choices were limited to the names an applicant owned or used. Each .travel applicant received a Names List of names it was eligible to register based on information it provided during the authentication process. Documentation of use or registration of each name was required. The illustrative list of "name types" consists of : • "doing business as" names, trade names, or "usual" business names; • usual business name used in URL; • trademark (registered, applied for, or used); • service mark (registered, applied for, or used); • product name (registered or used); • division name; • subsidiary name (wholly owned or controlled); • promotion or venture name; • partnership name (registration or	All applicants are required to undergo an authentication process to confirm their eligibility for a .travel domain name. Once authenticated, the applicant receives a Unique Identifying Number ("UIN") and a Names List of names for which the applicant is eligible to apply for based on the Name Selection Data it provided. The UIN and Names List for each applicant is posted to a database and made accessible to both the applicant and its Authentication Provider. Applicant selects a .travel accredited registrar and submits its .travel name registration application(s). Tralliance matches applicant name, UIN and applied-for .travel name against database. All three elements must match for registration to be successful. Tralliance awarded all .travel names except place names and reserved names on a "first come,	Unable to determine. Accredited registrars charge different prices.

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
national tourism offices; passenger rail lines; restaurants; tour operators; travel agents; travel media; travel consumer and market research organizations; ravel insurance; and travel training institutes.	state, province, and territory) names, and initially reserved those names for registration by the governmental authority that holds a right to the name based on use or location.	use) • club name; • competition, games or event name (registered, applied for or used); • transport vessel name; • acronyms of eligible name as long as three letters ore more. Place Names. Priority granted to governmental authority, agency, board or bureau with demonstrable rights to name. Policy indicates documentation is required.	first served" basis to the first qualified and eligible applicant. Pre-Authentication (July 1, 2005-September 29, 2005): Authentication available on a rolling basis for members or affiliates of Authentication Providers. Initial phase ended five days before Limited Launch. Applicants authenticated during this period could register immediately upon opening of Limited Launch. First phase started on Limited Launch start date and ran for 25 days. Applicants authenticated during this phase could register starting on second month of Limited Launch. Second phase of Pre-authentication started on 31st day of Limited Launch and ran for 25 days. Applicants authenticated during this phase could register during the third month of Limited Launch. Limited Launch (Oct. 3, -December 26, 2005): Registration open to all entities that had undergone Pre-authentication.	

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TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
			<u>Open Launch</u> (January 2, 2006): Authentication and registration sequentially in real time. <u>Place Names Reserved List (ended Sept. 25, 2005)</u>: Entities had an initial window to notify Tralliance that a relevant Place Name was not on the Place Names Reserved List. <u>Place Name Priority Rights</u> (Oct. 1, 2005-December 31, 2006): Eligible entitles were required to send a letter to Tralliance on letterhead stationery that set forth the .travel names they wished to claim from the Place Names Reserved List. Tralliance applied a "larger population" priority right under which the larger population entity had priority to a place name or a smaller population entity (e.g., Paris, France had priority over Paris, Texas).	

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Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
Yes, Tralliance used an authentication process, which was implemented by authorized Authentication Providers. Travel association members could be authenticated by their association or by third-party Authentication Provider. A travel association that is an Authentication Provider can authenticate only its own members. Applicants submitted their Identification Data, Contact Data, and Name Selection Data to an Authentication Provider. The Identification and Contact Data were used to authenticate eligibility; the Name Selection Data was used to generate the Names List for the applicant. An applicant could appeal to Tralliance the Authentication Provider's denial of eligibility as long as it did so within 30 days of denial. All denials are	No.	N/A	N/A	None.

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Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
archived in a central database to prevent "Authentication Provider-shopping."				

Part C

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations

Doc. No.:   Date:
                                       26 June 2007

Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References/Observations
0	27033 as of April 15, 2007	One appeal to TTPC denial review panel was rejected. One appeal to UDRP was rejected.	The following documents and materials were referenced. • .travel New sTLD RFP Application • .travel Sponsored TLD Registry Agreement • Appendix S to .travel Sponsored TLD Registry Agreement • .travel press release, November 28, 2006 • .travel Guide to Pre-Authentication, June 2005 • .travel - Policies • Tralliance Corporation - Nations' Priority Right Advisory - Update, September 8, 2005 Observations/comments • Initial examination suggests that adoption and implementation of strict eligibility and name selection requirements obviated the need for alternative protection mechanisms. • TTPC, the .travel sponsor, sought public comment on the reservation and public auction of premium names. The public comment period is over and now TTPC is scheduled to take up the issue at its next board meeting. • Summary reviewed and quantitative data for numbers of registered names and mechanism registrations/claims provided by Cherian Mathai, Tralliance Corporation.

