



The Internet Corporation for Assigned Names and Numbers

24 July 2014

Mr. Steve DelBianco
ICANN Business Constituency

Dear Mr. DelBianco:

On behalf of the ICANN Board New gTLD Program Committee (NGPC), thank you for your comments on singular and plural versions of the same string. We appreciate the Business Constituency's input, and we would like to provide clarification on this topic.

As previously communicated, the Applicant Guidebook (AGB), including the String Similarity Review, was developed over several years through multiple rounds of public comment. The result of this bottom-up discussion was that the String Similarity Review conducted during Initial Evaluation was limited to visual similarity. There is no adopted policy that all plural strings are confusingly similar to a string of the same word in singular form. The AGB defined the standard to be used for String Similarity evaluation as: "String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion." (Refer to the AGB Section 2.2.1.1.2.)

As noted in the Business Constituency's letter on this topic from 22 October 2013 (<https://www.icann.org/en/system/files/correspondence/cooper-to-new-gtld-program-committee-22oct13-en.pdf>), the GAC Beijing Communiqué stated, "The GAC believes that singular and plural versions of the same string as a TLD could lead to potential consumer confusion," and advised the ICANN Board to reconsider the decision to permit the existence of singular and plural versions of the same string as TLDs (<http://newgtlds.icann.org/en/program-status/correspondence/gac-to-board-11apr13-en.pdf>). On 4 June 2013, the NGPC accepted the GAC's Advice to consider whether to allow singular and plural versions of the same string (<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-04jun13-en.htm#1.a>). At its 25 June 2013 meeting, the NGPC considered the issue and determined that the most feasible and best solution under some very limiting and constrained circumstances was that no changes would be made to the existing mechanisms in the AGB (<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-25jun13-en.htm#2.d>).

The rationale for the NGPC determination was as follows:

- *The NGPC considered whether it was appropriate to reject the work of the expert review panel and apply its own judgment to a determination of what rises to the level of probable user confusion. The NGPC considered whether the evaluation process would be undermined if it were to exert its own non-expert opinion and override the determination of the expert panel. It also considered whether taking an action to make program changes would cause a ripple effect and re-open the decisions of all expert panels.*

The NGPC considered that the objective of the string similarity review in the AGB is to prevent user confusion and loss of confidence in the DNS resulting from delegation of many similar strings. In the AGB, "similar" means strings so similar that they create a probability of user confusion if more than one of the strings is delegated into the root zone. During the policy development and implementation design phases of the New gTLD Program, aural and conceptual string similarities were considered. These types of similarity were discussed at length, yet ultimately not agreed to be used as a basis for the analysis of the string similarity panels' consideration because on balance, this could have unanticipated results in limiting the expansion of the DNS as well as the reach and utility of the Internet. However, the grounds for string confusion objections include all types of similarity, including visual, aural, or similarity of meaning. All new gTLD applicants had standing to file a string confusion objection against another application.

- *The NGPC considered the objective function of the string similarity algorithm in the AGB (§ 2.2.1.1.2) and the results it produced. SWORD assisted ICANN with the creation of an algorithm that helped automate the process for objectively assessing similarity among proposed and existing TLD strings. Various patent and trademark offices throughout the world use SWORD's verbal search algorithms. The String Similarity Panel was informed in part by the algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs and reserved names. The score provided one objective measure for consideration by the panel, as part of the process of identifying strings likely to result in user confusion. However, this score was only indicative and the panel's final determination was based on careful review and analysis. A full consideration of potential consumer confusion issues is built into the procedures that have been applied in the analysis of the strings.*

- *The NGPC reflected on existing string similarity in the DNS and considered the positive and negative impacts. The NGPC observed that numerous examples of similar strings, including singulars and plurals exist within the DNS at the second level. Many of these are not registered to or operated by the same registrant. There are thousands of examples [. .].*

ICANN acknowledges that the Business Constituency has continuing concerns on this issue. However, we would like to remind you that on 14 May 2014, the NGPC concluded its consideration of this topic by adopting the scorecard titled "GAC Advice (Beijing, Durban, Buenos Aires and Singapore): Actions and Updates" (14 May 2014). In the scorecard, the NGPC reaffirms its previous consideration of the subject:

The NGPC acknowledges the GAC's reiteration of its advice in the Beijing Communiqué, which advised the Board to reconsider its decision to allow singular and plural versions of the same strings. The NGPC adopted a resolution to accept this advice at its 4 June 2013 meeting, and on 25 June 2013, the NGPC considered whether to allow singular and plural versions of the same string. The NGPC adopted a resolution resolving that no changes were needed to the existing mechanisms in the Applicant Guidebook to address potential consumer confusion resulting from allowing singular and plural versions of the same string

<<http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-25jun13-en.htm> - 2.d>. The NGPC notes that this topic may be of further discussion by the community is [sic] it considers future rounds of the New gTLD Program.

For more information, please review the resolution (<https://www.icann.org/resources/board-material/resolutions-new-gtld-2014-05-14-en>) and the scorecard attached as Annex 1 to the resolution (<https://www.icann.org/en/system/files/files/resolutions-new-gtld-annex-1-14may14-en.pdf>).

Additionally, please note that there is a separate issue that is pending NGPC consideration, regarding the "Proposed Review Mechanism to Address Perceived Inconsistent Expert Determinations on String Confusion Objections," which was open for public comment from 11 February 2014 to 12 March 2014, with a reply period from 13 March 2014 to 3 April 2014 (<https://www.icann.org/public-comments/sco-framework-principles-2014-02-11-en>). We note that the Business Constituency submitted two comments, which will be taken into account as the NGPC considers the proposed review mechanism (comments: <https://www.icann.org/en/system/files/correspondence/cade-to-chalaby-05sep12-en.pdf>



and <https://www.icann.org/en/system/files/correspondence/cooper-to-new-gtld-program-committee-22oct13-en.pdf>).

As mentioned in your comment during the Public Forum at ICANN 50 in London, the proposed review mechanism only pertains to two specific sets of perceived “inconsistent” expert determinations in String Confusion Objections, and does not pertain to all applied-for strings (or a subset of all applied-for strings, such as singular and plural versions of the same string). The proposed review mechanism was on the agenda for the NGPC’s 6 June 2014 meeting, but to-date, a resolution has not been taken. For information about future NPGC meetings, we encourage you to monitor the Board Meetings page of the ICANN website (<https://www.icann.org/resources/pages/meetings-2014-01-06-en>).

Finally, we would like to reiterate that the community developed two mechanisms for creating contention sets: the String Similarity Review and String Confusion Objections processes. ICANN does not intend to overlook the AGB processes agreed to by the wider community by developing a new process for creating additional contention sets, particularly when only a small number of applicants chose to use the String Confusion Objection process to create new contention.

We hope that this information has provided adequate closure on the subject of singular and plural versions of the same string. Thank you for your continued participation in ICANN’s multi-stakeholder process.

Sincerely,

A handwritten signature in black ink, reading "Cherine Chalaby", written over a horizontal line.

Cherine Chalaby
Chair, New gTLD Program Committee