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COMPILATION OF THE REFERENCE MATERIAL RELIED UPON BY THE CPE PROVIDER IN CONNECTION WITH THE EVALUATIONS WHICH ARE THE SUBJECT OF PENDING RECONSIDERATION REQUESTS

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TABLE OF CONTENTS

I.	Introduction.....	1
II.	Executive Summary.....	3
III.	Methodology.....	5
IV.	Background on CPE.....	8
V.	The CPE Provider Performed Research in the Eight Evaluations Which are the Subject of Pending Reconsideration Requests.	10
A.	.LLC.....	14
	1. Criterion 1: Community Establishment.....	14
	2. Criterion 2: Nexus between Proposed String and Community	17
	3. Criterion 3: Registration Policies	19
	4. Criterion 4: Community Endorsement	20
B.	.INC.....	21
	1. Criterion 1: Community Establishment.....	21
	2. Criterion 2: Nexus between Proposed String and Community	24
	3. Criterion 3: Registration Policies	24
	4. Criterion 4: Community Endorsement	25
C.	.LLP.....	25
	1. Criterion 1: Community Establishment.....	25
	2. Criterion 2: Nexus between Proposed String and Community	28
	3. Criterion 3: Registration Policies	30
	4. Criterion 4: Community Endorsement	30
D.	Second .GAY Evaluation	32
	1. Criterion 1: Community Establishment.....	32
	2. Criterion 2: Nexus between Proposed String and Community	35
	3. Criterion 3: Registration Policies	39
	4. Criterion 4: Community Endorsement	40

E.	.MUSIC (DotMusic Ltd.).....	41
1.	Criterion 1: Community Establishment.....	41
2.	Criterion 2: Nexus between Proposed String and Community	45
3.	Criterion 3: Registration Policies	45
4.	Criterion 4: Community Endorsement	45
F.	.CPA (Australia).....	46
1.	Criterion 1: Community Establishment.....	46
2.	Criterion 2: Nexus between Proposed String and Community	47
3.	Criterion 3: Registration Policies	48
4.	Criterion 4: Community Endorsement	49
G.	.HOTEL.....	49
1.	Criterion 1: Community Establishment.....	49
2.	Criterion 2: Nexus between Proposed String and Community	52
3.	Criterion 3: Registration Policies	53
4.	Criterion 4: Community Endorsement	53
H.	.MERCK (KGaA).....	55
1.	Criterion 1: Community Establishment.....	55
2.	Criterion 2: Nexus between Proposed String and Community	56
3.	Criterion 3: Registration Policies	56
4.	Criterion 4: Community Endorsement	57
VI.	Conclusion.....	57

I. Introduction

On 17 September 2016, the Board of Directors of the Internet Corporation for Assigned Names and Numbers (ICANN organization) directed the President and CEO or his designees to undertake a review of the “process by which ICANN [organization] interacted with the [Community Priority Evaluation] CPE Provider, both generally and specifically with respect to the CPE reports issued by the CPE Provider” as part of the New gTLD Program.¹ The Board’s action was part of the ongoing discussions regarding various aspects of the CPE process, including some issues that were identified in the Final Declaration from the Independent Review Process (IRP) proceeding initiated by Dot Registry, LLC.²

On 18 October 2016, the Board Governance Committee (BGC) discussed potential next steps regarding the review of pending Reconsideration Requests relating to the CPE process.³ The BGC determined that, in addition to reviewing the process by which ICANN organization interacted with the CPE Provider related to the CPE reports issued by the CPE Provider (Scope 1), the review would also include: (i) an evaluation of whether the CPE criteria were applied consistently throughout each CPE report (Scope 2); and (ii) a compilation of the reference material relied upon by the CPE Provider to the extent such reference material exists for the evaluations which are the subject of pending Reconsideration Requests (Scope 3).⁴ Scopes 1, 2, and 3 are collectively referred to as the CPE Process Review. FTI Consulting, Inc.’s (FTI) Global Risk and Investigations Practice and Technology Practice were retained by Jones Day on behalf of its client ICANN organization to conduct the CPE Process Review.

¹ <https://www.icann.org/resources/board-material/resolutions-2016-09-17-en#1.a>.

² *Id.*

³ <https://www.icann.org/resources/board-material/minutes-bgc-2016-10-18-en>.

⁴ *Id.*

On 26 April 2017, Chris Disspain, the Chair of the BGC, provided additional information about the scope and status of the CPE Process Review.⁵ Among other things, he identified eight Reconsideration Requests that would be on hold until the CPE Process Review was completed.⁶ On 2 June 2017, ICANN organization issued a status update.⁷ ICANN organization informed the community that the CPE Process Review was being conducted on two parallel tracks by FTI. The first track focused on gathering information and materials from ICANN organization, including interviewing relevant ICANN organization personnel and document collection. This work was completed in early March 2017. The second track focused on gathering information and materials from the CPE Provider, including interviewing relevant personnel. This work was still ongoing at the time ICANN issued the 2 June 2017 status update.

On 1 September 2017, ICANN organization issued a second update, advising that the interview process of the CPE Provider's personnel that were involved in CPEs had been completed.⁸ The update further informed that FTI was working with the CPE Provider to obtain the CPE Provider's communications and working papers, including the reference material cited in the CPE reports prepared by the CPE Provider for the evaluations that are the subject of pending Reconsideration Requests. On 4 October 2017, FTI completed its investigative process relating to the second track.

⁵ <https://www.icann.org/en/system/files/correspondence/disspain-letter-review-new-gtld-cpe-process-26apr17-en.pdf>.

⁶ See *id.* The eight Reconsideration Requests that the BGC placed on hold pending completion of the CPE Process Review are: 14-30 (.LLC) (withdrawn on 7 December 2017, see <https://www.icann.org/en/system/files/files/dotregistry-llc-withdrawal-redacted-07dec17-en.pdf>), 14-32 (.INC) (withdrawn on 11 December 2017, see <https://www.icann.org/en/system/files/files/reconsideration-14-32-dotregistry-request-redacted-11dec17-en.pdf>), 14-33 (.LLP), 16-3 (.GAY), 16-5 (.MUSIC), 16-8 (.CPA), 16-11 (.HOTEL), and 16-12 (.MERCK).

⁷ <https://newgtlds.icann.org/en/applicants/cpe/process-review-update-02jun17-en.pdf>.

⁸ <https://newgtlds.icann.org/en/applicants/cpe/process//newgtlds.icann.org/en/applicants/cpe/podcast-qa-1-review-update-01sep17-en.pdf>.

This report addresses Scope 3 of the CPE Process Review. FTI was asked to identify and compile the reference material relied upon by the CPE Provider to the extent such reference material exists for the evaluations which are the subject of the following Reconsideration Requests that were pending at the time ICANN initiated the CPE Process Review: 14-30 (.LLC),⁹ 14-32 (.INC),¹⁰ 14-33 (.LLP), 16-3 (.GAY),¹¹ 16-5 (.MUSIC), 16-8 (.CPA), 16-11 (.HOTEL), and 16-12 (.MERCK).

II. Executive Summary

In connection with Scope 3, FTI analyzed each CPE report prepared by the CPE Provider and published by ICANN organization for the evaluations that are the subject of pending Reconsideration Requests. FTI then analyzed the CPE Provider's working papers associated with each evaluation. The CPE Provider's working papers were comprised of information inputted by the CPE Provider into a database, spreadsheets prepared by the core team for each evaluation and which reflect the initial scoring decisions, notes, reference material,¹² and every draft of each CPE report.

In the course of its review and investigation, FTI identified and compiled all reference material cited in each final report, as well as any additional reference material cited in

⁹ Request 14-30 (.LLC) was withdrawn on 7 December 2017. See <https://www.icann.org/en/system/files/files/dotregistry-llc-withdrawal-redacted-07dec17-en.pdf>.

¹⁰ Request 14-32 (.INC) was withdrawn on 11 December 2017. See <https://www.icann.org/en/system/files/files/reconsideration-14-32-dotregistry-request-redacted-11dec17-en.pdf>.

¹¹ After completion by the CPE Provider of the first CPE in October 2014, through the Reconsideration process, a procedural error in the CPE was identified and the BGC determined that the application should be re-evaluated. See <https://www.icann.org/news/blog/bgc-s-comments-on-recent-reconsideration-request>. At the BGC's direction, the CPE Provider then conducted a new CPE of the application ("second .GAY evaluation" and "second final CPE report," cited as "GAY 2 CPE report"). For purposes of Scope 3 of the CPE Process Review, the second .GAY evaluation is subject to a pending Reconsideration Request and thus is the relevant evaluation.

¹² The CPE Provider's working papers associated with some evaluations contained the actual reference material relied upon by the CPE Provider, as compared to citations to reference material that appeared in the other working papers.

the CPE Provider's working papers to the extent that such material was not otherwise cited in the final CPE report.

Of the eight relevant CPE reports, FTI observed two reports (.CPA, .MERCK) where the CPE Provider included a citation in the report for each reference to research. For all eight evaluations (.LLC, .INC, .LLP, .GAY, .MUSIC, .CPA, .HOTEL, and .MERCK), FTI observed instances where the CPE Provider cited reference material in the CPE Provider's working papers that was not otherwise cited in the final CPE report. In addition, in six CPE reports (.LLC, .INC, .LLP, .GAY, .MUSIC, and .HOTEL), FTI observed instances where the CPE Provider referenced research but did not include citations to such research in the report. In each instance, FTI reviewed the working papers associated with the relevant evaluation to determine if the citation supporting referenced research was reflected in the working papers. For all but one report, FTI observed that the working papers did reflect the citation supporting referenced research not otherwise cited in the corresponding final CPE report. In one instance—the second .GAY final CPE report—FTI observed that while the final report referenced research, the citation to such research was not included in the final report or the working papers for the second .GAY evaluation. However, because the CPE Provider performed two evaluations for the .GAY application, FTI also reviewed the CPE Provider's working papers associated with the first .GAY evaluation to determine if the citation supporting research referenced in the second .GAY final CPE report was reflected in those materials. Based upon FTI's investigation, FTI finds that the citation supporting the research referenced in the second .GAY final CPE report may have been recorded in the CPE Provider's working papers associated with the first .GAY evaluation.

Ultimately, FTI observed that the CPE Provider routinely relied upon reference material in connection with the CPE Provider's evaluation of three CPE criteria: (i) Community Establishment (Criterion 1); (ii) Nexus between Proposed String and Community (Criterion 2); and (iii) Community Endorsement (Criterion 4). Each example of the reference material identified by FTI is attached to this report in Appendix A. FTI observed no citations to reference material in connection with the CPE Provider's

evaluation of the Registration Policies criterion (Criterion 3) for any of the eight relevant evaluations.¹³

III. Methodology

In Scope 3 of the CPE Process Review, FTI was asked to identify and compile the reference material relied upon by the CPE Provider to the extent such reference material exists for the evaluations which are the subject of the following Reconsideration Requests that were pending at the time ICANN initiated the CPE Process Review: 14-30 (.LLC),¹⁴ 14-32 (.INC),¹⁵ 14-33 (.LLP), 16-3 (.GAY), 16-5 (.MUSIC), 16-8 (.CPA), 16-11 (.HOTEL), and 16-12 (.MERCK).

