



INTERNATIONAL
OLYMPIC
COMMITTEE

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Lausanne, 4 April 2011

Re: Reserving "Olympic" And "Olympiad" In The New gTLDs

Dear Mr. Pritz and Ms. Stathos,

Thank you for meeting once again with representatives from Silverberg, Goldman & Bikoff LLP—our outside counsel for intellectual property relating to Internet law—at the recent ICANN meeting in San Francisco, California.

We understand that you had another positive and productive discussion, and that you remain amenable to augmenting the ICANN reserved names lists to include the words OLYMPIC and OLYMPIAD if we provide greater detail regarding legislative protection and the public interests served by such reservation.

As a follow-up to the discussion in San Francisco, please accept this letter:
which provide further evidence of the special protection provided to the Olympic words and symbols and show how reserving OLYMPIC and OLYMPIAD at the top and second levels of all new gTLDs serves the public interest.

Legislative Protection—In our letter of 1 February 2011, we explained that the Olympic properties are protected in well over twenty-five countries around the world by unique legislation reserving their exclusive use to the International Olympic Committee ("IOC"). As a representative sample, we annexed *sui generis* legislation from Australia, Belgium, Brazil, Canada, China, Costa Rica, Greece, Guatemala, the United Kingdom and the United States.¹

¹ See e.g., 36 U.S.C. § 220506 United States Ted Stevens Olympic and Amateur Sports Act (1978); see also 15 U.S.C. § 1125 (d)(1)(A)(ii)(III) United States Anti-Cybersquatting Consumer Protection Act (1999) (incorporating by reference the Ted Stevens Olympic and Amateur Sports Act); see also 18 U.S.C. § 2320 (e)(1)(B) United States Trademark Anti-Counterfeiting Act (1984) (also incorporating by reference the Ted Stevens Olympic and Amateur Sports Act).



Treaty Protection—The Nairobi Treaty on the Protection of the Olympic Symbol demonstrates how sixty-six signatory nations are dedicated to protecting the Olympic properties, in recognition of the unique nature of the Olympic Movement.

The Nairobi Treaty protects the Olympic Symbol—the five interlocking rings—rather than the words OLYMPIC or OLYMPIAD. But the Treaty demonstrates the international breadth of legal protection enjoyed by the Olympic movement. We believe that the treaty shows that unique protection for the Olympic words and symbols is an internationally accepted principle of law that should be applied to the domain name system.

Reservation Serving the Public Interest— Worldwide legislative and treaty protection provided to the Olympic words and symbols reflects the global consensus that their protection is in the public interest. Reserving the words OLYMPIC and OLYMPIAD at the top and second levels of an expanded domain name system is consistent with this well-established global pattern of unique protection, and will further serve the public interests of the international ICANN community.

First, reserving these Olympic words provides protection for top and second-level domain name applicants. It protects them from applying for Olympic strings that are legally preempted by international *sui generis* legislation. Thus, reservation will protect innocent infringers while also substantially diminishing intentional violations of law.

Second, reserving these Olympic words optimizes top and second level application processes by adding expediency and efficiency. Augmenting the reserved names lists to include a discrete number of Olympic words removes those words from the pool of registrable names. Thus, application processes will not necessitate string contention, legal rights objection, or implementation of rights protection mechanisms in instances where the strings applied for violate international *sui generis* legislation.

Third, reserving these Olympic words helps protect Internet users against intentional infringers who would divert them from officially authorized Olympic websites, or would mislead the public by suggesting that their activities are endorsed by the IOC.

Finally, as we explained in our letter of 1 February 2011, and as you discussed in San Francisco, reserving the words OLYMPIC and OLYMPIAD serves the public interest by enabling the IOC, the National Olympic Committees and the Organizing Committees for the Olympic Games to direct their limited funding toward fulfilling the unique international mission of placing sport at the service of humanity.

In sum, reserving the Olympic words advances the unique international protection afforded the Olympic words, in furtherance of the public good. To better reflect these public interest benefits to the international ICANN community, we have added language under the fourth proposed criterion to create a stronger relationship between the public interest, the ICANN community and *sui generis* legal protection.

Revised Criteria for Reservation of the Olympic Properties—Pursuant to your discussion with our outside counsel in San Francisco, we believe that our revised criteria are now more narrowly tailored to reflect the special recognition and protection accorded to the Olympic properties:



1. The properties are protected by *sui generis* legislation, in effect before 26 June 2008, in over thirty (30) countries;
2. The *sui generis* legislation protecting the properties has been upheld or recognized by a national and/or territorial high court;
3. The properties are protected by international treaty, in effect before 26 June 2008 in over forty (40) countries; **and**
4. Reserving the properties at the top and second level of the domain name system:
 - (a) Assists the non-profit owner of the properties in fulfilling its unique international humanitarian mission;
 - (b) Protects domain name applicants in the international community from applying for strings that are legally preempted by international *sui generis* legislation; **and**
 - (c) Optimizes application processes by reserving contentious strings legally preempted by international *sui generis* legislation.

Conclusion—We are pleased to learn that this matter is a priority, and that you are working with our outside counsel toward augmenting the reserved names lists in the final Guidebook, which we understand ICANN intends to publish on or about 30 May 2011.

Given this ambitious timeline, please let us know as soon as possible if you need any further information from us, or if you wish to discuss anything further with either our outside counsel or us.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Howard M. Stupp".

Howard M. Stupp
Director of Legal Affairs

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