

Input of GoDaddy Registry working group members: Donna Austin, Raymond Zylstra, Gemma Keegan and Quoc Pham to the New gTLD Subsequent Procedures PDP Consensus Call

GoDaddy Registry supports most of the Final Report except for recommendations associated with topics 24 and 35 for the reasons outlined below.

Topic 24: String Similarity Evaluations

GoDaddy Registry Supports Recommendation 24.3, but does not support the inclusion of the third dot point in this recommendation (see italics text below) as we believe it is inconsistent with the intent of the recommendation, which is to mitigate the risk of user confusion, absent consideration of the meaning of the string/s.

Recommendation 24.3: The Working Group recommends updating the standards of both (a) confusing similarity to an existing top-level domain or a Reserved Name, and (b) similarity for purposes of determining string contention, to address singular and plural versions of the same word, noting that this was an area where there was insufficient clarity in the 2012 round. Specifically, the Working Group recommends prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk of consumer confusion. For example, the TLDs .EXAMPLE156 and .EXAMPLES may not both be delegated because they are considered confusingly similar. This expands the scope of the String Similarity Review to encompass singulars/plurals of TLDs on a per-language/script basis.

- An application for a single/plural variation of an existing TLD or Reserved Name will not be permitted if the intended use of the applied-for string is the single/plural version of the existing TLD or Reserved Name. For example, if there is an existing TLD .SPRINGS that is used in connection with elastic objects and a new application for .SPRING that is also intended to be used in connection with elastic objects, .SPRING will not be permitted.
- If there is an application for the singular version of a word and an application for a plural version of the same word in the same language/script during the same application window, these applications will be placed in a contention set, because they are confusingly similar.
- *Applications will not automatically be placed in the same contention set because they appear visually to be a single and plural of one another but have different intended uses. For example, .SPRING and .SPRINGS could both be allowed if one refers to the season and the other refers to elastic objects, because they are not singular and plural versions of the same word. However, if both are intended to be used in connection with the elastic object, then they will be placed into the same contention set. Similarly, if an existing TLD .SPRING is used in connection with the season and a new application for .SPRINGS is intended to be used in connection with elastic objects, the new application will not be automatically disqualified.*

GoDaddy Registry does not support Recommendation 24.5

We believe the recommendation is inconsistent with Recommendation 24.3, namely that “ ... the Working Group recommends prohibiting plurals and singulars of the same word within the same language/script in order to reduce the risk of consumer confusion.”

We agree that string similarity should be related to the possibility of user confusion, which will only be exacerbated if similar strings are allowed on the basis that they have different meanings. We do not believe that a PIC in the Registry Agreement will overcome that confusion, nor do we understand how such a PIC would be enforced.

Recommendation 24.5: If two applications are submitted during the same application window for strings that create the probability of a user assuming that they are single and plural versions of the same word, but the applicants intend to use the strings in connection with two different meanings,³⁵³ the applications will only be able to proceed if each of the applicants agrees to the inclusion of a mandatory Public Interest Commitment (PIC) in its Registry Agreement. The mandatory PIC must include a commitment by the registry to use the TLD in line with the intended use presented in the application, and must also include a commitment by the registry that it will require registrants to use domains under the TLD in line with the intended use stated in the application.

Topic 35: Auctions: Mechanisms of Last Resort / Private Resolution of Contention Sets

GoDaddy Registry does not support recommendation 35.4

While in principle that the ICANN Auction of Last Resort must be conducted using the second-price auction method; we do not support the rules and procedural steps as they do not provide an opportunity for applicants to resubmit their sealed bids in the event that ICANN Auctions of Last Resort do not take place in a timely manner, ie within one year of submitting the sealed bid.

The earliest of the ICANN Auctions of Last Resort from the 2012 New gTLD Program took place on 4 June 2014, some two years after the closure of the 2012 application window; and the last recorded Auction of Last Resort took place in June 2016. It will be a difficult exercise, and perhaps an impossible exercise for those applicants with limited industry knowledge, for applicants to decide the value over and above the application fee that they would be willing to pay for a TLD at the time they become aware they are in a contention set. It will be a considerably more difficult exercise if the applicant also needs to factor into the equation the possibility that the Auction of Last Resort will not occur for another four years.

We could support the recommendation if the following paragraph already contained in the Recommendation 35.4

At the end of the String Similarity Evaluation period, applicants in contention sets will be informed of the number of other applications in their contention set, but no other information regarding the other applications will be shared. All applicants must submit a sealed bid for each relevant application (“Last Resort Sealed Bids”). Any applicant that does not submit a sealed bid at this time will be deemed to submit a bid of zero.

Was augmented with the following:

Upon each anniversary of the date the sealed bid was submitted, applicants that continue to remain in a contention set and submitted a sealed bid, will be provided an opportunity to change their sealed bid amount. While the amount will remain confidential the application will be updated to reflect that the initial sealed bid was changed on x date.

It's important that we take into account the possibility that the Last Resort Auctions will not be conducted in a timely manner and as such provide applicants with the opportunity to reconsider their sealed bids, particularly as the circumstances and landscape under which they submitted their original bid will have changed and more recent information will be available about the market to help applicants make more informed decisions. It is very unlikely that the value of something today will be the same in one or two or three or four years from now.