Reconsideration is an accountability mechanism available under ICANN organization's Bylaws and involves a review process administered by the BGC.¹⁶ Since the commencement of the New gTLD Program, more than 20 Reconsideration Requests have been filed where the requestor sought reconsideration of CPE results. FTI reviewed in detail these requests and the corresponding BGC recommendations and/or determinations, as well as the Board's actions associated with these requests.¹⁷

¹³ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-10-4-17 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

¹⁴ Request 14-30 (.LLC) was withdrawn on 7 December 2017. See <https://www.icann.org/en/system/files/files/dotregistry-llc-withdrawal-redacted-07dec17-en.pdf>.

¹⁵ Request 14-32 (.INC) was withdrawn on 11 December 2017. See <https://www.icann.org/en/system/files/files/reconsideration-14-32-dotregistry-request-redacted-11dec17-en.pdf>.

¹⁶ Prior to 22 July 2017, the BGC was tasked with reviewing reconsideration requests. See ICANN Bylaws, 1 October 2016, Art. 4, § 4.2 (e) (<https://www.icann.org/resources/pages/bylaws-2016-09-30-en#article4>). Following 22 July 2017, the Board Accountability Mechanisms Committee (BAMC) is tasked with reviewing and making recommendations to the Board on reconsideration requests. See ICANN Bylaws, 22 July 2017, Art. 4, § 4.2 (e) (<https://www.icann.org/resources/pages/governance/bylaws-en/#article4>).

¹⁷ *Id.*

Several requestors made claims that are relevant to Scope 3 of the CPE Process Review.

In particular, as noted in Mr. Disspain's letter of 26 April 2017:

[C]ertain complainants [have] requested access to the documents that the CPE panels used to form their decisions and, in particular, the independent research that the panels conducted. The BGC decided to request from the CPE Provider the materials and research relied upon by the CPE panels in making determinations with respect to certain pending CPEs.¹⁸

To complete its investigation, FTI first reviewed publicly available documents pertaining to CPE to gain a comprehensive understanding of the relevant background facts concerning CPE. The publicly available documents reviewed by FTI, and which informed FTI's investigation for Scope 3, are identified in FTI's reports addressing Scope 1 and Scope 2 of the CPE Process Review. FTI also interviewed relevant ICANN organization and CPE Provider personnel. These interviews are described in further detail in FTI's reports addressing Scopes 1 and 2 of the CPE Process Review.

In the context of Scope 3, following FTI's review of relevant background materials and interviews of relevant personnel, FTI reviewed each CPE report prepared by the CPE Provider and published by ICANN organization for the evaluations that are the subject of pending Reconsideration Requests. FTI then analyzed the CPE Provider's working papers associated with each evaluation.

FTI then identified each instance where the CPE Provider referenced research and provided a citation to that research in the eight relevant evaluations. FTI also identified each instance where the CPE provider referenced research but did not include citations to such research in the final CPE report. Finally, FTI identified each additional instance where the CPE Provider cited reference material in the CPE Provider's working papers that was not otherwise cited in the final CPE report. For each reference material

¹⁸ <https://www.icann.org/en/system/files/correspondence/disspain-letter-review-new-gtld-cpe-process-26apr17-en.pdf>.

identified, FTI catalogued the CPE criterion and sub-criterion with which the reference material was associated.

In instances where the CPE Provider's final CPE report referenced research but did not provide a supporting citation, FTI undertook a review of the CPE Provider's working papers to determine if the referenced research was reflected in those materials. For example, if the final CPE report referenced research without providing a supporting citation in connection with sub-criterion 2-A, Nexus, FTI then reviewed the working papers for the relevant evaluation and determined if those materials reflected research associated with sub-criterion 2-A, Nexus. If the working papers provided citations to research undertaken in connection with the sub-criterion at issue, i.e., Nexus in this example, then FTI determined that the citations corresponded to the research referenced without citation in the final CPE report.¹⁹

FTI did not rely upon the substance of the reference material. Nor did FTI assess the propriety or reasonableness of the research undertaken by the CPE Provider. Both analyses are beyond the purview of Scope 3.

FTI defined "reference material" in a manner consistent with the CPE Panel Process Document.²⁰ Specifically, according to the CPE Panel Process Document, the CPE

¹⁹ The reference materials that were recorded in the working papers are URLs to websites that the CPE Provider visited or the URLs of research queries conducted by the CPE Provider. The working papers did not include a static rendering of webpages as they existed at the time of access by the CPE Provider. At times, FTI observed that some URLs cited in the CPE Provider's working papers were no longer active, which is not surprising because FTI received the CPE Provider's working papers long after the CPE Provider had completed the CPE process. As a result, FTI is not able to determine if the links were not active at the time they were accessed by the CPE Provider or if they were de-activated after the CPE Provider's evaluation process concluded. Similarly, in some instances, FTI observed that the URLs cited in the working papers contained typographical errors; however, FTI is not able to determine if the typographical errors appeared in the URLs at the time that the URLs were accessed by the CPE Provider or if they were incorrectly cited by the CPE Provider.

²⁰ See CPE Panel Process Document (<http://newgtlds.icann.org/en/applicant/cpe/panel-process-07aug14-en.pdf>). The CPE Panel Process Document explains that the CPE Provider was selected to implement the Applicant Guidebook's CPE provisions. The CPE Provider also published supplementary guidelines (CPE Guidelines) that provided more detailed scoring guidance, including

Provider’s evaluators provided individual evaluation results based on their assessment of the CPE criteria as set forth in the Applicant Guidebook and CPE Guidelines, application materials, and “secondary research without any influence from core team members.”²¹ Further, “[i]f the core team so decides, additional research may be carried out to answer questions that arise during the review, especially as they pertain to the qualitative aspects of the Applicant Guidebook scoring procedures.”²² FTI considered both the evaluators’ “secondary research” and any “additional research” conducted at the request of the core team to be within scope.

IV. Background on CPE

CPE is a contention resolution mechanism available to applicants that self-designated their applications as community applications.²³ CPE is defined in Module 4.2 of the Applicant Guidebook, and allows a community-based application to undergo an evaluation against the criteria as defined in section 4.2.3 of the Applicant Guidebook, to determine if the application warrants the minimum score of 14 points (out of a maximum of 16 points) to earn priority and thus prevail over other applications in the contention set.²⁴ CPE will occur only if a community-based applicant selects to undergo CPE for its relevant application and after all applications in the contention set have completed all

scoring rubrics, definitions of key terms, and specific questions to be scored. See CPE Guidelines (<https://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>). The CPE Provider personnel interviewed by FTI stated that the CPE Guidelines were intended to increase transparency, fairness, and predictability around the assessment process. The methodology that the CPE Provider undertook to evaluate the CPE criteria is further detailed in FTI’s report addressing Scope 2 of the CPE Process Review.

²¹ CPE Panel Process Document (<http://newgtlds.icann.org/en/applicant/cpe/panel-process-07aug14-en.pdf>).

²² *Id.*

²³ See Applicant Guidebook, Module 4.2 at Pgs. 4-7 (<https://newgtlds.icann.org/en/applicants/agn/string-contention-procedures-04jun12-en.pdf>). See also <https://newgtlds.icann.org/en/applicants/cpe>.

²⁴ See Applicant Guidebook, Module 4.2 at Pgs. 4-7 (<https://newgtlds.icann.org/en/applicants/agn/string-contention-procedures-04jun12-en.pdf>).

previous stages of the new gTLD evaluation process. CPE is performed by an independent provider (CPE Provider).²⁵

As noted, the standards governing CPE are set forth in Module 4.2 of the Applicant Guidebook.²⁶ The CPE Provider personnel interviewed by FTI stated that they were strict constructionists and used the Applicant Guidebook as their “bible.” Further, the CPE Provider stated that it relied first and foremost on material provided by the applicant. The CPE Provider informed FTI that it only accessed reference material when the evaluators or core team decided that research was needed to address questions that arose during the review.

During its investigation, FTI learned that the CPE Provider's evaluators primarily relied upon a database to capture their work (i.e., all notes, research, and conclusions) pertaining to each evaluation. The database was structured with the following fields for each criterion: Question, Answer, Evidence, Sources. The Question section mirrored the questions pertaining to each sub-criterion set forth in the CPE Guidelines. For example, section 1.1.1. in the database was populated with the question, "Is the community clearly delineated?"; the same question appears in the CPE Guidelines. The “Answer” field had space for the evaluator to input his/her answer to the question; FTI observed that the answer generally took the form of a "yes" or "no" response. In the “Evidence” field, the evaluator provided his/her reasoning for his/her answer. In the “Source” field, the evaluator could list the source(s) he/she used to formulate an answer to a particular question, including, but not limited to, the application (or sections thereof), reference material, or letters of support or opposition.

FTI observed that reference material was cited in the “Source” field of the database, spreadsheets generated by the Project Coordinator and core team for each evaluation and which reflect the scoring decisions, memoranda drafted by the evaluators, draft

²⁵ *Id.*

²⁶ <https://newgtlds.icann.org/en/applicants/agb>.

reports, and in the final CPE reports. FTI observed that the Project Coordinator at times requested that the member of the core team responsible for drafting the CPE report incorporate citations to the evaluator(s)' reference material into the draft report to strengthen the rationale with respect to a particular point.

FTI interviewed both ICANN organization and CPE Provider personnel about the CPE process and interviewees from both organizations stated that ICANN organization played no role in whether or not the CPE Provider conducted research or accessed reference material in any of the evaluations. That ICANN organization was not involved in the CPE Provider's research process was confirmed by FTI's review of relevant email communications (including attachments) provided by ICANN organization, inasmuch as FTI observed no instance where ICANN organization suggested that the CPE Provider undertake (or not undertake) research. Instead, research was conducted at the discretion of the CPE Provider.²⁷ Further, FTI observed that when ICANN organization commented on a draft report, it was only to suggest amplifying rationale based on materials already reviewed and analyzed by the CPE Provider.

V. The CPE Provider Performed Research in the Eight Evaluations Which are the Subject of Pending Reconsideration Requests.

With respect to the eight evaluations which are the subject of pending Reconsideration Requests, FTI identified and compiled all reference material cited in each final report, as well as any additional reference material cited in the CPE Provider's working papers to the extent such materials were not otherwise cited in the final CPE report.