	Doc. No.:	Date:
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.us (prepared by Jon Nevett)

Part A

TLD Eligibility	Mechanism Type (Sunrise, IP Claim, Other, None)	Rights Bases Requirements	Submission Process	Submission Cost
.US	Sunrise	Owners of existing or pending US trademarks (must have been applied for prior to 7/27/01)	Application Required data: -- requested .US name; -- exact trademark; -- TM date of application; -- TM date of registration (if applies) -- TM application number -- TM registration number (if applies) -- TM international industry code -- contact info of registrant, admin, tech & billing contacts; -- nameservers & IP addresses	No fee to apply 5-yr registration term minimum ($40-100 total)

Part B

Application Verification/Authentication Process	Challenge Mechanism (Yes/No)	Challenge Mechanism Cost & Arbiter	Challenge Mechanism Requirements (to Prevail)	No. of Challenges
All .US Sunrise applications were checked by the Registry Operator (NeuStar) against the U.S. Patent & Trademark Office (USPTO) database.	No	NeuStar provides a 30-day "hold" period so the registrant can prove his eligibility; otherwise the name is deleted with no refund available		NeuStar reports there were zero (0) Sunrise challenges as they verified each of the registrations with the USPTO.

Part C

	Doc. No.:	Date:
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Successful Challenges (Number & %)	Total No. Registered Names	No. of Mechanism Registrations/Claims	References
NeuStar reports that there were zero (0) Sunrise Period challenges since all applications were verified against the USPTO database before registration proceeded.	1,205,834	Zero (0). NeuStar reports there were no complaints or allegations of fraud, and the Sunrise process operated without any flaws.	www.DomainTools.com (as of 3/9/07) Email from Jeff Neuman, Sr. Director, NeuStar

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Internet Corporation for Assigned Names and Numbers

ANNEX TWO – PARTICIPATION DATA

Participants	Affiliation	Dates 20-Feb	27-Feb	6-Mar	13-Mar	20-Mar	25-Mar	3-Apr	10-Apr	17-Apr	24-Apr	2-May	9-May	14-May	16-May
Philip Sheppard	CBUC	aa	p	aa	aa	aa	p	aa							
Mike Rodenbaugh	CBUC	p	p	p	aa	p	p	p	p	p	p			p	p
Alistair Dixon	CBUC									p	aa				
Frank Schilling	CBUC	p	p												
Kelly Smith	IPC	p	p	aa	p	p		p	p	p		p	p	p	p
Lance Griffin	IPC	p	p	p	p	p		p	p	p	p	p	p	p	p
Kristina Rosette	IPC	p	p	p	p	p	p	p	p	p	p	p	p	p	p
Ute Decker	IPC							p							
Peter Gustav Olson	IPC	p	p	p	p	p		p	p	p	aa	p	p	p	p
Victoria McEvedy	NCUC			p	p	aa		p	p		p		p		p
Margie Milam	Registrar		p	p	p	p		p	p	p	p		p	p	p
Jon Nevett	Registrar		p		p	p		aa	aa	p	p	aa		p	p
John Berryhill	Registrar	p	p		p		p								
Tim Ruiz	Registrar	p	p		p	p	p		p	p		aa			p
Jeff Neuman	gTLD Registries	p	p	p	p			aa	aa	aa	aa		p	p	p
Michael Palage	gTLD Registries	p	p	p	aa	p	p		p					p	p
David Maher	gTLD Registries	p	p		p	p	p	p	p	p	p	p	p		
Edmon Chung	gTLD Registries			p						p	p				
Avri Doria	NomCom app Coun			p	p	aa	p		p	p	p	p	p	p	p
Jon Bing	NomCom app Coun	p		p	p	aa	p		p	p	p				
Eun-Joo Min	WIPO observer			p	p		p			p	p		p		p
Staff															
Liz.Williams	Sen. Policy Coun	p	aa	p	p	p	p	p	p	p		p	p	p	aa
Glen de Saint Géry	GNSO Sec	p	p	p	p	p	p	p	p	p	p	p	p	p	p
Participants	**Affiliation**	Dates													
Patrick Jones	Registry Liaison Manager										p				

