

15 Members

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Alexander Schubert

Cheryl Langdon-Orr

Christine Farley

Gg Levine

Greg Shatan

Jeff Neuman

Jim Prendergast

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Susan Payne

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Steve Chan

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Adobe Connect chat transcript for 01 February 2018

Michelle DeSmyter: Welcome to the New gTLD Subsequent Procedures Sub Team - Track 2 - Legal/Regulatory Issues will take place on 01 February 2018 at 15:00 UTC.

Michelle DeSmyter: Agenda wiki page:

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Michael Flemming:brb

Michael Flemming:back

Alexander Schubert:Kinda silent here?

Alexander Schubert::D

Karen Day:Hi all

Jim Prendergast:Michele Neylon

Kristina Rosette (Amazon Registry):alleged harms

Alan Greenberg:Does 2 imply a panel to judge whether the proposal is indeed in the PI?

Kristina Rosette (Amazon Registry):Can we take them in turn?

Michael Flemming:Sure thing.

christine farley:Have you considered an additional option that combines the requirements of #2 & #3?

Emily Barabas:Slides are not unsynced

Emily Barabas:*now unsynced

Jim Prendergast:not a comment speciifc to the possible paths forward but a larger one. My sense is if the broader community knew that this WT was charged with responding to to the NGPC on closed generics (among the many other topics we are working on as part of the PDP), we'd have a lot more participation. A lot more

Karen Day:Thanks, Emily

Karen Day:alleged harms

Susan Payne:no they haven't been proven

Kathy Kleiman:I've proven them. The world has proven them. The Board agreed.

Kathy Kleiman:Shall we review all of this work?

Kristina Rosette (Amazon Registry):Has this WT has received any contribution from any competition experts? I've been bouncing among the WTs as I try to cover them and it's possible I've missed it.

Kathy Kleiman:.BANK is absolutely not a closed generic

Kathy Kleiman:the opposite

Kristina Rosette (Amazon Registry):Yes, Alexander, a non-community TLD can have registration eligibility restrictions.

Susan Payne:I think Bank is an interesting example. It's true it's not a closed generic, in the sense that names are available to third parties, but there are stringent eligibility criteria

Greg Shatan:FBI is not generic.

Greg Shatan:So .FBI is not an example of closed generics.

Kristina Rosette (Amazon Registry):I'd be interested in hearing if I'm the only one who would like us to go back to Michael's suggestion - namely, let's put a pin - for now - in #1 and #4 and discuss #2 and #3. We're almost halfway through the call.

Karen Day:+1 Kristina

Susan Payne:yes, +1 Kristina

Michael Flemming:I think we are somehow moving in the direction of Kristina's suggestion :)

Alexander Schubert:+1 Kristina! COMPETITION!

Alexander Schubert:.seals?

Jim Prendergast:Do we have any indication that the GAC objection to closed Generics has changed or softened?

Michael Flemming:I do not believe we do

Michael Flemming:Greg, I believe it wasn't .redcross but a different term. I can't recall at the current time what Jeff's example was.

Greg Shatan:Restricted registries are not closed registries. End of discussion?

Steve Chan:For reference, here is the Beijing communique:

https://urldefense.proofpoint.com/v2/url?u=http-3A_www.icann.org_en_news_correspondence_gac-2Dto-2Dboard-2D18apr13-2Den.pdf&d=DwIFaQ&c=FmY1u3PJP6wrcrw1l3mSVzgfkbPSS6sJms7xc14I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjWv9&m=V5hNbYEB5NHQIUbkTGvW79MZI6kOs6B_lXMS-suuooA&s=cZYyexJr4fC4RIYv7TP1NT5QyIjn40gIgPV5mD1BVXc&e=

christine farley:Seems like there might be another option in Kathy's last comments. That is, allow closed generics only where the "generic" term does not describe applicant's goods or services.

Karen Day:very good perspective Susan.

Steve Chan:In short, the GAC Communique states: "For strings representing generic terms, exclusive registry access should serve a public interest goal."

Greg Shatan:Christine, I think at that point it is not a "generic" at all.

Greg Shatan:Also, I believe that would not fall into the current definition of a "closed generic."

Kristina Rosette (Amazon Registry):I think we're skipping the threshold question: Does anyone on the call believe that Q18 was insufficient and, if so, why and how should it be changed?

Michael Flemming:Thats a good question Kristina

Kathy Kleiman:+1 Christine - which seems to build on Greg's .BEAUTY example. How can they show it is not going to be a Closed Garden?

Kathy Kleiman:completely different area

Kathy Kleiman:who is speaking?

Michael Flemming:It is, but can be considered in line with this.

Kristina Rosette (Amazon Registry):@Alexander: It seems to me that, if the opposition to closed generics is on competition grounds, then it seems likely that the potential objectors would

be competitors. I must be misunderstanding your question.

Jim Prendergast: on Q18 - (and 20) I do think the arbitrary character limits placed upon those responses may have hurt applicants ability to fully describe their intentions/applications but not to the substance of the question

Kathy Kleiman: who was speaking?