²⁷ See Applicant Guidebook Module 4.2.3 at 4-9 ("The panel may also perform independent research, if deemed necessary to reach informed scoring decisions.") (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

The following chart provides the total number of citations to research or reference material in the final CPE report and working papers for each of the eight relevant evaluations, broken down by relevant CPE criterion:

String	<u>Criterion 1:</u> Community Establishment	<u>Criterion 2:</u> Nexus between Proposed String and Community	<u>Criterion 3:</u> Registration Policies	<u>Criterion 4:</u> Community Endorsement	Additional Research Materials Associated with String	Total
.LLC	18	5	0	11	2	36
.INC	13	4	0	6	0	23
.LLP	21	8	0	9	1	39
.GAY (Reevaluation)	27	51	0	9	1	88
.MUSIC (DotMusic Ltd.)	20	2	0	1	0	23
.CPA (Australia)	26	18	0	2	0	46
.HOTEL	42	3	0	12	6	63
.MERCK KGaA	6	8	0	2	0	16
Total	173	99	0	52	10	334

Below, FTI lists each reference material relied upon by the CPE Provider for the eight relevant evaluations, organized by criterion and sub-criterion. By comparing the final CPE reports to the CPE Provider’s working papers, FTI determined that some of the reference material that the CPE Provider relied upon during the CPE process was not cited in the final CPE report, but instead was only reflected in the CPE Provider’s working papers. As a result, below FTI identifies the reference material reflected in the final CPE reports as well as the reference material reflected in the working papers associated with those evaluations.

As detailed below, of the eight relevant CPE reports, FTI observed two reports (.CPA, .MERCK) where the CPE Provider included a citation in the report for each reference to research. For all eight evaluations (.LLC, .INC, .LLP, .GAY, .MUSIC, .CPA, .HOTEL,

and .MERCK), FTI observed instances where the CPE Provider cited reference material in the CPE Provider’s working papers that was not otherwise cited in the final CPE report. In addition, in six CPE reports (.LLC, .INC, .LLP, .GAY, .MUSIC, and .HOTEL), FTI observed instances where the CPE Provider referenced research but did not include citations to such research in the report. In each instance, FTI reviewed the working papers associated with the relevant evaluation to determine if the citation supporting referenced research was reflected in the working papers. For all but one report, FTI observed that the working papers did reflect the citation supporting referenced research not otherwise cited in the corresponding final CPE report. In one instance, in the second .GAY final CPE report, FTI observed that while the final report referenced research, the citations supporting such research were not included in the final report or the working papers for the second .GAY evaluation. However, based on FTI’s review of the CPE Provider’s working papers associated with the first .GAY evaluation, FTI finds that the citations supporting the research referenced in the second .GAY final CPE report may have been cited in those materials.

Brief Note on CPE Criteria Definitions

FTI’s report addressing Scope 2 of the CPE Process Review extensively details the CPE criteria and FTI incorporates that discussion for purposes of this report. For the reader’s benefit, the following summary is provided:

- **Criterion 1: Community Establishment.** The Community Establishment criterion evaluates “the community as explicitly identified and defined according to statements in the application.”²⁸ The Community Establishment criterion is measured by two sub-criterion: (i) 1-A, “Delineation;” and (ii) 1-B, “Extension.”²⁹

²⁸ *Id.*

²⁹ *Id.*

- **Criterion 2: Nexus between Proposed String and Community.** The Nexus criterion evaluates “the relevance of the string to the specific community that it claims to represent.”³⁰ The Nexus criterion is measured by two sub-criterion: (i) 2-A, “Nexus”; and (ii) 2-B, “Uniqueness.”³¹
- **Criterion 3: Registration Policies.** The Registration Policies criterion evaluates the registration policies set forth in the application on four elements, each of which is worth one point: (i) 3-A, “Eligibility”; (ii) 3-B, “Name Selection”; (iii) 3-C, “Content and Use”; and (iv) 3-D, “Enforcement.”³²
- **Criterion 4: Community Endorsement.** The Community Endorsement criterion evaluates community support for and/or opposition to an application.”³³ The Community Endorsement criterion is measured by two sub-criterion: (i) 4-A, “Support”; and (ii) 4-B, “Opposition.”³⁴

CPE Reports Subject to Pending Reconsideration Requests

As noted above, the following evaluations are the subject of Reconsideration Requests that were pending at the time ICANN initiated the CPE Process Review: 14-30 (.LLC),³⁵ 14-32 (.INC),³⁶ 14-33 (.LLP), 16-3 (.GAY), 16-5 (.MUSIC), 16-8 (.CPA), 16-11 (.HOTEL), and 16-12 (.MERCK). The analysis below addresses each evaluation in the foregoing

³⁰ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-13 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

³¹ *Id.* at Pgs. 4-12 and 4-13.

³² See *id.* at Pgs. 4-14-4-15.

³³ See *id.* at Pgs. 4-17.

³⁴ *Id.*

³⁵ Request 14-30 (.LLC) was withdrawn on 7 December 2017. See <https://www.icann.org/en/system/files/files/dotregistry-llc-withdrawal-redacted-07dec17-en.pdf>

³⁶ Request 14-32 (.INC) was withdrawn on 11 December 2017. See <https://www.icann.org/en/system/files/files/reconsideration-14-32-dotregistry-request-redacted-11dec17-en.pdf>.

order, which is the order in which the relevant Reconsideration Requests were submitted.

A. .LLC

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report makes one reference to the CPE Panel’s research, but does not provide a citation to, or otherwise indicate the nature of, that research, for sub-criterion 1-A, Delineation.³⁷ The final CPE report states:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . . Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an LLC. Based on the Panel’s research, there is no evidence of LLCs from different sectors acting as a community.³⁸

The CPE Provider is referring to the Applicant Guidebook’s requirement that the community demonstrate “an awareness and recognition of a community among its members.”³⁹

Because the final CPE report does not provide citations supporting the research undertaken by the CPE Provider, FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Delineation sub-criterion.

³⁷ .LLC CPE report Pg. 2 (<https://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf>).

³⁸ *Id.*

³⁹ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following question: “Question 1.1.1: Is the community clearly delineated?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise reflected in the final CPE report: 1) the Wikipedia page for “Limited Liability Company,”⁴⁰ 2) the “LLC” webpage on www.sba.com,⁴¹ and 3) the “corporation” webpage on www.sba.com.⁴² Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

Including the citations listed above, the working papers contain 13 citations to research or reference material for this sub-criterion, 1-A, Delineation, that were not otherwise cited in the final CPE report.⁴³

⁴⁰ http://en.wikipedia.org/wiki/Limited_liability_company. According to Wikipedia: About, “Anyone with Internet access can write and make changes to Wikipedia articles, except in limited cases where editing is restricted to prevent disruption or vandalism.” See <https://en.wikipedia.org/wiki/Wikipedia:About>. Further, “Unlike printed encyclopedias, Wikipedia is continually created and updated.” *Id.* For purposes of this report, FTI referenced Wikipedia pages as they appear now and not as they may have appeared at the time of review by the CPE Provider.

⁴¹ <http://www.sba.com/legal/llc/>.

⁴² <http://www.sba.gov/content/corporation>.

⁴³ They are:

http://en.wikipedia.org/wiki/Limited_liability_company;

<http://www.sba.com/legal/llc/>;

<http://www.sba.gov/content/corporation> (cited two times);

<http://dotregistry.org/>;

<http://dotregistry.org/about/who-is-dot-registry>;

<http://dotregistry.org/corporate-tlds/llc-domains> (cited two times);

<http://www.nass.org/>;

<http://www.nass.org/nass-committees/nassbusiness-services-committee/> (cited two times and referenced as “Nass Business Services Committee website” one time without providing the URL) (This is no longer an active link); and

<http://www.llc-reporter.com/16.htm> (This is no longer an active link).

1-B Extension

The final CPE report makes two references to the Panel’s research, but does not provide a citation to, or otherwise indicate the nature of, that research, for sub-criterion 1-B, Extension.⁴⁴ The final report states twice:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an LLC. Based on the Panel’s research, there is no evidence of LLCs from different sectors acting as a community.⁴⁵

Although this statement appears in both the “Size” and “Longevity” sub-sections of the CPE Panel’s discussion of sub-criterion 1-B, Extension, it is clear from the CPE Panel’s reference to the awareness and recognition requirement that the CPE Provider is, in fact, addressing sub-criterion 1-A, Delineation.

Because the final CPE report does not provide citations supporting the research undertaken by the CPE Provider, FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Delineation sub-criterion. Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following question: “Question 1.1.1: Is the community clearly delineated?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: 1) the Wikipedia page for “Limited Liability Company,”⁴⁶ 2) the “LLC” webpage on

⁴⁴ .LLC CPE Report Pgs. 3-4 (<https://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf>).

⁴⁵ *Id.*

⁴⁶ http://en.wikipedia.org/wiki/Limited_liability_company.

www.sba.com,⁴⁷ and 3) the “corporation” webpage on www.sba.com.⁴⁸ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

The working papers contain two citations to research or reference material for sub-criterion 1-B, Extension, that were not otherwise cited in the final CPE report.⁴⁹

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report makes one reference to the Panel’s research, but does not provide a citation to, or otherwise indicate the nature of, that research, for sub-criterion 2-A, Nexus.⁵⁰ The final report states—without indicating the source of the information—that “[w]hile the string identifies the name of the community, it captures a wider geographical remit than the community has, as the corporate identifier is used in other jurisdictions

⁴⁷ <http://www.sba.com/legal/llc/>.

⁴⁸ <http://www.sba.gov/content/corporation>.

⁴⁹ They are:

<http://www.llc-reporter.com/16.htm> (This is no longer an active link); and

<http://www.sba.gov/content/limited-liability-companyllc> (This is no longer an active link).

⁵⁰ .LLC CPE Report Pg. 4 (<https://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf>). FTI understands that in Reconsideration Request 14-30 (.LLC) (withdrawn on 7 December 2017, see <https://www.icann.org/en/system/files/files/dotregistry-llc-withdrawal-redacted-07dec17-en.pdf>), the Requestor made the following claim: “The Panel also states that its decision to not award any points to the .LLC Community Application for 2-A Nexus is based on “[t]he Panel’s research [which] indicates that while other jurisdictions use LLC as a corporate identifier, their definitions are quite different and there are no other known associations or definitions of LLC in the English language.” Reconsideration Request 14-30 (<https://www.icann.org/en/system/files/files/request-dotregistry-redacted-25jun14-en.pdf>), Pg. 7. The language the Requestor quoted from the CPE report is contained in a block quote that the CPE report states came from the “application documentation,” and drafts of the report indicate that the block quote originally said “Our research indicates that” .LLC CPE Report Pg. 4 (<https://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf> and drafts). FTI therefore finds it reasonable to conclude that the statement references the *applicant’s* research, not the Panel’s research.

(outside the US).⁵¹ The CPE Panel is referring to the Applicant Guidebook’s requirement that the string “closely describes the community or the community members, without over-reaching substantially beyond the community.”⁵² This requirement is a component of sub-criterion 2-A, Nexus.⁵³

Because the final CPE report does not provide citations supporting the research purportedly undertaken by the CPE Provider, FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Nexus sub-criterion. Specifically, with respect to sub-criterion 2-A, Nexus, the database contains the following question: “Question 2.1.1: Does the string match the name of the community or is it a well-known short-form or abbreviation of the community name? The name may be, but does not need to be, the name of an organization dedicated to the community.” FTI observed that the corresponding “Source” field for this question cited the following references: 1) the Wikipedia page for LLCs,⁵⁴ 2) a “Web search on [REDACTED],” and 3) the “International equivalents” sub-page for the Wikipedia page for LLCs.⁵⁵ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

⁵¹ .LLC CPE Report Pg. 5 (<https://www.icann.org/sites/default/files/tlds/llc/llc-cpe-1-880-17627-en.pdf>).