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Lisbon Observers

Tricia Drakes	
Alan Greenberg	ALAC
Colin Adams	Global Strategy
Matt Selin	MarkMonitor
Bill Jacobs	MarkMonitor
Chris Bounds	MarkMonitor
Steve DelBianco	CBUC

Legend: p - present; a - absent; aa - absent apologies

Notes: ISPCP did not participate in this Working Group

ANNEX THREE – QUESTIONNAIRE RESULTS

The results are online at
http://www.bigpulse.com/pollresults?code=3bSZ4z3AQauWM7Ukrige

The following screen shot of the poll results pages provides a guide.

Poll Results
Poll menu: New gTLDs PRO-WG
Report date: Tue 22 May 2007 11:48 BST

Country: All

1. Please categorize yourself (check all that apply):

As at: Sat 05 May 2007 07:59 BST
Number of voters: 40
Ranked by votes

Rank	Opinion	Votes	%
1	Rights owner representative	19	47.50
2	Intellectual Property Rights Owner	17	42.50
3	Civil society (non-profit or similar)	13	32.50
3	Registrant	13	32.50
3	Registrant representative	13	32.50
6	Other	4	10.00
7	Registrar	3	7.50
8	Registry	2	5.00
9	Government	0	0.00

2. Do IP owners need new intellectual property rights or enhanced protection of rights in cyberspace compared to the protection that exists in the real world?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 40
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	19	47.50
1	No	19	47.50
3	No opinion	2	5.00

3. Should registries be mandated to provide such enhanced protections during the introduction of new top-level domains?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

	Doc. No.:		Date:
Final Report PRO WG			26 June 2007

Rank	Opinion	Votes	%
1	Yes	18	81.82
2	No	2	9.09
2	No opinion	2	9.09

4. Please list all TLDs in which you have participated in a rights protection mechanism (such as a sunrise pre-registration period for the launch of a new top-level domain).

As at: Fri 04 May 2007 23:59 BST
Number of voters: 31
Ranked by votes

Rank	Opinion	Votes	%
1	.biz	18	58.06
1	.eu	18	58.06
1	.info	18	58.06
4	.us	15	48.39
5	.mobi	13	41.94
6	Other	12	38.71
7	.name	10	32.26
8	.jobs	8	25.81
9	.pro	5	16.13
9	.tv	5	16.13
11	.travel	4	12.90
12	.aero	3	9.68
13	.cat	2	6.45
13	.museum	2	6.45
15	.coop	1	3.23

5. For each TLD in which you used or tried to use a rights protection mechanism, please identify if you believe your rights were adequately protected. First, in .aero?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 33
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	29	87.88
2	Yes	4	12.12
3	No	0	0.00

Were your rights adequately protected in .biz?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 32
Ranked by votes

Rank	Opinion	Votes	%

	Doc. No.:	Date:

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1	Not applicable	14	43.75
2	Yes	12	37.50
3	No	6	18.75

Were your rights adequately protected in .cat?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	28	93.33
2	Yes	2	6.67
3	No	0	0.00

Were your rights adequately protected in .coop?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	27	90.00
2	Yes	3	10.00
3	No	0	0.00

Were your rights adequately protected in .eu?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 31
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	13	41.94
2	No	10	32.26
3	Yes	8	25.81

Were your rights adequately protected in .info?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 31
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	15	48.39
2	Yes	9	29.03
3	No	7	22.58

Were your rights adequately protected in .jobs?

As at: Fri 04 May 2007 23:59 BST

Doc. No.:

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Number of voters: 31
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	23	74.19
2	Yes	6	19.35
3	No	2	6.45

Were your rights adequately protected in .mobi?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 31
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	18	58.06
2	Yes	9	29.03
3	No	4	12.90

Were your rights adequately protected in .museum?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	28	93.33
2	Yes	2	6.67
3	No	0	0.00

Were your rights adequately protected in .name?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	22	73.33
2	Yes	6	20.00
3	No	2	6.67

Were your rights adequately protected in .pro?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	24	80.00
2	Yes	5	16.67
3	No	1	3.33

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	Doc. No.:		Date:

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Were your rights adequately protected in .travel?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	25	83.33
2	Yes	3	10.00
3	No	2	6.67

Were your rights adequately protected in .tv?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	26	86.67
2	Yes	3	10.00
3	No	1	3.33

