



May 11, 2015

Internet Corporation for Assigned Names and Numbers  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536

**Re: CPA Australia CPE Application for .CPA (No. 1-1744-1971)**

ICANN Board of Directors and Economist Intelligence Unit,

I am writing on behalf of Donuts Inc. and its subsidiary applicant Trixy Canyon, LLC. Attached is another copy of our filing regarding the Community Priority Evaluation application by CPA Australia for .CPA (No. 1-1744-1971), which was previously provided to you on 22 April 2015.

We appreciate your attention to and consideration of this matter. Feel free to reach out to me should you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathon Nevett". The signature is stylized and fluid.

Jonathon Nevett  
Co-Founder  
Donuts Inc.

**Application by CPA Australia for .CPA (Serial No. 1-1744-1971):  
Comment to Community Priority Evaluation**

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## INTRODUCTION

The Community Priority Evaluation (“CPE”) is a serious undertaking. While designed to protect true communities and their designations, a “successful” CPE also *disqualifies* otherwise legitimate applicants that have met the rigorous criteria to operate a top-level domain:

[A] qualified community application eliminates all directly contending standard applications, regardless of how well qualified the latter may be. This is a fundamental reason for very stringent requirements for qualification of a community-based application.

Applicant Guidebook (“Guidebook” or “AGB”) § 4.2.3 at 4-9. Accordingly, ICANN created a scoring methodology to “identify qualified community-based applications,” while preventing “false positives” -- *i.e.*, “awarding undue priority to an application that refers to a ‘community’ construed merely to get a sought-after generic word as a gTLD string.” *Id.*

The system grants community priority only to applications that score at least 14 out of 16 possible points across four categories. *Id.* at 4-10. The application under review (“Application”) by CPA Australia (also referred to as “Applicant”)<sup>1</sup> falls well short of that threshold, and thus cannot properly eliminate other legitimate competing applicants.

Among other things, the variety and breadth of a term like “CPA,” particularly as its intended use appears in the Application, defies “clear delineation” of a “community.” Based on the “community establishment” criteria analyzed more fully below, the Application should barely earn two, and certainly no more than three, of the four points available in this category.

Moreover, an insufficient “nexus” exists between the TLD and the asserted community. As would a “local tennis club applying for .TENNIS,”<sup>2</sup> Applicant attempts to “capture a wider geographic/thematic remit than it actually has.” The Guidebook specifically disallows *any* “nexus” points in this situation.<sup>3</sup> The failure in this category alone defeats the Application.

While the Application does partially satisfy the “registration policies” facet of the CPE review, it lacks specificity in all four subcategories. The flaw should result in deduction of at least one of the four points available among those elements.

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<sup>1</sup> See <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/414>

<sup>2</sup> See AGB at 4-13.

<sup>3</sup> *Id.*; see also Economic Intelligence Unit CPE Guidelines (“Guidelines”) at 8.

Finally, the Application has no meaningful documented community support, but does have opposition. The Applicant includes a letter from *itself*, and but a few additional letters from *its own members*.<sup>4</sup> The lack of *independent* support disqualifies it from the full two “support” points. The Application also faces a competing CPE application for the same string, which should render it ineligible for two full “opposition” points. Proper application of the “community endorsement” standard, therefore, should result in two, and certainly no more than three, of the four possible points.

It should come as no surprise that, according to the criteria, this geographically-limited Applicant cannot succeed in using CPE to co-opt the term “CPA” given the breadth with which it proposes to use the TLD. ICANN formulated the community TLD concept to protect the labels of real, discrete and well-defined groups, not to allow opportunists the means to *commandeer* broadly-applicable terms for their own purposes. That would run directly contrary to the intent of the new gTLD program — which is to *increase* competition in domain names, not impede it.<sup>5</sup>

These points do not diminish the Application; the Application simply does not meet ICANN’s stringent community criteria. Applicant certainly has the right to proceed with its Application, but must do so on the same level as all applicants, such as the author of this comment, who have equal rights to compete for the string.

