

Report of Public Comments

Title:	.WED Registry Agreement Amendment - Introduction of Third Level Domain Sales		
Publication Date:	3 October 2014		
Prepared By:	ICANN Staff		
Comment Period:		Important Information Links	
Comment Open Date:	4 June 2014		
Comment Close Date:	9 July 2014		
Reply Close Date:	31 July 2014		
Time (UTC):	23:59 UTC		
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Section I: General Overview and Next Steps			
General Overview			
<p>On 8 October 2014, Atgron, Inc., the Registry Operator of the .WED top-level domain (TLD), submitted a request through the Registry Services Evaluation Policy (RSEP) to allow the sale of third-level domains in the TLD. As part of its request, Atgron submitted a list of approximately 11,000 domain names in which it would offer registrations. This RSEP request was posted for public information on the RSEP webpage, available at https://www.icann.org/resources/pages/rsep-2014-02-19-en.</p> <p>In accordance to Section 2.4 of the RSEP, ICANN conducted its preliminary determination to conclude that the proposed Registry Service did not raise significant Competition, Security or Stability issues (as defined in Section 1.3 and 1.4 of the RSEP).</p> <p>On 4 June 2014, ICANN posted the .WED Registry Agreement amendment for public comment as the implementation of the Registry Service requires a material change to the Exhibit A of the Registry Agreement.</p> <p>On 31 July 2014, the public comment forum closed for community input to the proposed Registry Agreement amendment, resulting in a total of three (3) comments. One of these comments was received after the close of the public comment forum. However, it is included in the following analysis.</p>			
Next Steps			
<p>ICANN has carefully considered the comments received and will conduct further review on the implementation concerns that were raised. Based on the nature of the comments received, ICANN will propose changes to the current draft amendment to address the public comments that were received. As the revised amendment is anticipated to be a material change to the previously posted amendment, an additional comment period may be conducted to obtain additional community input</p>			

and for transparency.

Section II: Contributors

At the time this report was prepared, a total of 3 (three) community submissions had been posted to the Forum. The contributors, both individuals, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
ICANN Business Constituency	Steve DelBianco	BC

Individuals:

Name	Affiliation (if provided)	Initials
Michele Neylon	Blacknight Solutions	MN
Kristina Rosette	The Intellectual Property Constituency (IPC)	KR

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

The comments submitted generally fall into the following categories:

General Comments

- .WED is advertising third-level domains for sale without an approved contract change. (MN, KR)
- Registrar references may not reflect a representative number of Registrars. (MN, KR)

Implementation Concerns

- There is an appearance that Atgron is attempting to circumvent established policies within the New gTLD program (i.e., Atgron would have to register 11,000 domain names to themselves in order to create 11,000 new namespaces) and further consultation with others is suggested (e.g., GNSO Stakeholder Groups and Constituencies). (MN, KR)
- There are intellectual property considerations in which the list of 11,000 domain names list discloses numerous terms that are registered trademarks (e.g., BEBE is subject to US Reg. Nos. 1652462, 2289914, and 2038435; and FOREVER is subject of US Reg. Nos. 3379685, 4180540, and 424135) (KR)

- .WED creates the opportunity for abuse on the third level and it is essential that the necessary Rights Protection Mechanisms on the third level are in place. (BC)

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

All commenters expressed some concerns regarding .WED's proposed new registry service, which concerns can be summarized as follows:

- The proposed registry service appears to circumvent established intellectual property considerations, protections and policies embedded within the New gTLD program (i.e., opportunity for abuse at the third level may occur)
- The registry operator is advertising the availability of the proposed new registry service without having final approval of an approved amendment permitting the proposed new registry service
- Minimal consultation with registrars other constituents affected by the proposed registry service.

Given the necessary consideration and balancing of the interests of all affected parties, ICANN has carefully considered the comments received and determined that additional discussions are required to address the intellectual property considerations and policies within the New gTLD program regarding this proposal for allocation of domain names at the third level.

ICANN acknowledges the comments regarding Atgron's third-level domain names advertisements and notes that the Registry Agreement does not prohibit the marketing/advertising of a registry service prior to ICANN's approval of the registry service. In addition, ICANN has confirmed that there are no active registrations for those domain names that were identified.

ICANN acknowledges the concerns raised by commenters concerning Atgron's consultations with the registrars and other constituents that may be affected by the proposed new registry service. As such, ICANN will propose changes to the current draft amendment to address the public comments that were received, and the revised amendment will be posted for an additional public comment period to obtain additional community input and for transparency. As appropriate, ICANN encourages registry operators to consult with the community and provide feedback to the subsequent public comment period as part of the process.