⁵² See Applicant Guidebook, Module 4.2.3 at Pg. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

⁵³ See *id.*

⁵⁴ http://en.wikipedia.org/wiki/Limited_liability_company.

⁵⁵ http://en.wikipedia.org/wiki/Limited_liability_company#International_equivalents (This is an active link to a Wikipedia page on limited liability companies, but it does not connect to a subsection on “international equivalents”).

Including the citations listed above, the working papers reflect three references to research or reference material for this sub-criterion, which may be related to the research discussed in the final CPE report.⁵⁶

2-B Uniqueness

The final CPE report does not contain any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers contain one citation to research or reference material for this sub-criterion.⁵⁷

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

⁵⁶ They are:

http://en.wikipedia.org/wiki/Limited_liability_company; and

http://en.wikipedia.org/wiki/Limited_liability_company#International_equivalents (This is an active link to a Wikipedia page on limited liability companies, but it does not connect to a subsection on “international equivalents”); this document may relate to the statement in the final CPE report that LLC “is used in other jurisdictions (outside the US).”

FTI notes that the CPE Provider referenced a “Web search on [REDACTED]” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the three references to research in this sub-criterion.

⁵⁷ The working papers cite:

http://en.wikipedia.org/wiki/Limited_liability_company#International_equivalents in a discussion of Uniqueness (This is an active link to a Wikipedia page on limited liability companies, but it does not connect to a subsection on “international equivalents”).

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not contain any references to research or reference material for sub-criterion 4-A, Support, but the working papers reflect ten references to research or reference material for this sub-criterion.⁵⁸

4-B Opposition

The final CPE report does not contain any references to research or reference material for sub-criterion 4-B, Opposition, but the working papers reflect one reference to research or reference material for this sub-criterion.⁵⁹

Additional Research Materials Associated with .LLC

The working papers include two documents not otherwise cited in the final CPE report that the CPE Provider appears to have created or collected during its research concerning the .LLC CPE application. Based on its examination, FTI could not discern if the CPE Provider intended these documents to pertain to any particular criterion or sub-criterion.⁶⁰

⁵⁸ They are:

http://icannwiki.com/index.php/Dot_Registry_LLC;

Six references to <http://dotregistry.org/> or to the “Applicant website” without providing the full URL. FTI included each reference to the “Applicant website” as one of the ten references to research in this sub-criterion.

FTI notes that the CPE Provider made three references to “Web search[es]” in the working papers. The working papers do not provide a full citation or identify the URL for these searches. FTI included each of these searches as one of the ten references to research in this sub-criterion.

⁵⁹ FTI notes that the CPE Provider referenced the “Applicant website” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as the one reference to research in this sub-criterion.

⁶⁰ The documents are:

A one-page Adobe PDF file named “businessRegisterStatisticsFeb2014.pdf” containing weekly data for the month of February, 2014 concerning registrations, liquidations, and dissolutions of companies

B. .INC

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report makes one reference to the CPE Panel’s research, but does not provide a citation or otherwise indicate the nature of that research, for sub-criterion 1-A, Delineation.⁶¹ The final CPE report states:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . . Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an INC. Based on the Panel’s research, there is no evidence of INCs from different sectors acting as a community.⁶²

The CPE Provider is referring to the Applicant Guidebook’s requirement that the community demonstrate “an awareness and recognition of a community among its members.”⁶³

Because the final CPE report does not provide citations supporting the CPE Provider’s research, FTI analyzed the CPE Provider’s working papers in an effort to determine if the working papers reflected research concerning the Delineation sub-criterion. FTI observed that the CPE Provider’s working papers reflect such research. Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following

in the United Kingdom. This document may relate to the CPE Provider’s assertion, in sub-criterion 2-A, that “[t]he [LLC] corporate identifier is used in other jurisdictions (outside the US).”

A Microsoft Excel file named “Orbis_Export_1 (LLC).xls” containing data about the number of companies and their operating revenue in each of over 100 countries for the “last avai[able] year.”

⁶¹ .INC CPE report Pg. 2 (<https://www.icann.org/sites/default/files/tlds/inc/inc-cpe-1-880-35979-en.pdf>).

⁶² *Id.*

⁶³ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

question: “Question 1.1.1: Is the community clearly delineated?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: 1) the “corporation” page for the United States Small Business Association,⁶⁴ and 2) the website for the National Association of Secretaries of State.⁶⁵ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

Including the citations listed above, the working papers reflect eight references to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.⁶⁶

1-B Extension

The final CPE report makes two references to the CPE Panel’s research, but does not provide citations or otherwise indicate the nature of that research, for sub-criterion 1-B, Extension.⁶⁷ The final CPE report states twice:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . . Research

⁶⁴ <http://www.sba.gov/content/corporation>.

⁶⁵ <http://www.nass.org/>.

⁶⁶ They are:

<http://www.companieshouse.gov.uk/links/usaLink.shtml> (cited three times);

<http://www.sba.gov/content/corporation> (cited two times);

<http://www.nass.org/>;

<http://www.nass.org/nasscommittees/nass-business-servicescommittee/> (This is no longer an active link).

FTI notes that the CPE Provider referenced “[t]he NASS website . . . section on corporate registration” in the working papers. The working papers do not provide a full citation or identify the URL for the website. FTI included this website as one of the eight references to research in this sub-criterion.

⁶⁷ .INC CPE report Pgs. 3-4 (<https://www.icann.org/sites/default/files/tlds/inc/inc-cpe-1-880-35979-en.pdf>).

showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an INC. Based on the Panel's research, there is no evidence of INCs from different sectors acting as a community.⁶⁸

Although this statement appears in both the "Size" and "Longevity" sub-sections of the CPE Panel's discussion of sub-criterion 1-B, Extension, it is clear from the CPE Panel's reference to the awareness and recognition requirement that the CPE Provider is, in fact, addressing sub-criterion 1-A, Delineation.

Because the final CPE report does not provide citations supporting the referenced research, FTI analyzed the CPE Provider's working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider's working papers reflected research undertaken in connection with the Delineation sub-criterion. Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following question: "Question 1.1.1: Is the community clearly delineated?" FTI observed that the corresponding "Source" field for this question cited the following references that were not otherwise cited in the final CPE report: 1) the "corporation" page for the United States Small Business Association,⁶⁹ and 2) the website for the National Association of Secretaries of State.⁷⁰ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

The working papers contain two citations to research or reference material for sub-criterion 1-B, Extension, that are not otherwise cited in the final CPE report.⁷¹

⁶⁸ *Id.*

⁶⁹ <http://www.sba.gov/content/corporation>.

⁷⁰ <http://www.nass.org/>.

⁷¹ They are:
<http://www.companieshouse.gov.uk/links/usaLink.shtml>; and

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-A, Nexus, but the working papers contain two citations to research or reference material.⁷²

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers contain two citations to research or reference material relating to this sub-criterion.⁷³

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

<http://en.wikipedia.org/wiki/Corporation>.

⁷² They are:

http://en.wikipedia.org/wiki/Types_of_business_entity; and
<http://en.wikipedia.org/wiki/Inc>.

⁷³ They are:

http://en.wikipedia.org/wiki/Types_of_business_entity; and
<http://en.wikipedia.org/wiki/Inc>.

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers contain six citations to research or reference material for this sub-criterion.⁷⁴

4-B Opposition

Neither the final CPE report nor the working papers reflect any reference to research or reference material for sub-criterion 4-B, Opposition.

C. .LLP

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report makes one reference to the Panel's research, but does not provide a citation or otherwise indicate the nature of that research, for sub-criterion 1-A, Delineation.⁷⁵ The final report states that:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an LLP. Based on

⁷⁴ <http://www.companieshouse.gov.uk/links/usaLink.shtml>;
http://icannwiki.com/index.php/Dot_Registry_LL_C;
<http://dotregistry.org/> (cited three times); and
<https://www.cscglobal.com/global/web/csc/home>.

⁷⁵ .LLP CPE report Pg. 2 (<https://www.icann.org/sites/default/files/tlds/llp/llp-cpe-1-880-35508-en.pdf>).

the Panel's research, there is no evidence of LLPs from different sectors acting as a community.⁷⁶

The CPE Provider is referring to the Applicant Guidebook's requirement that the community demonstrate "an awareness and recognition of a community among its members."⁷⁷

Because the final CPE report does not provide citations supporting the CPE Provider's research, FTI analyzed the CPE Provider's working papers to determine if the working papers reflected research concerning the Delineation sub-criterion. FTI observed that the CPE Provider's working papers reflect such research. Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following question: "Question 1.1.1: Is the community clearly delineated?" FTI observed that the corresponding "Source" field for this question cited the following references that were not otherwise cited in the final CPE report: 1) the Wikipedia page for "Limited Liability Partnership" (specifically, the sub-page for "United States"),⁷⁸ and 2) the "LLP" webpage on www.sba.com.⁷⁹ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

Including the citations listed above, the working papers contain eleven citations to research or reference material for this sub-criterion.⁸⁰

⁷⁶ *Id.*

⁷⁷ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

⁷⁸ http://en.wikipedia.org/wiki/Limited_liability_partnership#United_States.

⁷⁹ <http://www.sba.com/legal/llp/>.

⁸⁰ They are:

<http://www.nass.org/nass-committees/nass-business-servicescommittee/> (cited two times) (This is no longer an active link);

<http://dotregistry.org/about/who-is-dot-registry> (cited two times);

<http://dotregistry.org/>;

1-B Extension

The final CPE report makes two references to the Panel’s research, but does not provide a citation or otherwise indicate the nature of that research, for sub-criterion 1-B, Extension.⁸¹ The final report states twice that:

[T]he community as defined in the application does not have awareness and recognition of a community among its members. . . Research showed that firms are typically organized around specific industries, locales, and other criteria not related to the entities['] structure as an LLP. Based on the Panel’s research, there is no evidence of LLPs from different sectors acting as a community.⁸²

Although this statement appears in both the “Size” and “Longevity” sub-sections of the CPE Panel’s discussion of sub-criterion 1-B, Extension, it is clear from the CPE Panel’s reference to the awareness and recognition requirement that the CPE Provider is, in fact, addressing sub-criterion 1-A, Delineation.

Because the final CPE report does not provide citations supporting the research, FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Delineation sub-criterion. Specifically, with respect to sub-criterion 1-A, Delineation, the database contains the following question: “Question 1.1.1: Is the community clearly delineated?” FTI observed that the corresponding “Source” field for this question cited the following references that were

<http://www.biztree.com/company/>;
http://en.wikipedia.org/wiki/Limited_liability_partnership#United_States (cited two times);
http://en.wikipedia.org/wiki/Limited_liability_partnership;
<http://www.sba.com/legal/llp/>; and
<http://dotregistry.org/corporate-tlds/llp-domains>.