## ANALYSIS

The Guidebook allows the Panel to award up to four points in each of four categories (maximum points in parentheses):

- “Community establishment,” which involves “delineation” (2) and “extension” (2), AGB at 4-10 *et seq.*;
- “Nexus,” meaning both “nexus” (3) and “uniqueness” (1), *id.* at 4-12 *et seq.*;
- “Registration policies,” consisting of “eligibility” (1), “name selection” (1), “content and use” (1) and “enforcement” (1), *id.* at 4-14 *et seq.*; and
- “Community endorsement,” which considers “support” (2) and “opposition” (2), *id.* at 4-18 *et seq.*

Applying the standards established by ICANN for these criteria, and giving Applicant the benefit of all doubts on each, the Application can earn no more than 7 to 9 of the 16 available points. Of course, a failing score on CPE does not completely defeat the Application; the Applicant must simply compete for the string with other applicants.

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<sup>4</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails:downloadattachment/104564?t:ac=208>

<sup>5</sup> See <http://newgtlds.icann.org/en/about/program>.

**CRITERION 1: The Application does not “establish” a “clearly delineated community,” which requires more than a mere commonality of interests.**

The Guidebook provides for “community establishment” as the first of the four CPE factors. It breaks the criterion into two subfactors, “delineation” and “extension,” with two points possible for each. The Application under review does not merit full points.

“Delineation’ relates to the membership of a community, where a clear and straightforward membership definition scores high, but an unclear, dispersed or unbound definition scores low.” *Id.*, at 4-11; see also Guidelines at 4. The test considers:

- The “level of public recognition of the group as a community,” including the existence of “formal boundaries around” it and “what persons or entities ... form” it (which we call the “Identification” element),
- Whether the alleged community pre-dates the commencement of the new gTLD program in 2007 (the “Existence” element), and
- The level of “organization” of the community through at least one dedicated entity with documented evidence of community activities (the “Organization” element).

AGB at 4-11. Satisfying all three of the Identification, Existence and Organization factors will allow an application to score up to two “delineation” points. AGB at 4-12; Guidelines at 3. For the other two points, “extension” relates to “the dimensions of the community, regarding its number of members, geographical reach, and foreseeable activity lifetime ....” AGB at 4-12; Guidelines at 5-6.

**The Application does not fully satisfy the “delineation” test.**

Certainly, accounting as a profession and the “CPA” designation both have “existed” for a number of years. However, the Application does not and cannot satisfy the other elements sufficiently to earn both points for delineation. Its community definition in particular is not “clear and straightforward,” but rather more “unclear, dispersed or unbound.”

While the Application characterizes the community as made up of “accountancy, finance and business advisory professionals,” *Applic.* § 20(a), it would also make the TLD potentially open to “employers, students, customers and Internet users in general.” *Id.* § 20(c). Neither the public nor the constituents of a “community” so defined would readily recognize such a loose aggregation as part of any discrete grouping. The group would include many unaffiliated businesses without any relationship to one another.

Additionally, even though local to Australia, the Applicant defines the “community” it intends to serve as “accountancy, finance and business advisory professionals *across the world.*” *Applic.* § 20(a) (emphasis added). This further attenuates the “community”

definition from the “clear and straightforward” standard set by the Guidebook. The lack of specificity regarding membership in and scope of the posited community compels deducting at least a point from “delineation.” *See, e.g.*, EIU CPE Rpt. re: .TAXI (Taxi Pay GmbH) at 2.<sup>6</sup> *See also* AGB at 4-10 (allowing only one point for an application meeting only two of the three “delineation” subfactors).

**Geographic and other limitations do not allow an award of both “extension” points.**

CPA Australia also loses at least a point on “Extension,” which examines two aspects: size and longevity. As to the former, “[t]wo conditions must be met to fulfil the requirements for size: the community must be of considerable size and must display an awareness and recognition of a community amongst its members.” EIU CPE Rpt. re: .INC (Dot Registry LLC) at 3.<sup>7</sup>

First, as mentioned above, in an effort to increase the size of its “community,” the Application describes it as made up of not only “business advisory professionals,” but also “employers, students, customers and Internet users in general.” *Applic.* § 20(c). These varied and boundless constituencies would lack the necessary “awareness and recognition” of their inclusion in a CPA “community” to justify an award of full points.

Second, while Applicant may point to the presence of certain members outside Australia in an attempt to expand its size, the very name of its organization, “CPA *Australia*,” reveals its smaller, more local focus. Just as the Florida State Bar might have a small percentage of lawyers in other states within its member base (whether due to relocation, practice expansion or otherwise), the fundamental fact remains that the organization dedicates itself to facilitating the practice of law *in Florida*. Similar to the Applicant’s claim, the Florida State Bar could not usurp rights of other legal associations simply by accepting other members or having some authority over its own members in other jurisdictions.