Were your rights adequately protected in .us?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	16	53.33
2	Yes	10	33.33
3	No	4	13.33

Were your rights adequately protected in other TLDs?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 34
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	13	38.24
1	Not applicable	13	38.24
3	No	8	23.53

6. For any TLD in which you have participated in a rights protection mechanisms, please tick the right(s) protection mechanisms you used:

As at: Fri 04 May 2007 23:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%

1   IP claim   20   66.67
2   Sunrise registration 19   63.33
3   Sunrise challenge   6   20.00
3   Premium name   6   20.00
3   Other   6   20.00
6   Start up   5   16.67
6   Start up opposition proceedings   5   16.67
8   Place name   1   3.33

7. For any TLD in which you have participated in a rights protection mechanism, please tick below the right(s) you sought to protect.

As at: Fri 04 May 2007 23:59 BST
Number of voters: 33
Ranked by votes
Rank   Opinion   Votes %
1   Registered trademark   28   84.85
2   Entity name   20   60.61
3   Unregistered trademark   16   48.48
4   Personal name   7   21.21
5   Other   5   15.15

8. Do you believe rights protection mechanisms should protect rights others than those listed above?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 35
Ranked by votes
Rank   Opinion   Votes %
1   No   24   68.57
2   Yes   11   31.43

9. Are rights protection mechanisms necessary in the introduction of new top level domains?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 36
Ranked by votes
Rank   Opinion   Votes %
1   Yes   29   80.56
2   No   7   19.44

10. Should domain name registration rights protection mechanisms protect other things such as literary titles, geographic designations, protection of the commons?

As at: Fri 04 May 2007 23:59 BST

Doc. No.:

Date:

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Number of voters: 37
Ranked by votes

Rank	Opinion	Votes	%
1	No	19	51.35
2	Yes	18	48.65

11. Could the dispute have been resolved in a different way?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 29
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	15	51.72
2	No	14	48.28

12. Which rights protection mechanism(s) could be used?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 18
Ranked by votes

Rank	Opinion	Votes	%
1	IP claim	11	61.11
2	Sunrise registration	7	38.89
2	Sunrise challenge	7	38.89
2	Other	7	38.89
5	Start up opposition proceedings	5	27.78
6	Place name	4	22.22
7	Start up	3	16.67
8	Premium name	2	11.11

13. Suggest other alternatives, if any.

As at: Fri 04 May 2007 23:59 BST
Number of voters: 15
Ranked by votes

Rank	Opinion	Votes	%
1	No	12	80.00
2	Further information	3	20.00

14. Do you own any defensive registrations?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 37
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	19	51.35
2	No	18	48.65

Electronic documents, once printed, are uncontrolled and may become outdated.
Refer to the electronic document at http://gnso.icann.org/issues/_____ for the current revision.

Doc. No.:

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15. How many defensive registrations do you own in each TLD? First .aero:

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	19	86.36
2	11-25	2	9.09
3	51-100	1	4.55
4	26-50	0	0.00
4	100+	0	0.00

How many defensive registrations do you own in .biz?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 21
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	9	42.86
2	11-25	5	23.81
3	51-100	3	14.29
4	26-50	2	9.52
4	100+	2	9.52

How many defensive registrations do you own in .cat?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 20
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	19	95.00
2	100+	1	5.00
3	11-25	0	0.00
3	26-50	0	0.00
3	51-100	0	0.00

How many defensive registrations do you own in .coop?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 19
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	18	94.74
2	100+	1	5.26
3	11-25	0	0.00
3	26-50	0	0.00

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3   51-100   0   0.00

How many defensive registrations do you own in .eu?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	10	45.45
2	100+	5	22.73
3	11-25	4	18.18
4	26-50	2	9.09
5	51-100	1	4.55

how many defensive registrations do you own in .info?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	8	36.36
2	26-50	6	27.27
3	100+	5	22.73
4	11-25	3	13.64
5	51-100	0	0.00

How many defensive registrations do you own in .jobs?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 21
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	18	85.71
2	11-25	2	9.52
3	100+	1	4.76
4	26-50	0	0.00
4	51-100	0	0.00

How many defensive registrations do you own in .mobi?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 23
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	17	73.91
2	11-25	2	8.70
2	51-100	2	8.70

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4	26-50	1	4.35
4	100+	1	4.35