⁸¹ .LLP CPE report Pgs. 3-4 (<https://www.icann.org/sites/default/files/tlds/llp/llp-cpe-1-880-35508-en.pdf>).

⁸² *Id.*

not otherwise cited in the final CPE report: 1) the Wikipedia page for “Limited Liability Partnership” (specifically, the sub-page for “United States,”⁸³ and 2) the “LLP” webpage on www.sba.com.⁸⁴ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

The working papers contain seven citations to research or reference material for sub-criterion 1-B, Extension, that are not otherwise cited in the final CPE report.⁸⁵

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report does not directly reference any research or reference material for sub-criterion 2-A, Nexus, but it states—without indicating the source of the information—that “[t]he applied-for-string (.LLP) over-reaches substantially . . . [because it] captures a wider geographical remit than the community has, as the corporate identifier is used in Poland, the UK, Canada and Japan, amongst others.”⁸⁶ The CPE Panel is referring to the Applicant Guidebook’s requirement that the string “closely describes the community or the community members, without over-reaching

⁸³ http://en.wikipedia.org/wiki/Limited_liability_partnership#United_States.

⁸⁴ <http://www.sba.com/legal/llp/>.

⁸⁵ They are:

http://en.wikipedia.org/wiki/Limited_liability_partnership#United_States (cited two times);

http://en.wikipedia.org/wiki/Limited_liability_partnership;

<http://www.sba.com/legal/llp/> (cited two times);

<http://www.biztree.com/?a=biztree&s=google&c=ustop&gclid=CJPnqb6SwL0CFUNo7Aodtl8A8g>; and <https://www.google.com/search> Confidential Business Information

⁸⁶ .LLP CPE report Pg. 4 (<https://www.icann.org/sites/default/files/tlds/llp/llp-cpe-1-880-35508-en.pdf>).

substantially beyond the community.”⁸⁷ This requirement is a component of sub-criterion 2-A, Nexus.⁸⁸

Because the final CPE report does not provide citations supporting the research purportedly undertaken by the CPE Provider, FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such research. FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Nexus sub-criterion.

Specifically, with respect to sub-criterion 2-A, Nexus, the database contains the following question: “Question 2.1.1: Does the string match the name of the community or is it a well-known short-form or abbreviation of the community name? The name may be, but does not need to be, the name of an organization dedicated to the community.” FTI observed that the corresponding “Source” field for this question cited the following references: 1) the Applicant’s website,⁸⁹ 2) the Wikipedia page for LLPs (cited three times),⁹⁰ 3) a British government webpage answering Frequently Asked Questions about LLPs,⁹¹ and 4) a Google search for **Confidential Business Information**.⁹² Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

⁸⁷ See Applicant Guidebook, Module 4.2.3 at Pg. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

⁸⁸ See *id.*

⁸⁹ <http://dotregistry.org/corporate-tlds/llp-domains>.

⁹⁰ http://en.wikipedia.org/wiki/Limited_liability_partnership.

⁹¹ <http://www.companieshouse.gov.uk/infoAndGuide/faq/llpFAQ.shtml>.

⁹² <https://www.google.com/search> **Confidential Business Information**

Including the citations listed above, the working papers contain six citations to research or reference material for this sub-criterion.⁹³

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers contain one citation to research or reference material for this sub-criterion.⁹⁴

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers reflect nine references to research or reference material.⁹⁵

⁹³ They are:

http://en.wikipedia.org/wiki/Limited_liability_partnership (cited three times);

<http://www.companieshouse.gov.uk/infoAndGuide/faq/llpFAQ.shtml>;

<https://www.google.com/search> Confidential Business Information

and

<http://dotregistry.org/corporate-tlds/llp-domains>.

⁹⁴ One working paper cites http://en.wikipedia.org/wiki/Limited_liability_partnership in its consideration of this sub-criterion.

⁹⁵ They are:

<http://dotregistry.org/#http://dotregistry.org/about>;

4-B Opposition

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 4-B, opposition.

Additional Research Materials Associated with .LLP

The working papers include one document that was not otherwise cited in the final CPE report that the CPE Provider appears to have created or collected during its research concerning the .LLP CPE application. Based on its examination, FTI could not discern if the CPE Provider intended these documents to pertain to any particular criterion or sub-criterion.⁹⁶

FTI notes that the CPE Provider referenced a “Google search” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the nine references to research in this sub-criterion;

FTI notes that the CPE Provider referenced three “Web search[es]” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the nine references to research in this sub-criterion; and

FTI notes that the CPE Provider made four references to the “Applicant[’s] website” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the nine references to research in this sub-criterion.

⁹⁶ The document is a one-page Adobe PDF file named “BusinessRegisterStatistics.pdf” containing weekly data for the month of February 2014 concerning registrations, liquidations, and dissolutions of companies in the United Kingdom.

D. Second .GAY Evaluation⁹⁷

1. Criterion 1: Community Establishment

1-A Delineation

The second final CPE report contains ten citations to research or reference material for sub-criterion 1-A, Delineation.⁹⁸

The working papers contain ten citations to research or reference material for this sub-criterion that are not otherwise cited in the second final CPE report.⁹⁹

⁹⁷ After completion by the CPE Provider of the first CPE in October 2014, through the Reconsideration process, a procedural error in the CPE was identified and the BGC determined that the application should be re-evaluated. See <https://www.icann.org/news/blog/bgc-s-comments-on-recent-reconsideration-request>. At the BGC's direction, the CPE Provider then conducted a new CPE of the application ("second .GAY evaluation" and "second final CPE report," cited as ".GAY 2 CPE report"). For purposes of Scope 3 of the CPE Process Review, the second .GAY evaluation is subject to a pending Reconsideration Request and thus is the relevant evaluation.

⁹⁸ They are:

<http://www.hrc.org/campaigns/coming-out-center>;

http://www.lalgbtcenter.org/coming_out_support;

<http://www.glaad.org/form/come-outas-ally-join-allynetwork-today>;

<http://www.hrc.org/resources/entry/straight-guide-to-lgbt-americans>;

<http://community.pflag.org/page.aspx?pid=539> (This is no longer an active link);

<http://www.apa.org/topics/lgbt/orientation.pdf> (the CPE report notes that the applicant cited this as well);

<http://www.cnn.com/2013/06/27/world/asia/china-gay-lesbian-marriage/>;

<http://www.gaystarnews.com/article/guyana-urged-to-end-ban-on-gay-sex-at-un-human-rights-commission/>;

http://www.huffingtonpost.com/2011/10/18/argentina-gay-marriage_n_1018536.html; and

a reference to "ILGA's website" without specifying the URL or a webpage within the website.

⁹⁹ They are:

<http://dotgay.com>;

<http://ilga.org/about-us/>;

<http://ilga.org/what-we-do/>;

http://en.wikipedia.org/wiki/International_Lesbian,_Gay,_Bisexual,_Trans_and_Intersex_Association;

1-B Extension

The second final CPE report contains two citations to research or reference material for sub-criterion 1-B, Extension.¹⁰⁰

Additionally, the second final CPE report makes one reference to the CPE Provider's verification of data submitted by the Applicant but does not contain a corresponding citation in the report. The second final CPE report states: "The Panel has verified the applicant's estimates of the defined community's size and compared it with other estimates. Even smaller estimates constitute a substantial number of individuals especially when considered globally."¹⁰¹ The CPE Provider is referring to the Applicant Guidebook's requirement that the community be of considerable size.¹⁰² Size is a component of sub-criterion 1-B, Extension.¹⁰³

Because the second final CPE report does not provide a citation in support of the referenced research conducted by the CPE Provider to verify and compare the referenced estimates,¹⁰⁴ FTI analyzed the CPE Provider's working papers for the second .GAY evaluation to determine if the working papers reflected such research.

http://en.wikipedia.org/wiki/Gay_and_Lesbian_International_Sport_Association;
http://en.wikipedia.org/wiki/International_Gay_and_Lesbian_Travel_Association;
<http://en.wikipedia.org/wiki/Gay>;
<http://en.wikipedia.org/wiki/LGBT>;
http://en.wikipedia.org/wiki/LGBT_history; and
http://en.wikipedia.org/wiki/Timeline_of_LGBT_history.

¹⁰⁰ They are:

Haggerty, George E. "Global Politics." In *Gay Histories and Cultures: An Encyclopedia*. New York: Garland, 2000; and
<http://www.theguardian.com/world/2013/jul/30/gay-rights-world-best-worst-countries>.

¹⁰¹ .GAY 2 CPE report Pg. 4 (<https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf>).

¹⁰² See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

¹⁰³ *Id.*

¹⁰⁴ .GAY 2 CPE report Pg. 4 (<https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf>).

Based on FTI’s investigation, FTI observed that the CPE Provider’s working papers did not reflect research undertaken in connection with the Extension sub-criterion for the second .GAY evaluation. Specifically, with respect to sub-criterion 1-B, Extension, the database contains the following: “Question 1.2.1: Is the community of considerable size?” FTI observed no references to research or reference material in the corresponding “Source” field for this question.

However, because the CPE Provider performed two evaluations for the .GAY application, out of an abundance of caution, FTI also reviewed the CPE Provider’s working papers associated with the first .GAY evaluation to determine if the referenced research was reflected in those materials. Based upon FTI’s investigation, FTI finds that the supporting research may have been cited in the working papers associated with the first .GAY evaluation. FTI observed in the working papers for the first .GAY evaluation that the CPE Provider recorded two references in the database’s “Source” field for Question 1.2.1.¹⁰⁵ Both citations addressed the size of the gay community nationally and worldwide, which may have been used by the CPE Provider to verify the size of the community defined in the application. Based on the similarity between the two evaluations, FTI finds it reasonable to conclude that the research referenced without citation in the second .GAY evaluation may have been the same research that was cited in the working papers associated with the first .GAY evaluation.

Finally, the working papers associated with the second .GAY evaluation contain four citations to research or reference material for this sub-criterion that were not otherwise cited in the second final CPE report.¹⁰⁶

¹⁰⁵ They are:
www.census.gov/popclock (This is no longer an active link. The correct link to the United States Census Bureau U.S. and World Population Clock is <https://www.census.gov/popclock/>);
<http://en.wikipedia.org/wiki/InterPride>.

¹⁰⁶ They are:

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The second final CPE report contains 14 citations to research or reference material for sub-criterion 2-A, Nexus.¹⁰⁷

Additionally, the second final CPE report makes one reference to the CPE Panel's research and four references to the Panel's "survey" or "review of representative samples" of media and news articles, but does not provide the corresponding citation to the media, articles, and research reviewed.¹⁰⁸ These references are contained in three excerpts of the second final CPE report, each of which addresses whether the proposed

<http://en.wikipedia.org/wiki/Gay>;
<http://en.wikipedia.org/wiki/LGBT>;
http://en.wikipedia.org/wiki/LGBT_history; and
http://en.wikipedia.org/wiki/Timeline_of_LGBT_history.

