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DATE Berlin, 01.02.2011

Dear Rod,

For several years now, ICANN has been concerned with the task of introducing new generic top-level domains. The German government has been actively engaged in the corresponding debate on this within the scope of its participation in the Governmental Advisory Committee (GAC) and has supported the objective of introducing new top-level domains in the near future.

However, recent months have shown that there are still a number of outstanding issues which, if not resolved, would make a decision to introduce new top-level domains highly problematic. In the past, the GAC has regularly provided its comments on the procedure and has picked up on issues that require modification from the governments' point of view. With this letter today, I wish to highlight the need for resolution of these outstanding issues.

Let me particularly emphasize one of these issues, which is creating major difficulties for us as Federal government: the protection of the interests of trademark holders regarding the new generic top-level domains. This concerns the protection of brands at both the top level (top-level domain) and the second level. The GAC and also the World Intellectual Property Organization (WIPO), which holds observer status in the GAC, have been stressing this need for a long time.

The German Federal government welcomes that ICANN intends to stipulate protection mechanisms for trademarks in the agreements with the new registries for top-level domains.

Page 2/2 However, Germany is particularly critical of the fact that German trademarks are put at a disadvantage when it comes to the protection mechanisms, since these mechanisms are tailored to those trademarks which have been registered in a trademark office whose jurisdiction provides for a “substantive review”. The German Patent and Trade Mark Office like most of the other European trademark offices does not carry out such a review. In my view, it is not acceptable that German trademarks are placed at a disadvantage in this way. The requirement of a “substantive review” should therefore be deleted.

In addition, the procedure envisaged for the protection of trademarks, which seeks to enable a rapid suspension (URS – Uniform Rapid Suspension System) of domain names that obviously infringe on trademark rights, appears to be excessively bureaucratic. Another legal instrument to protect the rights of trademark owners is the Post-Delegation Dispute Resolution Procedure. We also consider this procedure to be problematic, since it only provides for liability of the registries if they have acted in bad faith and if they have systematically registered domain names that infringe upon trademark rights for the purpose of gaining benefit from this for themselves.

Finally, I would like to point out that a better policy environment for the protection of trademark rights is not only of major importance for the holders of these rights but also for ICANN and for the registries of new top-level domains as it reduces their risk of litigation. For this reason, I strongly urge you to settle the issues raised and other issues that the GAC addressed in its Communiqué in Cartagena.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Benjamin" followed by a stylized surname.