How many defensive registrations do you own in .museum?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 21
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	20	95.24
2	100+	1	4.76
3	11-25	0	0.00
3	26-50	0	0.00
3	51-100	0	0.00

How many defensive registrations do you own in .name?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	19	86.36
2	26-50	2	9.09
3	100+	1	4.55
4	11-25	0	0.00
4	51-100	0	0.00

How many defensive registrations do you own in .pro?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 20
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	18	90.00
2	11-25	1	5.00
2	100+	1	5.00
4	26-50	0	0.00
4	51-100	0	0.00

How many defensive registrations do you own in .travel?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion	Votes	%
1	0-10	20	90.91
2	11-25	1	4.55

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2	100+	1	4.55
4	26-50	0	0.00
4	51-100	0	0.00

How many defensive registrations do you own in .tv?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 21
Ranked by votes

Rank	Opinion		Votes	%
1	0-10	15	71.43	
2	11-25	2	9.52	
2	26-50	2	9.52	
2	100+	2	9.52	
5	51-100		0	0.00

How many defensive registrations do you own in .us?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 22
Ranked by votes

Rank	Opinion		Votes	%
1	0-10	12	54.55	
2	100+	5	22.73	
3	11-25	3	13.64	
4	26-50	2	9.09	
5	51-100		0	0.00

How many defensive registrations do you own in other TLDs?

As at: Fri 04 May 2007 23:59 BST
Number of voters: 24
Ranked by votes

Rank	Opinion		Votes	%
1	100+	9	37.50	
2	0-10	8	33.33	
3	51-100		5	20.83
4	11-25	1	4.17	
4	26-50	1	4.17	

16. Please tick the percentage of your domain portfolio that consists of defensive registrations:

As at: Fri 04 May 2007 23:59 BST
Number of voters: 26
Ranked by votes
Rank Opinion   Votes %

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1	Less than 10%	11	42.31
2	10-24%	4	15.38
2	25-49%	4	15.38
2	50-74%	4	15.38
5	75% or more	3	11.54

Section II. 1. For each mechanism you have checked above, please check below the capacity in which you were involved:

As at: Sat 05 May 2007 07:59 BST
Number of voters: 25
Ranked by votes

Rank	Opinion	Votes	%
1	Sunrise reigstrant	17	68.00
2	IP claimant	15	60.00
3	STOP claimant	9	36.00
4	Sunrise challenger	5	20.00
5	Registrar	4	16.00
5	Other	4	16.00
7	Sunrise challenge defendant	3	12.00
8	STOP defendant	2	8.00
9	Dispute resolution provider	1	4.00
10	Registry	0	0.00

2. If you are a registrar or registry, was it necessary to perform technical work or allocate resources specifically in order to implement any rights protection mechanism process(es)?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 28
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	22	78.57
2	Yes	5	17.86
3	No	1	3.57

3. What type of technical work or resources was required as a percentage of the implementation of the new TLD?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 25
Ranked by votes

Rank	Opinion	Votes	%
1	Not applicable	16	64.00
2	10-24%	4	16.00
3	25-49%	2	8.00
4	Less than 10%	1	4.00

4	50-74%	1	4.00
4	75% or more	1	4.00

4. If rights protection mechanisms were used in the introduction of new TLDs, should that process be standardized across all new TLDs?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 30
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	21	70.00
2	No	9	30.00

5. Should registry operators be allowed to propose rights protection mechanisms tailored to specific needs of their business model/community provided that certain base line criteria are met?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 29
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	20	68.97
2	No	9	31.03

6. What base line criteria should be met?

Comment box only

7. Would a sunrise registration process be a suitable rights protection mechanism for a TLD associated within a defined geographic region in which there is a centralized trademark database for the registry to verify trademark owner rights?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 27
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	20	74.07
2	No	7	25.93

8. Would a sunrise registration process be a suitable rights protection mechanism for a TLD if the TLD community is associated with the specific goods and services a specific international trademark classification, for example, .cars?

As at: Sat 05 May 2007 07:59 BST

Number of voters: 28
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	19	67.86
2	No	9	32.14

9. Should any rights protection mechanism provide priority or superior registration access among different categories of rights owners (for example, owners of nationally registered trademarks vs. owners of unregistered trademarks vs. owners of business names)?