¹⁰⁷ They are:

"gay, adj., adv., and n." OED Online. Oxford University Press, June 2015. Web. 19 August 2015;
<http://time.com/135480/transgender-tipping-point/>;
<http://www.vanityfair.com/hollywood/2015/06/caitlyn-jenner-bruce-cover-annie-leibovitz>;
<http://transgenderlawcenter.org/>;
<http://srlp.org/>;
<http://transequality.org/>;
<http://transequality.org/issues/resources/transgender-terminology>;
<http://oii-usa.org/1144/ten-misconceptions-intersex>;
http://dotgay.com/the-dotgay-team/#section=Jamie_Baxter (This is no longer an active link);
<http://www.economist.com/news/international/21595034-more-places-are-seeing-gay-marches-or-clever-substitutes-pride-and-prejudice>;
<http://www.nytimes.com/2013/01/10/fashion/generation-lgbtqia.html>;
<http://www.economist.com/blogs/johnson/2013/01/gender-and-sexual-orientation>;
<http://www.glaad.org/transgender/transfaq>; and
<http://www.glaad.org/about/history>.

¹⁰⁸ .GAY 2 CPE report Pgs. 5-8 (<https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf>).

string identifies all members of the identified community. Because the references relate to the same sub-criterion, FTI analyzed all three excerpts together for this review.

First, the second final CPE report states:

The Panel has also conducted its own research. The Panel has determined that the applied-for string does not sufficiently identify some members of the applicant's defined community, in particular transgender, intersex, and ally individuals. According to the Panel's own review of the language used in the media as well as by organizations that work within the community described by the applicant, transgender, intersex, and ally individuals are not likely to consider "gay" to be their "most common" descriptor, as the applicant claims. These groups are most likely to use words such as "transgender," "trans," "intersex," or "ally" because these words are neutral to sexual orientation, unlike "gay".¹⁰⁹

In a footnote to the above text, the Panel added that: "While a comprehensive survey of the media's language in this field is not feasible, the Panel has relied on both the data in the applicant's own analysis as well as on the Panel's own representative samples of media."¹¹⁰

Second, the second final CPE report states that: "organizations within the defined community, when they are referring to groups that specifically include transgender, intersex or ally individuals, are careful not to use only the descriptor 'gay,' preferring one of the more inclusive terms."¹¹¹ The supporting footnote states: "While a survey of all LGBTQIA individuals and organizations globally would be impossible, the Panel has relied for its research on many of the same media organizations and community organizations that the applicant recognizes."¹¹²

¹⁰⁹ *Id.* at Pgs. 5-6.

¹¹⁰ *Id.* at Pg. 6 n.10. This footnote is repeated at page 7, note 19.

¹¹¹ *Id.* at Pg. 6.

¹¹² *Id.* at Pg. 6 n.12.

Third, the second final CPE report states that “researching sources from the same periods as the applicant’s analysis for the terms ‘transgender’ or ‘intersex’ shows again that these terms refer to individuals and communities not identified by ‘gay.’”¹¹³ The supporting footnote states: “[t]he Panel reviewed a representative sample of articles from the same time periods” as LexisNexis search results provided by the applicant.¹¹⁴

As noted, each of these references relates to whether the string “closely describes the community or the community members, without over-reaching substantially beyond the community.”¹¹⁵ The CPE Provider is referring to the requirement that “the applied-for string must match the name of the community or be a well-known short-form or abbreviation of the community.”¹¹⁶

Because the second final CPE report does not provide citations for the Panel’s research, FTI analyzed the CPE Provider’s working papers for the second .GAY evaluation to determine if the working papers reflected such research. Based on FTI’s investigation, FTI observed that the CPE Provider’s working papers reflect the research referenced in the final report.

Specifically, with respect to sub-criterion 2-A, Nexus, the database contains the following question: “Question 2.1.1: Does the string match the name of the community or is it a well-known short-form or abbreviation of the community name? The name may be, but does not need to be, the name of an organization dedicated to the community.” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: (1) a Google search on [REDACTED]; (2) the Wikipedia page for “Coming out”; (3) a Google search on

¹¹³ *Id.* at Pgs. 7-8.

¹¹⁴ *Id.* at Pg. 8 n.22.

¹¹⁵ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (cited in .GAY 2 CPE report Pg. 5) (<https://www.icann.org/sites/default/files/tlds/gay/gay-cpe-rr-1-1713-23699-en.pdf>).

¹¹⁶ See *id.* at Module 4.2.3 at Pgs. 4-13.

██████████; (4) a second Google search on ██████████ which included; (5) the Wikipedia page for “GAY” (cited two times).

Accordingly, FTI finds it reasonable to conclude that the research referenced in the second final CPE report refers to the research reflected in the working papers for the second .GAY evaluation identified above.

FTI observed 23 references to research or reference materials in a working paper entitled, “nexus research notes,” which also addresses this sub-criterion, that were not otherwise cited in the second final CPE report.¹¹⁷

¹¹⁷ They are:

<http://www.glaad.org/reference/transgender;>

[http://www.transpeoplespeak.org/trans-101/;](http://www.transpeoplespeak.org/trans-101/)

<http://www.out.com/news-opinion/2015/6/29/watch-john-olivers-breakdown-how-far-trans-rights-still-have-go;>

<http://www.lambdalegal.org/issues/transgender-rights;>

<https://www.aclu.org/issues/lgbt-rights/transgender-rights;>

http://www.nytimes.com/2015/05/04/opinion/the-quest-for-transgender-equality.html?_r=1;

<http://www.newrepublic.com/article/politics/magazine/90519/transgender-civil-rights-gay-lesbian-lgbtq;>

[https://en.wikipedia.org/wiki/LGBT_community;](https://en.wikipedia.org/wiki/LGBT_community)

[http://www.tgijp.org/;](http://www.tgijp.org/)

[http://transgenderlawcenter.org/about/mission.](http://transgenderlawcenter.org/about/mission)

FTI notes that the CPE Provider referenced six “NYTimes” searches in the working papers. The CPE Provider described the searches in the working papers as follows: ██████████ in year 2010: 16 results, ██████████ Year 2014: 311 results, ██████████ 2014: 106 results, “Gay community” 2010: 51 results, ██████████ 2010: 4 results, “LGBT community” 2014: 88 results. The working papers do not provide a full citation for the searches. FTI included the six searches among the 23 references to research in this sub-criterion;

FTI further notes that the CPE Provider referenced two searches in the Washington Post in the working papers. The CPE Provider described the searches in the working papers as follows: ██████████ (174 results in past 12 months, 529 results since 2005), ██████████ (77 results in past 12 months, 632 results since 2005). The working papers do not provide a full citation for the searches. FTI included the two searches among the 23 references to research in this sub-criterion;

FTI further notes that the CPE Provider referenced two searches in the “UK Guardian” in the working papers. The CPE provider described the searches in the working papers as follows: ██████████ (7160 results) and ██████████ (6120 results). The working papers do not provide

2-B Uniqueness

The second final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers reflect three references to research or reference material for this sub-criterion.¹¹⁸

3. Criterion 3: Registration Policies

Neither the second final CPE report nor the working papers for the second .GAY evaluation reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

a full citation for the searches. FTI included the two searches among the 23 references to research in this sub-criterion;

FTI further notes that the CPE Provider referenced “HRC” in the working papers. The working papers do not provide a full citation for or any other information about this reference. FTI included this reference as one of the 23 references to research in this sub-criterion;

FTI further notes that the CPE Provider made one reference to the “Trans Advocacy Network” in the working papers. The working papers do not provide a full citation for or any other information about this reference. FTI included this reference as one of the 23 references to research in this sub-criterion; and

FTI further notes that the CPE Provider stated in the working papers that “The Panel’s research shows that there is a robust network of advocacy, support, and general organizations addressing issues specific to the intersex and transgender communities themselves.” The working papers do not provide a full citation for or any other information about this reference. FTI included this reference as one of the 23 references to research in this sub-criterion.

¹¹⁸ They are:

<http://en.wikipedia.org/wiki/Gay> (cited two times).

FTI notes that the CPE Provider referenced a “Google Search on [REDACTED]” in the working papers. The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the three references to research in this sub-criterion.

4. Criterion 4: Community Endorsement

4-A Support

The second final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers for the second .GAY evaluation reflect six references to research or reference material for this sub-criterion.¹¹⁹

4-B Opposition

The second final CPE report does not reflect any references to research or reference material for sub-criterion 4-B, Opposition, but the working papers for the second .GAY evaluation contain three citations to research or reference material for this sub-criterion.¹²⁰

Additional Research Materials Associated with .GAY

The working papers for the second .GAY evaluation include one document that was not otherwise cited in the final CPE report that the CPE Provider appears to have collected in the course of its evaluation process. Based on its examination, FTI could not discern

¹¹⁹ They are:

<http://www.spimarketing.com/team>;

<http://dotgay.com/faq/>; and

<http://dotgay.com/endorsements/> (This is no longer an active link) (cited three times).

FTI notes that the CPE Provider made one reference to “Organisation websites, including ILGA: <http://ilga.org/about-us/>” in the working papers. The working papers do not provide full citations or identify the URLs for the “Organisation websites” other than ILGA. FTI treated this reference as one of the six references to research in this sub-criterion.

¹²⁰ They are:

<http://www.pdxqcenter.org/about/>;

<http://www.pdxqcenter.org/interim-board-appointed-to-stabilize-q-center-engage-community-about-centers-future/>; and

<http://www.pqmonthly.com/new-era-begins-q-center-basic-rights-oregon-provides-financial-stability/21355>.

if the CPE Provider intended this document to pertain to any particular criterion or sub-criterion.¹²¹

E. .MUSIC (DotMusic Ltd.)

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report reflects one citation to reference material for sub-criterion 1-A, Delineation.¹²²

Additionally, the final CPE report makes three references to the CPE Panel’s research, but does not provide citations to, or otherwise indicate the nature of, that research.¹²³

First, the final CPE report states: “The community as defined in the application does not demonstrate an awareness and recognition among its members. The application materials and further research provide no substantive evidence of what the [Applicant Guidebook] calls ‘cohesion.’”¹²⁴ The CPE Provider is referring to the Applicant Guidebook’s requirement that a “community” demonstrate “more of cohesion than a mere commonality of interest.”¹²⁵

¹²¹ The document is a copy of an article titled “They do: Same-sex couples are choosing marriage over civil partnership,” *The Economist*, 27 June 2015, <http://www.economist.com/news/britain/21656197-same-sex-couples-are-choosing-marriage-over-civil-partnership-they-do2/> (This link does not lead to the *Economist* article cited by the CPE Provider).

¹²² The CPE report cites “Oxford dictionaries” for the definition of “cohesion.” .MUSIC (DotMusic Ltd.) CPE report (<https://www.icann.org/sites/default/files/tlds/music/music-cpe-1-1115-14110-en.pdf>) Pg. 3.

¹²³ .MUSIC (DotMusic Ltd.) CPE report Pg. 3 (<https://www.icann.org/sites/default/files/tlds/music/music-cpe-1-1115-14110-en.pdf>).