Jim Prendergast: Karen Day

Kathy Kleiman: tx!

Karen Day: Sorry - for the record - Karen Day, co-chair of SubPro WT3

Kathy Kleiman: Tx Karen - tx for all your work in WT3

Jeff Neuman: All we are trying to do now is list the potential options and put those out for public comment. Talking about the merits of these possible paths is fine, but lets make sure all of the options are listed to go out for comment

Karen Day: +1 Gg

Alexander Schubert: The Internet user is USED to the fact the .com domains are owned by single entities - but gTLDs are open to registrations!

Alexander Schubert: single entities...

Greg Shatan: Of course the paradigm is shifting.

christine farley: Greg, correct me if I'm wrong, but I thought the definition of a closed generic is that the term is a generic term and the registry is closed. Your point goes to what is a generic term. Is it generic in a lay sense, i.e., a dictionary term, or is it generic under trademark law, i.e. is it a term that functionally describes the applicant's business.

Steve Chan: To Jeff's point, it might be useful to see if the number of options can be reduced?

Greg Shatan: A term is only "generic" in context. Otherwise every word (or at least every noun) would be "generic."

christine farley: Google would beg to differ.

Kristina Rosette (Amazon Registry): But we can't even say that because we haven't even gotten to that point in the discussion.

Susan Payne: to be clear, we don't actually know that that was the intention of .cloud etc as mentioned by Kathy. It may have been. But we won't know what the applicant had intended as they were not allowed to go forward as they had planned

Greg Shatan: Even in a dictionary sense, a term is "generic" only when applied to the "genus."

Alexander Schubert: To Kathy's point: it's not just monopolizing the keyword - but in some cases might lead to confusing the Internet user when for example ".makeup" domains MUST support the products of ONE brand - but the Internet user doesn't know! The user just sees a ton of .makeup based blogs - and they all support the single brand.

Greg Shatan:Christine, how would Google beg to differ?

Jeff Neuman:Not just the next 14 minutes, but also on email list discussions

Greg Shatan:There's a basic conceptual question – are gTLDs more like "spectrum" or more like sTLDs. When there are 300,000 gTLDs, will consumers still have the same view of .makeup?

Alexander Schubert:Greg you have a point. But right now most people aren't even aware that there are new gTLDs - lest that there are thousands.

Alexander Schubert:Suggstion 3: Would be OK - if the objection process would be super easy (and free of cost); that might work. Almost more like a "comment period".

Jeff Neuman:I think the industry did a good job responding to many of the closed generic applications. Lets not understimate the power of the lawyers and others in our community to let those that need to know :)

Alan Greenberg 2:I like that idea of onus on applicant to serve notice to industry.

Kathy Kleiman:The objection that Kristina refers to was brought by one of the largest trade association in the US.

Alexander Schubert:Alan: ".kids"? Serve to whom? 1 Billion children?

Kathy Kleiman:That's a whole different caliber of discussion from the small beauty companies worldwide

Kathy Kleiman:... or the small publisher...

Jeff Neuman:I thinks the options are different enough to keep separate. But I think Kathy's points should be captured re: disclosure of intent

Kathy Kleiman:Michael: Several substantive change has been offered and I think they should be considered more closely. Support has been raised in the chat room.

Jeff Neuman:@Kathy - we will take the notes back and make the changes

Jeff Neuman:or make them separate options

Steve Chan:Michael, I have my hand up as well

Julie Hedlund:@Jeff and @Kathy: The notes now say, "#3 -- create 3a and 3b: would require the applicant to reveal details about the goals of the registry. Notice of intent and #2 and #3. A no-objection." Can you suggest changes?

Michael Flemming:my apologies

Jeff Neuman:@Kristina - good suggestion

Kristina Rosette (Amazon Registry):@Julie: I object to that proposed change.

Julie Hedlund:@Kristina: Captured, thanks.

Alexander Schubert:Instead of a formal "objection" we should rather have a public comment period!

Julie Hedlund:Also, noted as a suggestion.

Kristina Rosette (Amazon Registry):So, if the applicant isn't in the industry, it doesn't have any competitors, right?

Kathy Kleiman:Great, tx Jeff.

Kathy Kleiman:Can you give an example, Kristina?

Kristina Rosette (Amazon Registry):I don't have one. The discussion has been focused on the applicant's competitors in the industry. it logically follows that if the applicant isn't currently a participant in whatever the industry is, it can't have any competitors.

Kathy Kleiman:To #2 and #3 - clear disclosure of intent and proof of notification to competitors around the world to allow them to raise their concerns.

Kathy Kleiman:Could this be added to the notes?

Julie Hedlund:@Kathy: It is captured from the chat room.

Kristina Rosette (Amazon Registry):Have to drop for another meeting.

Kathy Kleiman:Tx Julie!

Karen Day:goodbye all

Cheryl Langdon-Orr (CLO):bye