As at: Sat 05 May 2007 07:59 BST
Number of voters: 29
Ranked by votes

Rank	Opinion	Votes	%
1	Yes	16	55.17
2	No	13	44.83

10. Any other comments?

Comment box only

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ANNEX FOUR – NEW TLDS PROPOSED RECOMMENDATIONS & IMPLEMENTATION GUIDELINES

NEW TLD PRINCIPLES, PROPOSED RECOMMENDATIONS AND IMPLEMENTATION GUIDELINES

The following tables set out the principles, proposed recommendations and implementation guidelines from the GNSO Committee on the Introduction of New Top-Level Domains. They are included here to provide some detailed context for the deliberations of the PRO WG. The outputs from the PRO WG will be fed into the ongoing Committee deliberations.

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	PRINCIPLE	MISSION OR CORE VALUE
A	**New generic top-level domains (gTLDs) must be introduced in an orderly, timely and predictable way.**	**M1 & CV1 & 2, 4-10**
B	Some new generic top-level domains should be internationalised domain names (IDNs) subject to the approval of IDNs being available in the root.	M1-3 & CV 1, 4 & 6
C	The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service-provider diversity. [Consistent with GAC Principle 2.6]	M3 & CV 4-10
D	A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.	M1-3 & CV 1
E	A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meets its obligations under the terms of ICANN's registry agreement.	M1-3 & CV 1
F	**A set of operational criteria must be set out in contractual conditions in the registry agreement to ensure compliance with ICANN policies.**	**M1-3 & CV 1**

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	PROPOSED RECOMMENDATION	MISSION & CORE VALUES
1	ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process. [GAC2.5]	M1-3 & CV1-11
2	Strings must not be confusingly similar to an existing top-level domain. In the interests of consumer confidence and security, new gTLDs should not be confusingly similar to existing TLDs. To avoid confusion with country-code Top Level Domains no two letter gTLDs should be introduced. [GAC2.4]	M1-3 & C1-6-11
3	Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law. The process for introducing new gTLDs must make proper allowance for prior third party rights, in particular trademark rights as well as rights in the names and acronyms of inter-governmental organizations (IGOs). [GAC2.3]	CV3
4	Strings must not cause any technical instability.	M1-3 & CV 1
5	Strings must not be a Reserved Word. ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities. [GAC2.2]	M1-3 & CV 1 & 3

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6	Strings must not be contrary to generally accepted legal norms relating to morality and public order.	M3 & CV 4
	New gTLDs should respect: a) The provisions of the Universal Declaration of Human Rights which seek to affirm "fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women". b) The sensitivities regarding terms with national, cultural, geographic and religious significance. [GAC2.1]	
7	Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.	M1-3 & CV1
8	Applicants must be able to demonstrate their financial and organisational operational capability.	M1-3 & CV1
	An application will be rejected or otherwise deferred if it is determined, based on public comments or otherwise, that there is substantial opposition to it from among significant established institutions of the economic sector, or cultural or language community, to which it is targeted or which it is intended to support.	
9	There must be a clear and pre-published application process using objective and measurable criteria.	M3 & CV6-9
10	There must be a base contract provided to applicants at the beginning of the application process.	CV7-9
11	Staff Evaluators will be used to make preliminary determinations about applications as part of a process which includes the use of expert panels to make decisions.	CV7-9
12	Dispute resolution and challenge processes must be established prior to the start of the process.	CV7-9

Electronic documents, once printed, are uncontrolled and may become outdated.
Refer to the electronic document at http://gnso.icann.org/issues/_____ for the current revision.

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13	Applications must initially be assessed in rounds until the scale of demand is clear.	CV7-9
14	The initial registry agreement term must be of a commercially reasonable length.	CV5-9
15	There must be renewal expectancy.	CV5-9
16	Registries must apply existing Consensus Policies and adopt new Consensus Polices as they are approved.	CV5-9
17	A clear compliance and sanctions process must be set out in the base contract which could lead to contract termination.	M1 & CV1
18	If an applicant offers an IDN service, then ICANN's IDN guidelines must be followed.	M1 & CV1
19	Registries must use ICANN accredited registrars.	M1 & CV1

	Proposed Implementation Guidelines	Mission & Core Value
IG A	The application process will provide a pre-defined roadmap for applicants that encourages the submission of applications for new top-level domains.	CV 2, 5, 6, 8 & 9
IG B	Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process.