Further, the Application makes its local focus clear when it states what CPA Australia may do “[a]t some point in the future” with the TLD: “review and consider expanding the community to include practicing accountants and other members of various CPA organisations around the world which also use a similar CPA designation.” *Applic.* § 20(e). Limitations to Australian standards and laws appear throughout the Application and CPA Australia’s bylaws referenced therein.<sup>8</sup>

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<sup>6</sup> <https://www.icann.org/sites/default/files/tlds/taxi/taxi-cpe-1-1025-18840-en.pdf>.

<sup>7</sup> <https://www.icann.org/sites/default/files/tlds/inc/inc-cpe-1-880-35979-en.pdf>.

<sup>8</sup> One must meet standards set *in Australia* to qualify as a full member of CPA Australia. <http://www.cpaaustralia.com.au/~media/corporate/allfiles/document/about/by-laws-effective-17-october-2014.pdf> (CPA Australia Bylaws); *see also* *Applic.* § 20(a).

Juxtaposed with the broad scope of the Application, the comparatively limited reach of the Applicant itself makes deduction of an “extension” point appropriate. When combined with what likewise should be no more than one point for “delineation,” the Application should yield no more than two of the four possible “Community Establishment” points.

**CRITERION 2: The application does not establish sufficient “nexus” with the non-unique term “CPA.”**

Criterion 2 requires a "nexus" between the asserted community and the applied-for string. AGB at 4-12. The test consists of a nexus factor, worth zero, two or three points, and a "uniqueness" score of zero to one. An application must score at least two points for nexus in order to obtain a point for uniqueness. See AGB at 4-14. Thus, the system allows a score of 4, 3, 2 or 0 points, but not a score of 1. Applicant, as shown below, merits none at all.

**The application cannot earn the available three nexus subpoints.**

The points available under the nexus subtest are awarded as follows:

- For a score of 3: The string matches the name of the community or is a well-known short-form or abbreviation of the community name;
- For a score of 2: The string identifies the community, but does not qualify for a score of 3; and
- For a score of 0: String nexus does not fulfil the requirements for a score of 2.

AGB § 4.2.3. The Application cannot earn three (or even two) points by these standards.

First, the string .CPA undeniably does not “match” the “community” claimed by the Application. It describes the “community” as consisting of full, associate and reciprocal members of CPA Australia, and young professionals in CPA Australia’s “Passport Program.” Applic. § 20(b). However, Applicant does not apply for .CPA-AUSTRALIA (or even .AU-CPA), a word specifically “matching” *that* “community.”

Second, the Application “substantially overreaches” in that “the string indicates a wider geographical or thematic remit than the community has.” Guidelines at 7. While Applicant counts within its organization “139,000 accountants in 114 countries,” Applic. § 20(a), it exercises influence overwhelmingly, if not exclusively, within the context of standards applicable to CPAs within or under the law of Australia. See n.8, *supra*.<sup>9</sup> Yet, Applicant applies for the more widely applicable .CPA.

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<sup>9</sup> “Reciprocal members” from outside the jurisdiction likewise must comply with Australian law. Applic. § 20(a).

Just as in the Guidebook example (and corresponding EIU analysis) involving the string .TENNIS, Applicant has presence in a single geographic region, Australia, even though it claims it would make registrations available to people and entities in Europe, Canada, Asia and throughout the world. Applic. § 20(a). As stated in the Guidebook:

[F]or a [“nexus”] score of 2, the applied-for string should closely describe the community or the community members, without over-reaching substantially beyond the community. As an example, a string could qualify for a score of 2 if it is a noun that the typical community member would naturally be called in the context. If the string appears excessively broad (such as, for example, a *globally well-known* but *local* tennis club applying for “.TENNIS”) then it would not qualify for a 2.”

See AGB at 4-13 (emphases added). Even if Applicant were “globally well-known,” which it does not appear to be, its “remit” remains “local” to Australia, as its own name, Application and bylaws make clear. The Application therefore cannot earn the full three (or even two) potential nexus points.