¹²⁴ *Id.*

¹²⁵ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

Because the final CPE report does not provide citations supporting the “further research,” FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected such “further research.” FTI observed that the CPE Provider’s working papers reflected research undertaken in connection with the Delineation sub-criterion.

Specifically, as noted above, the database sets forth questions for each CPE sub-criterion. With respect to sub-criterion 1-A, Delineation, the database contains the following: “Question 1.1.1: Is the community clearly delineated?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: (1) the U.S. Census Bureau’s North American Industry Classification System (NAICS) codes;¹²⁶ (2) the United Nations International Standard Industrial Classification (ISIC) system;¹²⁷ and (3) the Wikipedia page for “Music.”¹²⁸ Accordingly, FTI finds it reasonable to conclude that the “further research” referenced in the final CPE report refers to the research reflected in the working papers.

Second, the final CPE report states:

based on the Panel’s research, there is no entity mainly dedicated to the entire community as defined by the applicant in all its geographic reach and range of categories. Research showed that those organizations that do exist represent members of the defined community only in a limited geographic area or only in certain fields within the community.¹²⁹

The final CPE report also states: “based on . . . the Panel’s research, there is no entity that organizes the community defined in the application in all the breadth of categories

¹²⁶ <http://www.census.gov/eos/www/naics/>.

¹²⁷ http://unstats.un.org/unsd/publication/seriesM/seriesm_4rev4e.pdf.

¹²⁸ <https://en.wikipedia.org/wiki/Music>.

¹²⁹ .MUSIC (DotMusic Ltd.) CPE report (<https://www.icann.org/sites/default/files/tlds/music/music-cpe-1-1115-14110-en.pdf>) Pg. 3.

explicitly defined.”¹³⁰ In both instances, the CPE Provider is referring to the Applicant Guidebook’s requirement that a community be organized, which the Applicant Guidebook defines to mean that “there is at least one entity mainly dedicated to the community, with documented evidence of community activities.”¹³¹ Organization is a component of Delineation,¹³² and this reference to “the Panel’s research” is noted in the final CPE report’s sub-section on “[o]rganization.”¹³³

Because the final CPE report does not provide citations supporting the “Panel’s research,” FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected the referenced research. FTI observed that the CPE Provider’s working papers reflect research undertaken in connection with the organization prong of the Delineation sub-criterion. Specifically, the database contains the following question: “Question 1.1.2: Is there at least one entity mainly dedicated to the community?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: (1) the website for the International Federation of Arts Councils and Culture Agencies (IFACCA);¹³⁴ (2) the Wikipedia page for “Music;”¹³⁵ (3) the Wikipedia page for “Recording Industry Association of America;”¹³⁶ and (4) the Wikipedia page for “American Federation of

¹³⁰ *Id.*

¹³¹ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

¹³² *Id.*

¹³³ .MUSIC (DotMusic Ltd.) CPE report Pg. 3 (<https://www.icann.org/sites/default/files/tlds/music/music-cpe-1-1115-14110-en.pdf>).

¹³⁴ http://www.ifacca.org/vision_and_objectives/ (This is no longer an active link).

¹³⁵ <https://en.wikipedia.org/wiki/Music>.

¹³⁶ https://en.wikipedia.org/wiki/Recording_Industry_Association_of_America.

Musicians.”¹³⁷ Accordingly, FTI finds it reasonable to conclude that the research referenced in the final CPE report refers to the research reflected in the working papers.

Including the citations listed above, the working papers contain 13 citations to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.¹³⁸

1-B Extension

The final CPE report does not reflect any references to research or reference material for sub-criterion 1-B, Extension, but the working papers contain three citations to research or reference material for this sub-criterion.¹³⁹

¹³⁷ https://en.wikipedia.org/wiki/American_Federation_of_Musicians.

¹³⁸ They are:

<https://en.wikipedia.org/wiki/Music> (cited three times);

<http://www.census.gov/eos/www/naics/>;

http://unstats.un.org/unsd/publication/seriesM/seriesm_4rev4e.pdf;

https://en.wikipedia.org/wiki/Recording_Industry_Association_of_America (cited two times);

https://en.wikipedia.org/wiki/American_Federation_of_Musicians (cited two times);

http://www.ifacca.org/vision_and_objectives/ (This is no longer an active link);

http://media.ifacca.org/files/IFACCA_Stratplan_english_web_July2015FINAL.pdf;

http://www.ifacca.org/ifacca_events/ (This is no longer an active link); and

https://en.wikipedia.org/wiki/History_of_music.

¹³⁹ They are:

https://en.wikipedia.org/wiki/History_of_music (cited two times); and

http://media.ifacca.org/files/IFACCA_Stratplan_english_web_July2015FINAL.pdf.

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 2-A, Nexus.

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers contain two citations to research or reference material for this sub-criterion.¹⁴⁰

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers contain one citation to research or reference material for this sub-criterion.¹⁴¹

¹⁴⁰ They are:
https://en.wikipedia.org/wiki/Definition_of_music; and
Oxford English Reference Dictionary.

¹⁴¹ It is: <http://music.us/about/>.

4-B Opposition

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 4-B, Opposition.

F. .CPA (Australia)

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report contains four citations to research or reference material in sub-criterion 1-A, Delineation.¹⁴²

The working papers contain 14 citations to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.¹⁴³

¹⁴² They are:

<https://www.cpaaustralia.com.au/member-services/fees/australia>;
<https://www.cpaaustralia.com.au/training-and-events>;
<https://www.cpaaustralia.com.au/training-and-events/conferences>; and
<https://www.cpaaustralia.com.au/about-us/ourhistory/archives> (This is no longer an active link).

¹⁴³ They are:

<http://www.cpaaustralia.com.au/> (cited three times);
<https://www.cpaaustralia.com.au/about-us> (cited two times);
<https://www.cpaaustralia.com.au/about-us/ourhistory> (This is no longer an active link);
<https://www.cpaaustralia.com.au/about-us/ourhistory/our-timeline> (cited two times) (This is no longer an active link);
<https://www.cpaaustralia.com.au/member-services>;
<http://www.cpaaustralia.com.au/member-services/renew-my-membership>;
http://en.wikipedia.org/wiki/CPA_Australia (cited three times); and
<http://www.cimaglobal.com/Members/Membershipinformation/> (identified as the result of “A web search on [REDACTED]” (This is no longer an active link).

1-B Extension

The final CPE report contains three citations to research or reference material in sub-criterion 1-B, Extension.¹⁴⁴

The working papers contain five citations to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.¹⁴⁵

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report contains two citations to research or reference material in sub-criterion 2-A, Nexus.¹⁴⁶

The working papers contain seven citations to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.¹⁴⁷

¹⁴⁴ They are:

<https://www.cpaaustralia.com.au/about-us>; and

http://docs.employment.gov.au/system/files/doc/other/2211accountantaus_1.pdf (cited two times)
(This is no longer an active link).

¹⁴⁵ They are:

http://en.wikipedia.org/wiki/CPA_Australia (cited two times);

<https://www.cpaaustralia.com.au/about-us/ourhistory/our-timeline> (cited two times) (This is no longer an active link); and

<https://www.cpaaustralia.com.au/training-andevents/conferences> (This is no longer an active link).

¹⁴⁶ They are:

<http://www.forbes.com/sites/peterjreilly/2013/06/26/enrolled-agents-deserve-more-respect/>; and

<http://nasba.org/blog/2010/01/07/january-2010-nasba-addresses-aicpa-sec-conference/>.

¹⁴⁷ They are:

<http://www.cpaaustralia.com.au/about-us>;

<http://www.cpaaustralia.com.au/become-a-cpa/about-the-program> (This is no longer an active link);

http://en.wikipedia.org/wiki/CPA_Australia;

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for criterion 2-B, Uniqueness, but the working papers reflect nine references to research or reference material for this sub-criterion.¹⁴⁸

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

<http://www.cimaglobal.com/Members/Membershipinformation/Global-alliances/CIMA-into-CPA/> (This is no longer an active link);

<http://www.aicpa.org/Pages/default.aspx>;

<http://www.acpa.org.uk>; and

<http://www.aicpa.org/About/Pages/About.aspx/> (This is no longer an active link).

¹⁴⁸ They are:

<http://www.cpahq.org/cpahq/Main/Home/Main/Home.aspx?hkey=98e6b3f2-25d9-4d37-8f03-9ac0745ce845>;

<http://www.cpa.org.au/>;

<https://www.cdnpay.ca/> (This is no longer an active link);

<http://www.cpa-acp.ca/>;

<http://www.cpa.gov.cy/CPA/page.php?pageID=31&langID=0>;

<http://www.cpa.de/en/products.htm> (This link does not lead to the “Products” page of CPA SoftwareConsult GmbH’s website);

http://en.wikipedia.org/wiki/Certified_Public_Accountant; and

<http://en.wikipedia.org/wiki/CPA>;

FTI notes that the CPE Provider referenced a “Google Search on [REDACTED]” in one of the working papers. The working paper does not provide a full citation or identify the URL for the search. FTI included this search as one of the nine references to research in this sub-criterion.

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers contain two citations to research or reference material for this sub-criterion.¹⁴⁹

4-B Opposition

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 4-B, Opposition.

G. .HOTEL

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report reflects one reference to research or reference material in sub-criterion 1-A, Delineation.¹⁵⁰ Additionally, the final CPE report states that the Panel observed documented evidence of community activities on the International Hotel and Restaurant Association (“IH&RA”) website and “information on other hotel association websites,” without identifying the websites referenced. The CPE Provider is addressing the Applicant Guidebook’s provision that states that “‘organized’ implies that there is at least one entity mainly dedicated to the community, with documented evidence of community activities.”¹⁵¹

¹⁴⁹ They are:

<http://www.aicpa.org/Pages/default.aspx>; and

http://www.aicpa.org/about/leadership/pages/melancon_bio.aspx.

¹⁵⁰ The final CPE report references “International Hotel & Restaurant Association’s website.” International Hotel & Restaurant Association’s website is <http://ih-ra.com>, and is cited three times in the working papers.

¹⁵¹ See Applicant Guidebook, Module 4.2.3 at Pgs. 4-11 (<https://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>).

Because the final CPE report does not provide citations for the “other hotel association websites,” FTI analyzed the CPE Provider’s working papers to determine if the working papers reflected the “other hotel association websites.” FTI observed that the CPE Provider’s working papers reflect research concerning hotel association websites in connection with the Delineation sub-criterion.

Specifically, with respect to sub-criterion 1-A, Delineation, FTI observed that the database contains the following: “Question 1.1.3: Does the entity . . . have documented evidence of community activities?” FTI observed that the corresponding “Source” field for this question cited the following references that were not otherwise cited in the final CPE report: (1) the Applicant’s website,¹⁵² (2) a webpage on the IH&RA website,¹⁵³ (3) four websites for HOTREC,¹⁵⁴ which the working papers identify as an organization of European hotels and restaurants; (4) a press release from the United Nations World Tourism Organization about its Memorandum of Understanding with IH&RA,¹⁵⁵ (5) a webpage from ETurbo news¹⁵⁶ which, according to the working papers, indicates that HOTREC signed a Memorandum with IH&RA; (6) the Hotel News Resource website;¹⁵⁷ and (7) the website for Green Hotelier,¹⁵⁸ which the working papers indicate is the

¹⁵² <http://www.dothotel.info/>.