Application fees may differ for applicants. | CV 5, 6, 8 & 9 |

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IG C	ICANN will provide frequent communications with applicants and the public including comment forums which will be used to inform evaluation panels.	CV 9 & 10
IG D	A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary. Applications will be time and date stamped on receipt.	CV 8-10
IG E	The application submission date will be at least four months after the issue of the Request for Proposal and ICANN will promote the opening of the application round.	CV 9 & 10

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IG F	*If there is contention for strings, applicants may:*	CV 7-10
	i) *resolve contention between them within a pre-established timeframe*	
	ii) *if there is no mutual agreement, a claim to support a community by one party will be a reason to aware priority to that application*	
	iii) *If there is no such claim, and no mutual agreement a process will be put in place to enable efficient resolution of contention and;*	
	iv) *the ICANN Board may be used to make a final decision, using advice from staff and expert panels.*	

IG G	***Where an applicant lays any claim that the TLD is intended to support a particular community such as a sponsored TLD, or any other TLD intended for a specified community, that claim will be taken on trust with the following exception:*** i) ***the claim relates to a string that is also subject to another application and the claim to support a community is being used to gain priority for the application*** Under this exception, Staff Evaluators will devise criteria and procedures to investigate the claim.	CV 7 - 10
IG H	External dispute providers will give decisions on complaints.	CV 10
IG I	An applicant granted a TLD string must use it within a fixed timeframe which will be specified in the application process.	CV 10
IG J	The base contract should balance market certainty and flexibility for ICANN to accommodate a rapidly changing market place.	CV 4-10
IG K	ICANN should take a consistent approach to the establishment of registry fees.	CV 5

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IG L	The use of personal data must be limited to the purpose for which it is collected.	CV 8
IG M	ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way which no longer requires all participants in the conversation to be able to read and write English.	CV 3 - 7
IG N	ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.	CV 3 - 7
IG O	ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations.	CV 8 -10

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ANNEX FIVE – MINORITY VIEWS – TIM RUIZ

PRINCIPLES FOR NEW gTLD REGISTRIES
PROTECTING THE LEGAL RIGHTS OF OTHERS

I. Rationale for Principles

A. Use of the Term "legal rights" in PRO-WG Statement of Work

1. Given the context of the PRO-WG's Statement of Work (SOW) it is understandable that some participants and observers may equate the use of the term "legal rights" within the SOW as pertaining only to those rights granted specifically under laws and regulations regarding trademarks, service marks, famous names, intellectual property, and anti-cybersquatting.

2. However, it is far from clear that the GNSO Council intended such a limited definition of "legal rights" as is evident from the remarks of at least one Council member, Avri Doria, on this subject that were submitted to the PRO-WG email list:

> "If I remember the discussion in the Council concerning the creation of this group correctly, one of the reasons it was called protecting the rights of others was specifically because it had to include the rights of those who did not hold Trademarks on generic strings, i.e the general population's rights to use 'words' as strings for non-fraudulent purposes."

3. Therefore, the definition of "legal rights" that I chose to use for the principles included below is broader and more akin to the concept of unalienable rights:

> "An abstract idea of that which is due to a person or other entity by law **or tradition or nature.**"

B. Rationale for the Definition

1. The concept embodied in the above definition is espoused in The Universal Declaration of Human Rights as well as the Declaration of Independence of the United States of America, both of which recognize that we are all endowed with certain unalienable rights, rights not awarded by human power or government, rights that cannot be taken away or even surrendered. Eleanor Roosevelt put it very well when she said:

> "a right is not something that somebody gives you; it is something that nobody can take away."

2. It is my view that the above concept of "legal rights" must be reflected in future Rights Protection Mechanisms used by gTLD operators. A person's or entity's use of common words, phrases, labels, or stings IS a "legal right." I believe it is no accident this concept of "legal rights" is also reflected in the Uniform Domain Name Dispute

Resolution Policy (UDRP) – full text: http://www.icann.org/udrp/udrp-policy-24oct99.htm

3. Section 4.a. of that policy states that three elements MUST be proven to establish that the registration of a particular domain name "infringes or violates someone else's rights" (emphasis mine):

> **4.a. Applicable Disputes.** You are required to submit to a mandatory
>
> administrative proceeding in the event that a third party (a "complainant")
>
> asserts to the applicable Provider, in compliance with the Rules of
>
> Procedure, that
>
> (i) your domain name is identical or confusingly similar to a trademark or
>
> service mark in which the complainant has rights; and
>
> (ii) you have no rights or legitimate interests in respect of the domain name;
>
> and
>
> **(iii) your domain name has been registered and is being used in bad**
>
> **faith.**
>
> In the administrative proceeding, **the complainant must prove that each**
>
> **of these three elements are present.**

4. The concept that a person or entity has "legal rights" to the use of common words, phrases, labels, or strings is wisely reflected in the above requirements. It is obvious that the authors recognized that the mere existence of a trademark, service mark, or other intellectual property did not in and of itself prove that the registrant of a domain name containing an identical or confusingly similar mark intended to infringe or violate others' rights.