Applicant made a conscious decision to apply for .CPA – a string with broad applicability – to suit its own purposes, such as to “serv[e] the interests of CPA Australia’s membership” and to “strengthen and grow the CPA Australia brand globally ....” Applic. § 18(a). While it may view these as perfectly legitimate business goals, in adopting them Applicant voluntarily abdicated any right to the scoring preference given to a string that readily identifies a single, very specific group of people.

Applicant cannot “have it both ways.” Just in the highly analogous case of .TENNIS, where the Panel awarded zero points to an applicant named “Tennis Australia,” CPA Australia should not earn any nexus points whatsoever. See EIU CPE Rpt. re .TENNIS at 4. See also EIU CPE Rpt. re: .MLS at 3 (awarding zero points for nexus for Canadian real estate applicant due to “substantial over-reach”).<sup>10</sup>

**“CPA” does not “uniquely” identify the claimed “community.”**

The “uniqueness” subfactor “relates to the meaning of the string.”<sup>11</sup> Put simply, does the string use a truly “unique” term that has no other significant meaning beyond referring to the community asserted by the applicant? The Panel need never even reach that question in its analysis here, as a point for uniqueness requires “that the string does identify the community - *i.e.*, scores 2 or 3 for ‘Nexus’ - in order to be eligible for a score of 1 for ‘Uniqueness.’” AGB at 4-14. Since Applicant cannot earn two or three points for “nexus,” as described above, the rules also bar it from a point for “uniqueness.”

<sup>10</sup> <https://www.icann.org/sites/default/files/tlds/mls/mls-cpe-1-1888-47714-en.pdf>.

<sup>11</sup> See <http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf> at 65.

Even absent that bright line limitation, the TLD still lacks “uniqueness” in the Guidebook sense. As mentioned, a string is only “unique” where it has “no other significant meaning beyond identifying the community described in the application.” AGB at 4-13. However, the term “CPA” has several possible meanings.

Looking only at accounting-related connotations, the “CPA” moniker can signify different professional designations depending on the area of the world: “Certified Public Accountant” in the U.S.,<sup>12</sup> “Certified Practising Accountant” in Australia, and the newly-designated “Chartered Professional Accountant” in Canada.<sup>13</sup> And, the abbreviation has multiple meanings outside the accounting context.<sup>14</sup> The term’s inherent ambiguity does not permit it to earn a point for “uniqueness” as it relates to the pending Application, even if it qualified for two of the three “nexus” points.

To be a truly unambiguous identifier, the “ideal” string would have no other possible associations except to the community in question. This arguably can be achieved by using the community institution abbreviation as string, but other possibilities exist – for example, putting a prefix or suffix on a generic string to make it distinctly and uniquely associated with the relevant community (such as prefixing “boy” to “scouts” for the community of boy scout organizations, or suffixing “growers” to “apple” for an association of apple growers).<sup>15</sup>

The breadth and brevity of the simple term “CPA” may make it an excellent choice for a top-level domain. However, its wide applicability defeats any efforts to associate it uniquely with one group in particular, as demonstrated by the simple presence of a competing community application by an American “CPA” society.<sup>16</sup> Applicant could have freely chosen a string unique to its specific segment, such as .CPA-AUSTRALIA, but specifically elected to compete against others for the more generic .CPA. While this may have advantages from a marketing or business strategy perspective, it also carries the *disadvantage* of not uniquely identifying Applicant’s specific “community.”

Of the four total points available for “nexus” and “uniqueness,” the Application should earn zero. The term is not “unique,” and does not “closely describe” the purported

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<sup>12</sup> See <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/209>.

<sup>13</sup> [http://en.wikipedia.org/wiki/Chartered\\_Professional\\_Accountant](http://en.wikipedia.org/wiki/Chartered_Professional_Accountant).

<sup>14</sup> The term can mean “Cost per Acquisition,” for calculating online advertising traffic (<http://www.web1marketing.com/glossary.php?term=Cost+Per+Acquisition>); “Critical Path Analysis” in project management (<http://www.investopedia.com/terms/c/critical-path-analysis-cpa.asp>); or even “Codigo Postal Argentino,” the term used for postal codes in Argentina (<http://www.correoargentino.com.ar/formularios/cpa>).

<sup>15</sup> See <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf> at 103.

<sup>16</sup> <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/209>.

community without substantially overreaching beyond it. Thus, the Applicant cannot possibly receive the necessary 14 of 16 points to pass CPE, and the Panel need not even consider the remaining CPE criteria.

