April 5, 2011

VIA EMAIL
To: Kurt Pritz and Amy Stathos

I.   Introduction

As part of the new gTLD program, ICANN has specified that certain names or strings cannot be registered as top or second level domains on various policy grounds. Generally, these names fall under the following categories: ICANN & IANA-related, any two-character names, names long used by registry operators, and country and territory names.

The introduction of the new gTLD program provides a timely opportunity similarly provides an opportunity to reserve a new category of names from registration at both at the top and second levels, namely, those long used by internationally-recognized non-profit humanitarian aid organizations and protected under international treaties and national laws. This category is the Names used by the International Red Cross and Red Crescent Movement ("the Movement"), Names which are protected by international treaty and national laws, namely, "red cross," "red crescent," "red lion and sun," and the "red crystal" (the "Movement's Names"). They should be placed on the reserved names lists described below in all languages.[1]

Representatives of the Movement very much appreciate the opportunity to open dialogue with ICANN regarding this matter of vital importance to our network of non-profit humanitarian aid organizations. We look forward to being able to speak with you in greater detail about the proposed implementation of the new category of reserved names, and will make every effort to make ourselves available to do so, preferably in person. We will be available on April 18 or 19, but could consider additional dates and times that are convenient for you. We look forward to hearing your availability.

II.   Current Reserved Name Lists

The Proposed Final Version of the gTLD Applicant Guidebook (the "Guidebook") sets aside various names or strings that cannot be registered as gTLDs and/or that must be reserved by a new gTLD Registry Operator from registration at the second level.

The Guidebook specifies that the following names or strings cannot be registered as new gTLDs:

- Any possible two-character ASCII combination (see Guidebook § 2.2.1.1.1);

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[1] Proposed insertion of the Movement's Names to the Reserved Names List in Section 2.2.1.2 of the Guidebook is attached as Appendix A. Proposed insertion of the Movement's Names to Specification 5 of the gTLD Registry Agreement is attached as Appendix B.

- Reserved Names as specified by the Guidebook, which consists of the names "example" and "test," names of ICANN or IANA organizations, and terms long used by registry operators, such as "nic," "www," "iris," and "whois." (see Guidebook § 2.2.1.2); and
- Geographical Names, such as country and territory names, as specified by the Guidebook (see Guidebook § 2.2.1.4).

The Guidebook, in Specification 5 of its model gTLD Registry Agreement & Specifications, also details which names or strings must be reserved by new registries at the second level. They are broken down into the following categories:

- "Example;"
- Two-character names;
- Names with hyphens in the third or fourth positions;
- Names often used by registry operators, such as "nic," "www," "iris," and "whois,"
- Country and Territory Names.

As one can see, these lists are virtual identical. The Guidebook itself does not specify the policy reasons behind reserving those names. In 2007, however, the GNSO Reserved Name Working Group ("Working Group") examined the names reserved by existing gTLD registry agreements in order to determine which names should also be reserved in the new gTLD Program. In doing so, the Working Group examined the policy rationale behind each category of reserved name.[2] These rationales are encapsulated in the chart below:

Category of Names	Reserved Names	Role/Rationale
ICANN & IANA related	**ICANN**: aso, gnso, icann, internic, ccNSO **IANA**: afrinic, apnic, arin, example, gtld-servers, iab, iana, iana-servers, iesg, ietf, irtf, istf, lacnic, latnic, rfc-editor, ripe, root-servers	The role of the reserved names held by IANA and ICANN has been to maintain for those organizations the exclusive rights to the names of ICANN (icann), its bodies (aso, ccnso, pso, etc.) or essential related functions (internic) of the two organizations to help ensure the stable operation of the Internet.
Two Character	1296 combinations of ASCII letters and digits(e.g., xy.org, b2.info)	Two letter reservations appear to have been based on concerns about confusion with two letter country codes.

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[2] The Working Group's Reports are available at: http://gnso.icann.org/drafts/rn-wg-fr19mar07.pdf and http://gnso.icann.org/issues/new-gtlds/final-report-rn-wg-23may07.htm.

Category of Names	Reserved Names	Role/Rationale
gTLD operation-related	NIC, Whois, www (reserved for registry operations only)	The rationale for the reservation of these names for use by registry operators is based upon long standing and well established use of these strings by registry operators (both gTLD and ccTLDs) in connection with normal registry operations.
Geographic & Geopolitical	All geographic & geopolitical names in the ISO 3166-1 list (e.g., Portugal, India, Brazil, China, Canada) & names of territories, distinct geographic locations (or economies), and other geographic and geopolitical names as ICANN may direct from time to time	Protection afforded to Geographic indicators is an evolving area of international law in which a one-size fits all approach is not currently viable. The proposed recommendations in this report are designed to ensure that registry operators comply with the national laws for which they are legally incorporated/organized.
Existing gTLD Strings	Com, net, org, info, mobi, .name,, .coop, .travel, .job, etc.	1) reservation of gTLD strings at the second level was put in place by ICANN in order to avoid consumer confusion in relation to TLD.TLD addresses; 2) the reservation of registry-related names came about during contract negotiations and are in place in order to protect the Registries and their successors and to avoid consumer confusion; 3) for the .name, .mobi, .coop, .travel and .job Registries, certain non-ICANN reserved names directly benefit the communities that they represent and / or the reserved names are an integral part of the Registry's business model.