5. The UDRP, in section 4.c. also clearly recognizes the "legal rights" of others to the legitimate use of common words, phrases, labels, or strings for domain names. It gives three examples of such use (emphasis mine):

> "Any of the following circumstances, in particular but without limitation, if
>
> found by the Panel to be proved based on its evaluation of all evidence
>
> presented, **shall demonstrate your rights or legitimate interests to the**
>
> **domain name** for purposes of Paragraph 4(a)(ii):
>
> (i) before any notice to you of the dispute, your use of, or demonstrable
>
> preparations to use, the domain name or a name corresponding to the
>
> domain name in connection with a bona fide offering of goods or services;
>
> or

(ii) you (as an individual, business, or other organization) have been

commonly known by the domain name, even if you have acquired no

trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain

name, without intent for commercial gain to misleadingly divert consumers

or to tarnish the trademark or service mark at issue."

6. This concept is not lost on at least some UDRP Panelists as illustrated in the Bosley Medical Group and Bosley Medical Institute, Inc. v. Michael Kremer case (Case No. D2000-1647) brought before the WIPO Arbitration and Mediation Center in 2001. The Panelist concluded:

> "…the Complainants have not satisfied their burden of proving the essential elements of a claim under Paragraph 4(a) of the Policy, since it appears that the Respondent has legitimate fair use and free speech rights with respect to the use of the Domain Name for a criticism site. The Complainants' claim for transfer of the Domain Name "bosleymedical.com" is therefore denied."

Full text of the complaint and decision:
http://www.wipo.int/amc/en/domains/decisions/html/2000/d2000-1647.html

7. The respondent's rights to use the domain names it registered were later upheld by the United States Court of Appeals for the Ninth Circuit, which decision stated in part:

> "We hold today that the noncommercial use of a trademark as the domain name of a website — the subject of which is consumer commentary about the products and services represented by the mark — does not constitute infringement under the Lanham Act."

Full text of the decision of:
http://www.ca9.uscourts.gov/ca9/newopinions.nsf/3B0C93358B88F28D88256FD900 56994B/$file/0455962.pdf?openelement

8. No doubt other UDRP and Court decisions could be cited to illustrate an opposite view point on the definition of "legal rights" of others. The International nature of the Internet and the domain name space makes such conflicts inevitable. However, it cannot be denied that the definition of "legal rights" described herein is accepted in at least some jurisdictions and within the public policy of certain nations affected by the Rights Protection Mechanisms implemented by gTLD operators.

9. It is with this understanding and definition of "legal rights" that I offer principles A, B, and C below.

C. Rights of gTLD Operators

1. There are a set of rights that are not directly the subject of the PRO-WG's SOW, the rights of gTLD operators. However, the SOW indirectly implies the principle of supply and demand when it states in Purpose (2):

"…particularly during the initial start up of a new gTLD where there is contention for what Registrants perceive as the "best" names."

2. It may arguable, but we should consider that the "best" names are common words, phrases, labels, and strings for which there is a limited supply and high demand. It would therefore seem inappropriate to expect gTLD operators, or any other commercial enterprise, to not exercise its right to apply the commonly accepted principle of supply and demand when setting the fees associated with mechanisms designed to allocate its products or services with the highest demand and most limited supply.

3. It is with the above understanding that I offer principle D below.

II. Suggested Principles

A. All potential registrants have legal rights. gTLD operators should not consider the legal rights of IP holders as superior to the legal rights of all others to register and use a domain name.
B. The Rights Protection Mechanisms used by gTLD operators should not presume that a registrant intends to infringe on or violate the legal rights of others simply by the act of registering a domain name.
C. All potential registrants should have an equal opportunity to register common words, phrases, labels, or stings as domain names.
D. The fees associated with the use of Rights Protection Mechanisms must be established at the sole discretion of the gTLD operator.

Submitted by Tim Ruiz
May 19, 2007

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