**CRITERION 3: The Application cannot earn full points for registration policies.**

“Registration policies” represent the conditions that the registry will set for prospective registrants – *i.e.*, those desiring to register second-level domains. A community application can receive one point for each of the four following policies:

- Eligibility restricted to community members (a largely unrestricted approach to eligibility receiving zero points);
- Name selection rules consistent with the articulated community based purpose of the applied for gTLD;
- Rules for content and use consistent with the articulated community-based purpose of the applied for gTLD; and
- Specific enforcement mechanisms (including an avenue for appeal).

AGB at 4-16. The Panel should score applications from a holistic perspective, applying these categories to the particularities of the community explicitly addressed, making sure they show alignment with the community-based purpose of the TLD and continuing accountability to the community named in the application. *Id.*<sup>17</sup>

**Eligibility:**

“To fulfill the requirements for Eligibility, the registration policies must restrict the eligibility of prospective registrants to community members.” *Id.* The Application at first appears to limit registration to full, associate and reciprocal members of CPA Australia, as well as students in its Passport Program. Applic. §§ 20(c), (e). However, it also states that “[i]ntended end-users ... include ... the broader accountancy, finance and business professions, employers, students, customers and internet users in general,” and that “[a]t some point in the future ... CPA Australia ... may review and consider expanding the community to include practicing accountants and other members of various CPA organisations around the world which also use a similar CPA designation.” *Id.* The Panel should consider such “hedging” when deciding whether to award a point for “eligibility.”

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<sup>17</sup> See also EIU CPE Rpt. re .IMMO (“[t]he registration policies for name selection for registrants must be consistent with the articulated community-based purpose of the applied-for gTLD”), <https://www.icann.org/sites/default/files/tlds/immo/immo-cpe-1-1000-62742-en.pdf> at 5.

### Name selection:

“To fulfill the requirements for Name Selection, the registration policies for name selection for registrants must be consistent with the articulated community-based purpose of the applied-for gTLD.” EIU CPE Rpt. re .GMBH at 6. In its “Draft Registration Policy,” Applicant provides for registration of names in some highly ambiguous categories, such as a “product name” or “service name,” a “geographic identifier,” or simply a “marketing term.” Applic. § 28 ¶ 5 at 44-45. CPA Australia also can approve “any relevant name or term” that it sees fit, including “generic” terms. *Id.* at 45; § 20(e) at 14. Thus, the TLD could see any number of registrations having nothing to do with a CPA “community.” Would BUYITNOW.CPA (a “marketing term”) suffice? Or perhaps SANDWICH.CPA or even HOUSEPAINTER.CPA (each a “product” or “service” that registrants may market)? Again, the Panel should consider such ambiguity when deciding whether to award a full scoring point in this subcategory.

### Content/Use:

An application can receive a full scoring point for this element if it sets forth “rules for content and use consistent with the articulated community-based purpose of the applied-for gTLD.” AGB at 4-15. The Application requires that content appearing under second-level names “relate” to the “CPA profession and business.” Applic. § 28 ¶ 6 at 45. However, it offers little guidance as to the type of content that would qualify under this sweeping standard. Would the policy allow websites that sell calculators or spreadsheet software, or provide tips on the latest tax deductions? Or, might it also permit registration and use by colleges and universities that include accounting among many other majors (and could they promote these other aspects of their institutions)?

The Application parrots the language of the Guidebook, but does not set forth specific criteria for determining acceptable or prohibited uses of .CPA domains. As such, a full scoring point does not appear merited.

### Enforcement Procedures:

As with other elements of “registration policies,” enforcement procedures must give “due regard for the particularities of the community explicitly addressed,” as contemplated by the Guidebook. AGB at 4-15; Guidelines at 14. Applicant does propose a number of enforcement mechanisms. Applic. § 28 ¶¶ 8-9 at 45-46. However, they prohibit behavior that in several cases is not well defined – *e.g.*, breaching “CPA Australia’s Code of Professional Conduct *or other applicable regulations*,” or “the terms and conditions of this registration policy” that includes vague content and use restrictions. *Id.* ¶¶ 8((ii), (iii) (emphasis added). Further, the Application leaves such standards to CPA Australia’s “sole discretion,” with no specific parameters about how or when it might take action under that open-ended caveat.