Currently, there is no process for an entity to propose new names to be added to any of the reserved lists.

III. Proposal – A New Category of Reserved Names Should be Protected at the Top and Second Level and The Movement's Names Should be Thus Protected

The Movement submits that a new category of names should be reserved from registration at both the gTLD and second levels, namely, those long used by well-recognized non-profit humanitarian aid organizations and protected under international treaties and national laws. Accordingly, these names

should be placed onto the Top-Level Reserved Names List specified in Guidebook § 2.2.1.2 and the Schedule of Reserved Names at the Second Level in gTLD Registries as specified in Specification 5 of the proposed registry agreement. In order to qualify for this special protection, the Movement proposes that the following policy rationale and criteria be met by any organization seeking such protection. As will be shown, the Movement's Names satisfy the policy rationale and the criteria.

A. <u>Policy Rationale</u>

In line with the policy rationales recognized for the above-referenced reserved names, the policy rationale for including the Movement's Names on reserved lists at both the top and second level includes the following: (1) to ensure that ICANN and registry operators comply with international and the national laws for which they are legally incorporated/organized; and (2) to ensure the long standing, well-established, and stable operation of non-profit humanitarian aid organizations by preventing the diversion of funds caused by donor confusion, illegal phishing, and trademark enforcement.

B. <u>Criteria</u>

In order to ensure that the policy rationale for reserving such names is met and to avoid abuse, the Movement proposes that a humanitarian organization seeking to have its name or names placed on the Reserved Names Lists meet all of the following criteria:

1. *The Organization's Mission Is Fundamentally Humanitarian*

To meet these criteria, the organization must be able to show that its mission is fundamentally humanitarian. This means that the organization's mission is to provide material or logistical assistance for humanitarian purposes, typically in response to humanitarian crises including natural disaster and conflict. The primary objective of humanitarian aid is to save lives, alleviate suffering, and maintain human dignity.

2. *The Organization's Names Must be Protected by International and National Law*

To meet these criteria, the organization must be able to show that ICANN or a registry would unequivocally be in violation of international or national laws if it registered or allowed others to register the organization's name or names. This can be done by showing, for instance, that the organization's name or names are specifically protected per se from any third party use by international treaty or statute.

3. *The Organization's Name or Names Must Be Long Standing and Well Established*

To meet this criteria, the organization must be able to show that a name is internationally well-known and in use for humanitarian purposes for a significant amount of time. This can be done by showing, for instance, that the organization's use of the name or names has been continuous and well-known in the international community for at least 5 years, and/or that its name or names are recognized by national statute or international treaty.

4. *The Organization's Stable Operation Would Be Fundamentally Impacted If Their Names Were Available at the Top and Second Level*

The organization must also demonstrate that enforcing its rights to its legally recognized names would also divert significant funds from its humanitarian aid mission. This can be done by showing that the organization is non-profit, and that the expansion of use of the Internet is already placing serious budgetary strains on its humanitarian budget and resources.

C.   How Protecting the Movement's Names Fulfills the Policy Rationale and Meets the Criteria

Protecting the Movement's Names at the top and second level fulfills the policy rationale and criteria stated above for the following reasons:

1. *The Movement's Is a Non-profit Humanitarian Aid Organization*

In fact, the Movement is the world's largest humanitarian network.   The Movement is neutral and impartial, and provides protection and assistance to people affected by disasters and conflicts.   The Movement is made up of two international organisations, 186 National Societies and counts nearly 100 million members, volunteers and supporters in virtually every country in the world.

2. *The Movement's Names Are Protected Under International and National Laws*

The Movement can show that its emblems and names are protected symbols of assistance in times of conflict or disaster, and have worldwide recognition in international and national law under the various Geneva Convention treaties and protocols, and national statutes. Under these treaties, parties to the Geneva Convention are only allowed to use the emblems and names for the following reasons: facilities for the care of injured and sick armed forces members; armed forces medical personnel and equipment; and military chaplains.   Moreover, Parties must forbid any other use of the names and emblems in wartime and peacetime.   Accordingly, the governments of the National Societies of the Movement have enacted national legislation to give effect to the Conventions and the additional Protocols to those Conventions, protecting the terms and emblems of the Movement. Thus, the Movement can show that ICANN and a registry would be in violation of international and national laws if it were to register the Movement's names at the top or second level.

3. *The Movement's Names are Long Standing and Well Established*

The Movement has used and protected the Red Cross emblem and name since the first Geneva Convention, in 1864.   The Movement has used and protected the Red Crescent and Red Lion with Sun emblems and names since at least the 1929 Geneva

Convention. The Movement has used and protected the Red Crystal emblem and name since at least the 2005 Geneva Convention.

Moreover, the Movement can show that its names are well-known internationally, and recognized by the various treaties and protocols of the Geneva Convention, which has 194 country parties, and various national statutes.

