



Intellectual Property Constituency (IPC) Comment on Release of Country and Territory Names within the .SOFTBANK, .ART and .CARAVAN TLDs

August 31, 2016

A. Introduction

The GNSO Intellectual Property Constituency (“IPC”) appreciates this opportunity to comment on a proposed amendment to the Registry Agreements of the .SOFTBANK,¹ .ART,² and .CARAVAN³ TLDs to implement requests submitted through the Registry Services Evaluation Policy (“RSEP”) process to allow the registration of all country and territory names currently required to be reserved by Section 4 of Specification 5 of the Registry Agreement. *See* <https://www.icann.org/public-comments/ctn-release-tlds-2016-07-19-en>.

B. The .SOFTBANK and .CARAVAN Requests

The IPC maintains its historic position supporting the release of country and territory names within .BRAND TLDs, as previously set out in its comments on the proposed release of country and territory names in other TLDs, including earlier this year the .TORAY and .PICTET TLDs.⁴ For the reasons reiterated below, the IPC extends the same support to the current requests made by the Registry Operators of the .SOFTBANK and .CARAVAN TLDs.

On June 11, 2013, the IPC commented on the Proposed Final New gTLD Registry Agreement (April 29, 2013 version), noting:

¹ ICANN Registry Request Service – Softbank Corp. (April 29, 2016), <https://www.icann.org/en/system/files/files/rsep-2016023-softbank-request-29apr16-en.pdf>.

² ICANN Registry Request Service – UK Creative Ideas Limited (May 18, 2016), <https://www.icann.org/en/system/files/files/rsep-2016028-art-request-18may16-en.pdf>.

³ ICANN Registry Request Service – Caravan International, Inc. (June 2, 2016), <https://www.icann.org/en/system/files/files/rsep-2016031-caravan-request-02jun16-en.pdf>.

⁴ *See* IPC Comment on Release of Country and Territory Names within the .TORAY and .PICTET TLDs (May 10, 2016), http://static1.1.sqspcdn.com/static/f/585526/27018889/1462905879080/2016_05May_10+IPC+Comments+on+release+of+country+territory+names+in+TORAY+and+PICTET.pdf?token=rpelrETNhutf%2Beup8zKDfzjRZBw%3D.

Trademark owners already regularly use geographic names to target specific consumers and audiences around the world. .BRAND TLDs are unique in that they will be restricted spaces, i.e., they will exercise a degree of control over domain name registrations within their respective TLDs. Thus, it seems unnecessary to rigidly apply current blanket restrictions against all second-level country codes and country names within restricted .BRAND registries. Consumers would benefit from trusted use of geographic names at the second level (e.g., <canada.brand> or <uk.brand>). It would be inefficient to force .BRANDs to individually reach agreement with ICANN and each respective government and country-code manager. As an alternative to ICANN recognizing an exemption to Registry Agreement §2.6 and Specification 5, ICANN should define a clear and timely path forward for .BRANDs to release geographic names at the second level.⁵

In addition, on January 9, 2014, the IPC commented generally on the proposed Specification 13 to the ICANN Registry Agreement (December 6, 2013 version), observing that:

.BRAND TLDs offer the potential benefits of:

- Promoting global trade and trust by adapting to various business models of trademark holders;
- Guarding consumers from potential harm through the reduction of phishing and fraud;
- Protecting and honoring intellectual property that conforms to international standards while not expanding any intellectual property right beyond that granted by the national governments issuing such rights;
- Encouraging innovation within the new gTLD namespace; and
- Allowing rights holders (for profit and non-profit) to provide maximum value and choice to their customers and constituencies while maintaining strict quality control standards applicable to maintaining trademarks.⁶

In its November 10, 2014 comment in support of the RSEP change request made in relation to the .NEUSTAR TLD to release country and territory names, the IPC also opined that:

New .BRAND TLDs will own all domains associated with the TLD, which will more tightly and responsibly control the registration and use of such names and thereby

⁵ See IPC Comments on the Proposed Final New gTLD Registry Agreement (June 11, 2013).

⁶ See IPC Comments on the Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of “.Brand” New gTLDs (January 9, 2014).

significantly minimize the opportunity for confusion, intellectual property violations, and other potential abuse.⁷

Consistent with these and other previous comments, the IPC supports the requests of Registry Operators Caravan International, Inc. and Softbank Corp., and continues to support more broadly the release of country and territory names in .BRAND TLDs, given the unique nature of these TLDs. The ability to use country and territory names at the second level in these or any .BRAND TLD serves the purposes and goals of new .BRAND TLDs by providing user-friendly, safe and secure geographically-targeted spaces for consumer-brand online interactions, which aligns more broadly with new gTLD program goals of consumer trust, choice, and competition in the online global marketplace.⁸

Furthermore, nearly all legacy and sponsored TLDs, including .COM and .NET, are already permitted to freely register country and territory names at all available levels to any registrant for any purpose. New .BRAND TLDs, including .SOFTBANK and .CARAVAN, which will own all domains associated with the TLD, will much more tightly and responsibly control the registration and use of such names and thereby significantly minimize the opportunity for confusion, intellectual property violations, and other potential abuse. These .BRAND TLDs should therefore be afforded the same privilege as legacy TLDs to freely register country and territory names in their respective .BRAND TLDs.

For these reasons, the IPC supports the proposed amendment to the Registry Agreements of the .SOFTBANK and .CARAVAN TLDs.

C. The .ART Request

The IPC additionally comments on the RSEP requests submitted by UK Creative Ideas Limited for the release of country and territory names in the .ART TLD. Because this TLD is generic rather than .BRAND, the considerations outlined above do not apply to the same extent.

As noted in the above comments on the .SOFTBANK and .CARAVAN Requests, nearly all legacy and sponsored TLDs, including .COM and .NET, are permitted to freely register country and territory names at all available levels to any registrant for any purpose. New generic TLDs, including .ART, should be afforded the same privilege to freely register country and territory names. To require otherwise would be to create an uneven playing field, inherently disadvantaging applicants for new generic TLDs by subjecting them to requirements not imposed upon .COM or other legacy generic TLDs.

⁷ See IPC Comments Regarding the .NEUSTAR RSEP Request to Release Country and Territory Names (November 10, 2014).

⁸ See New gTLD Applicant Guidebook, Version 2012-01-11, Preamble (stating that one of the primary goals of the new gTLD program is to “foster diversity, encourage competition, and enhance the utility of the DNS”).

The IPC further emphasizes it is not aware of any national or international law giving ownership or priority over country and territory names to governments. Rather, these names are used for purposes of free speech, and often correspond to trademarks (such as CANADA, CARIBBEAN, TEXAS, etc.).

For these reasons, the IPC supports the proposed amendment to the .ART Registry Agreement.

D. Conclusion

The IPC supports the proposed amendment to the Registry Agreements of the .SOFTBANK and .CARAVAN TLDs and reiterates its historic support for the ability of all .BRAND TLDs to freely register country and territory names at all available levels. The IPC also supports the proposed amendment to the .ART Registry Agreement, and the general ability of generic TLDs to freely register country and territory names at all levels of the DNS.

Respectfully submitted,

Intellectual Property Constituency