In this as in the other three subcategories of “registration policies,” the Application could provide much greater clarity. This general infirmity should cause the Application to lose at least one of the four possible scoring points in this category.

**CRITERION 4: The Application does not demonstrate sufficient community endorsement.**

The “community endorsement” test looks at both support and opposition, with up to two points for each subfactor. The Application has inadequate support to qualify for more than one the two available points, and the existence of documented opposition entitles it to no more than one of those two points.

For “support,” an applicant must demonstrate that:

- It is, or has documented support from, the recognized community institution(s)/member organization(s) or has otherwise documented authority to represent the community. It must have documented support from institutions/organizations representing a *majority* of the overall community in order to score 2.
- Documented support from at least one group with relevance may allow a score of 1, but does not suffice for a score of 2.

AGB at 4-17. In the Application, Applicant offers one letter signed by its President and its CEO, and a handful of other letters from its own members.<sup>18</sup> The latter should receive no independent consideration; since the organization claims the authority to speak on behalf of its members, letters from members should be considered redundant to that offered by the CPA Australia’s own President and CEO.

While Applicant could be seen as a “recognized community institution/member organization” for its members, the Guidebook requires more for an award of full points. Specifically, support analysis includes “due regard for the communities implicitly addressed by the string.” AGB at 4-17; *see also* Guidelines at 17.

With respect to “Support,” it follows that documented support from, for example, the only national association relevant to a particular community on a national level would score a 2 *if* the string is clearly oriented to *that national level*, but only a 1 *if the string implicitly addresses similar communities in other nations*.

AGB at 4-18 (emphases added). Here, the Application does address constituencies beyond Applicant’s home country – both CPA Australia members and affiliates

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<sup>18</sup> See <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/414>, 20f attachments.

practicing outside of Australia, as well as, potentially, “practicing accountants and other members of various CPA organisations around the world which also use a similar CPA designation.” Applic. § 20(e). As such, its score for the “support” sub-criterion should be no more than one of the available two points.

Also, a second applicant from another area of the world also claims “community” status for a .CPA TLD. This impacts the “opposition” subtest. While no particularly adverse comments concerning the Application appear on ICANN’s comment page (<https://gtldcomment.icann.org/applicationcomment/viewcomments>), opposition does appear from a community application for the domain by an American accountancy organization, AICPA. The group claims to have 377,000 members of its own, and has presented reasoned arguments in its community bid for the TLD. While still insufficient to score 14 out of 16 points, these arguments do not seem “clearly spurious” or filed simply for “obstruction” purposes. Guidelines at 20.

Importantly, if CPA Australia succeeds in its CPE bid, either AICPA will have to participate in an auction (if it, too, passes CPE) or be eliminated from the program entirely. AGB at 4-8. Its application therefore amounts to an act in “opposition” by a group of “non-negligible size,” such that a point should be deducted in this subcategory. AGB at 4-17. With a maximum of one point also achievable for “support,” the Application should score no higher than two points for the entire fourth criterion.

## CONCLUSION

The Applicant undertakes the CPE essentially as a “low cost, high reward” gamble. It inappropriately attempts to use the CPE process to circumvent the contention set resolution process defined by ICANN.

However, one would expect to find it exceedingly difficult to succeed at CPE using such a sweeping designation as “CPA.” This is why ICANN set the community bar so high – to prevent applicants limited in scope from misusing the CPE process in order to gain an advantage by claiming broader “community” status.

An objective consideration of the relevant criteria would suggest the following scores:

- Most appropriately two, but certainly no more than three, points for “Community Establishment,” due to an unclear and amorphous community definition;
- Zero points for “Nexus,” as the Application substantially overreaches, and “CPA” is not a “unique” term;
- No more than three points for “Registration Policies” due to vague standards and enforcement mechanisms; and

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- Two to three points for “Community Endorsement,” as the string at minimum “implicitly addresses” other constituencies that have not expressed support, and faces a competing application that should prevent two full opposition points.

Thus, 7 to 9 points represents the absolute “best case” scenario for the Applicant. Falling well short of the 14 points necessary out of the 16 available, the Application should not pass CPE.

DATED: April 22, 2015

Respectfully submitted,

THE IP and TECHNOLOGY LEGAL GROUP, P.C.

By: \_\_\_\_\_/img/\_\_\_\_\_

John M. Genga

Attorneys for TRIXY CANYON, LLC

Applicant for .CPA