¹⁵³ <http://ih-ra.com/achievements-in-advocacy/>.

¹⁵⁴ They are:

<http://www.hospitalitynet.org/news/4064407.html>;

<http://www.hotrec.eu/newsroom/press-releases-1714/hotrec-and-ihra-signmemorandum-of-understanding.aspx> (This is no longer an active link);

<http://www.hotrec.eu/policy-issues/tourism.aspx>; and

<http://www.hotrec.eu/publications-positions.aspx>.

¹⁵⁵ <http://media.unwto.org/press-release/2014-03-12/unwto-and-ihra-signmemorandum-Understanding>.

¹⁵⁶ <http://www.eturbonews.com/44710/hotrec-and-ihra-sign-memorandumunderstanding> (This is no longer an active link).

¹⁵⁷ <http://www.hotelnewsresource.com/article70606.html>.

¹⁵⁸ <http://www.greenhotelier.org/category/our-destinations/>.

magazine for the International Tourism Partnership. Accordingly, FTI finds it reasonable to conclude that the “other hotel association websites” referenced in the final CPE report refer to the websites listed in the working papers.

Including the citations listed above, the working papers contain 29 citations to research or reference material for this sub-criterion that are not otherwise cited in the final CPE report.¹⁵⁹

¹⁵⁹ They are:

<http://ehotelier.com/directory/?associations> (cited two times)
<http://www.gha.com/> (cited three times)
http://www.theindependents.co.uk/en/hotel/location/united_kingdom (cited two times)
<http://hotel-tld.de/> (cited two times)
http://en.wikipedia.org/wiki/International_Hotel_%26_Restaurant_Association (cited two times)
<http://ih-ra.com/who-are-our-members/>;
<http://media.unwto.org/press-release/2014-03-12/unwto-and-ihra-sign-memorandum-understanding>;
<http://www.eturbonews.com/44710/hotrec-and-ihra-sign-memorandum-understanding>;
<http://www.hotelnewsresource.com/article70606.html>;
<http://www.greenhotelier.org/category/our-destinations/>;
<http://www.dothotel.info/> (cited three times);
<http://ih-ra.com/ihra-today/>;
<http://www.hospitalitynet.org/organization/17000749.html>;
<http://ih-ra.com/achievements-in-advocacy/>;
<http://www.hospitalitynet.org/news/4064407.html>;
<http://www.hotrec.eu/newsroom/press-releases-1714/hotrec-and-ihra-sign-memorandum-of-understanding.aspx>;
<http://www.hotrec.eu/policy-issues/tourism.aspx>;
<http://www.hotrec.eu/publications-positions.aspx>;
<http://ih-ra.com/ihra-history/>;
<http://en.wikipedia.org/wiki/Hotel#History>; and
<http://en.wikipedia.org/wiki/Hotel>.

1-B Extension

The final CPE report did not reflect any references to research or reference material for sub-criterion 1-B, Extension, but the working papers contain ten citations to research or reference material for this sub-criterion.¹⁶⁰

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-A, Nexus, but the working papers contain one citation to research or reference material for this sub-criterion.¹⁶¹

¹⁶⁰ They are:

<http://www.dothotel.info/> (cited two times);

<http://hotel-tld.de/>;

<http://ih-ra.com/ihra-today/>;

http://en.wikipedia.org/wiki/International_Hotel_%26_Restaurant_Association;

<http://media.unwto.org/press-release/2014-03-12/unwto-and-ihra-sign-memorandum-understanding>;

<http://www.tnooz.com/article/how-many-hotels-in-the-world-are-there-anyway-booking-com-keeps-adding-them/>;

http://wiki.answers.com/Q/How_many_hotels_exist_in_the_world?#slide=1;

<http://travel.usatoday.com/hotels/post/2012/04/worldwide-hotel-rooms-2012-smith-travel-research/677093/1> (This is an active link to the website of USA Today, but it leads directly to the publication's "Travel" section, rather than to hotel-related content); and

<http://en.wikipedia.org/wiki/Hotel>.

¹⁶¹ The working papers cite <http://hotel-tld.de/>.

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers reflect two references to research or reference material for this sub-criterion.¹⁶²

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers reflect 12 references to research or reference material for this sub-criterion.¹⁶³

¹⁶² They are:

<http://en.wikipedia.org/wiki/Hotel>; and

FTI notes that the CPE Provider stated in the working papers that an “Internet search on [REDACTED] and [REDACTED] turns up mainly sites discussing the domain name and actual hotels, hotel chains etc[.]” The working papers do not provide a full citation or identify the URL for the search. FTI included this search as one of the two references to research in this sub-criterion.

¹⁶³ They are:

<http://www.dothotel.info/> (cited three times);

<http://ih-ra.com/ihra-today/>;

<http://domainincite.com/10101-big-hotel-chains-pick-a-side-in-hotel-gtld-fight>;

<http://media.unwto.org/press-release/2014-03-12/unwto-and-ihra-sign-memorandum-understanding>;

http://en.wikipedia.org/wiki/International_Hotel_%26_Restaurant_Association;

<http://ih-ra.com/message-from-the-ihra-president/>;

<http://www.tnooz.com/article/how-many-hotels-in-the-world-are-there-anyway-booking-com-keeps-adding-them/>; and

4-B Opposition

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 4-B, Opposition.

Additional Research Materials Associated with .HOTEL

The working papers provided to FTI by the CPE Provider include six documents that were not otherwise cited in the final CPE report that the CPE Provider appears to have created or collected during its evaluation of the Hotel application. Based on its examination, FTI could not discern if the CPE Provider intended these documents to pertain to any particular criterion or sub-criterion.¹⁶⁴

<http://www.otusco.com/Otus%20Hotel%20Analyst%20Size%20and%20Structure%201.pdf>.

FTI notes that the CPE Provider referenced two “web search[es]” in the working papers. The working papers do not provide a full citation or identify the URL for the searches. FTI included these searches as two of the 12 references to research in this sub-criterion.

¹⁶⁴ The documents are five Adobe PDF files and one Microsoft Excel file:

A report by Mintel Group Limited: Hotel Trends – TTA. No. 1 February 2014;

A printout of www.marketline.com’s report on “Global Hotels & Motels October 2012”;

A printout of www.marketline.com’s report on “Global Hotels, Resorts & Cruise Lines July 2013”;

A printout of <http://www.eturbonews.com/22544/nepal-host-international-hotelioers-meets>, “International Hotel and Restaurant Association World Congress: Nepal to Host International Hoteliers’ Meets,” April 28, 2011 (This link does not lead to the article entitled Nepal’s hosting of international hoteliers);

A page which appears to be from a book published by the American Hotel and Lodging Association describing the history and current status of that association; and

A Microsoft Excel spreadsheet named “20140521 hotels research.xls” containing market information about the global and national hotel businesses.

H. .MERCK (KGaA)

1. Criterion 1: Community Establishment

1-A Delineation

The final CPE report does not reflect any references to research or reference material for sub-criterion 1-A, Delineation, but the working papers contain three citations to research or reference material for this sub-criterion.¹⁶⁵

1-B Extension

The final CPE report reflects two references to research or reference material for sub-criterion 1-B, Extension.¹⁶⁶

The working papers contain one citation to research or reference material for this sub-criterion that is not otherwise cited in the final CPE report.¹⁶⁷

¹⁶⁵ The working papers cite <http://www.merckgroup.com/en/index.html> three times under this sub-criterion.

¹⁶⁶ They are:

http://www.emdgroup.com/m.group.us/emd/images/Merck-Infographic-USA_v3_tcm2252_143783.pdf?Version=; and

“Applicant’s website.”

¹⁶⁷ It is: www.who.int/trade/glossary/story073/en/ (This is no longer an active link).

FTI notes that the working papers also reflect one reference to Merck KGaA’s “company website,” which FTI understands to be synonymous with the “Applicant’s website” referenced in the final CPE report. Because the final CPE report references Merck KGaA’s website, FTI included that citation in its analysis of the final CPE report (even though the Panel did not include the URL in the final report); therefore, this reference to the company website was referenced in the final CPE report.

2. Criterion 2: Nexus between Proposed String and Community

2-A Nexus

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-A, Nexus, but the working papers contain four citations to research or reference material for this sub-criterion.¹⁶⁸

2-B Uniqueness

The final CPE report does not reflect any references to research or reference material for sub-criterion 2-B, Uniqueness, but the working papers contain four citations to research or reference material for this sub-criterion.¹⁶⁹

3. Criterion 3: Registration Policies

Neither the final CPE report nor the working papers reflects any reference to research or reference material for criterion 3, Registration Policies, or any of its sub-criteria (3-A, Eligibility, 3-B, Name Selection, 3-C, Content and Use, and 3-D, Enforcement).

¹⁶⁸ They are:

https://en.wikipedia.org/wiki/Merck_%26_Co (cited two times);
https://en.wikipedia.org/wiki/Merck_Group; and
<http://www.merckgroup.com/en/index.html>.

¹⁶⁹ They are:

<http://www.bloomberg.com/news/articles/2014-02-10/a-tale-of-two-mercks-as-protesters-takeonwrong-company> (This is no longer an active link);
https://en.wikipedia.org/wiki/Merck_%26_Co;
https://en.wikipedia.org/wiki/Merck_Group; and
<http://www.merck.com/index.html>.

4. Criterion 4: Community Endorsement

4-A Support

The final CPE report does not reflect any references to research or reference material for sub-criterion 4-A, Support, but the working papers contain two citations to research or reference material for this sub-criterion.¹⁷⁰

4-B Opposition

Neither the final CPE report nor the working papers reflects any reference to research or reference material for sub-criterion 4-B, Opposition.

VI. Conclusion

FTI observed that of the eight relevant CPE reports, two (.CPA and .MERCK) contained citations in the report for each reference to research. For all eight evaluations, FTI observed instances where the CPE Provider cited reference material in the CPE Provider's working papers that was not otherwise cited in the final CPE report. In addition, in six CPE reports (.MUSIC, .HOTEL, .GAY, .INC, .LLP, and .LLC), FTI observed instances where the CPE Provider referenced research but did not include citations to such research. FTI then reviewed the CPE Provider's working papers associated with the relevant evaluation to determine if the referenced research was reflected in those materials. In all instances except one, FTI found material within the working papers that corresponded with the research referenced in the final CPE report. In one instance (the second .GAY evaluation), research was referenced in the second final CPE report, but no corresponding citation was found within the working papers. However, based on FTI's observations, it is possible that the research being referenced

¹⁷⁰ They are:
www.merckgroup.com/; and
https://en.wikipedia.org/wiki/Merck_Group.

was cited in the CPE Provider's working papers associated with the first .GAY evaluation.