4. *Reserving the Movement's Names Would Protect Its Stable Operation*

The Movement is non-profit, and the vast majority of the Movement's revenues are donor-based. Indeed, it can show that it uses almost all of its revenues for international human aid relief. Moreover, a significant amount of the Movement's activities and donations are coordinated through the Internet. Accordingly, any amount of those funds that are diverted due to donor confusion, illegal phishing websites, and/or top-level or second-level domain name trademark protection would thus challenge the stable operation of the Movement and subvert its humanitarian mission.

IV.   Conclusion

For the reasons stated above, a new category of names should be reserved at the top and second level consisting of long standing and well-established names used by internationally-recognized non-profit humanitarian aid organizations that are protected by international treaty and national laws. As demonstrated above, "red cross," "red cross," "red cross with lion," and the "red crystal" satisfy this criteria and should be reserved at the top and second levels in the new gTLD program in all languages. Accordingly, ICANN should place these names in all languages onto the Top-Level Reserved Names List specified in Guidebook § 2.2.1.2 and the Schedule of Reserved Names at the Second Level in gTLD Registries as specified in Specification 5 of the proposed registry agreement.

The Movement once again appreciates the opportunity to open dialogue with ICANN regarding this matter of vital importance to our network of non-profit humanitarian aid organizations. We look forward to being able to speak with you in greater detail about the proposed implementation of the new category of reserved names, and will make every effort to make ourselves available to meet in person on April 18 or 19 or at another convenient date.

Sincerely,

/Debra Y. Hughes/

Debra Y. Hughes, Esq.
Senior Counsel
American Red Cross

APPENDIX A

contention set.

An application that passes the String Similarity review is still subject to objection by an existing TLD operator or by another gTLD applicant in the current application round. That process requires that a string confusion objection be filed by an objector having the standing to make such an objection. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

An applicant may file a formal objection against another gTLD application on string confusion grounds. Such an objection may, if successful, change the configuration of the preliminary contention sets in that the two applied-for gTLD strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

2.2.1.2 Reserved Names

All applied-for gTLD strings are compared with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

Top-Level Reserved Names List

AFRINIC	*ICANN*	*REDCROSS**
ALAC	*IESG*	*REDLIONAND SUN**
APNIC	*IETF*	*REDCRYSTAL**
ARIN	*INTERNIC*	*RFC-EDITOR*
ASO	*INVALID*	*RIPE*
CCNSO	*IRTF*	*ROOT-SERVERS*
EXAMPLE*	*ISTF*	*RSSAC*
GAC	*LACNIC*	*SSAC*
GNSO	*LOCAL*	*TEST**
GTLD-SERVERS	*LOCALHOST*	*TLD*
IAB	*NIC*	*WHOIS*
IANA	*NRO*	*WWW*
IANA-SERVERS	*REDCRESCENT**	
*Note that in addition to the above strings, ICANN will reserve translations of these strings in multiple languages. The remainder of the strings are reserved only in the form included above.		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the

APPENDIX B

SPECIFICATION 5

SCHEDULE OF RESERVED NAMES AT THE SECOND LEVEL IN GTLD REGISTRIES

Except to the extent that ICANN otherwise expressly authorizes in writing, Registry Operator shall reserve (i.e., Registry Operator shall not register, delegate, use or otherwise make available such labels to any third party, but may register such labels in its own name in order to withhold them from delegation or use) names formed with the following labels from initial (i.e. other than renewal) registration within the TLD:

1   **Example. The label "EXAMPLE**" shall be reserved at the second level and at all other levels within the TLD at which Registry Operator makes registrations.

2   **Two-character labels**. All two-character labels shall be initially reserved. The reservation of a two-character label string shall be released to the extent that Registry Operator reaches agreement with the government and country-code manager. The Registry Operator may also propose release of these reservations based on its implementation of measures to avoid confusion with the corresponding country codes.

3   **Tagged Domain Names.** Labels may only include hyphens in the third and fourth position if they represent valid internationalized domain names in their ASCII encoding (for example   "xn--ndk061n").

4   **Second-Level Reservations for Registry Operations.** The following names are reserved for use in connection with the operation of the registry for the TLD. Registry Operator may use them, but upon conclusion of Registry Operator's designation as of the registry for the TLD they shall be transferred as specified by ICANN: NIC, WWW, IRIS and WHOIS.

5   **Country and Territory Names.** The country and territory names contained in the following internationally recognized lists shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:

      5.1.   the short form (in English) of all country and territory names contained on the ISO 31661 list, as updated from time to time;

      5.2.   the United Nations Group of Experts on Geographical Names, Technical Reference Manual for the Standardization of Geographical Names, Part III Names of Countries of the World; and

      5.3.   the list of United Nations member states in 6 official United Nations languages prepared by the Working Group on Country Names of the United Nations Conference on the Standardization of Geographical Names.

6   **Non-Profit Humanitarian Aid Names.** The non-profit humanitarian aid names protected by international treaties and national laws specified below shall be initially reserved at the second level and at all other levels within the TLD at which the Registry Operator provides for registrations:

      6.1.   The International Red Cross and Red Crescent Movement names, specifically, "redcross," "redcrescent," "redlionandsun," and "redcrystal" in all languages.