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Discussion Paper About ".québec" Challenges

Disclaimer:

This paper is developed by policy support staff to help the GNSO Council understand the challenges PointQuébec Inc has been facing in applying for the IDN string ".québec". Their challenge may be a broader challenge affecting future applicants of non-variant but confusingly similar strings.

During the EPDP-IDNs Phase 1 Initial Report Public Comment proceeding, PointQuébec and CORE Association submitted a total of four comments and requested the EPDP-IDNs Team to address this challenge.[1] However, the EPDP-IDNs Team believes this issue is outside of its scope and referred the comments to the GNSO Council Leadership for consideration and action as determined appropriate.

To assist the GNSO Council's consideration of the ".québec" challenges, policy support staff developed a series of discussion questions, which aim to gauge the level of effort to potentially develop a solution, and understand whether the EPDP-IDNs Team is the appropriate home to address the issue in a timely manner.

Problem Statement:

An applied-for gTLD string, which is NOT an allocatable variant label of another string (existing or applied-for) according to RZ-LGR, is widely recognized by users as its equivalent variation and may be determined to be confusingly similar (i.e., in which case, it would not pass the String Similarity Review).

Background and Context:

One notable example of this problem known to the ICANN community is the string "québec". PointQuébec Inc, the Registry of .quebec, has long held an interest in applying for this string, but it may face challenges obtaining it.

PointQuébec regards the string ".québec" a necessity for serving the French speaking community in Quebec, Canada. Quebec is the only province in Canada whose sole official language is French; 71.2% of Quebecers are first language francophones. In the 2012 round, PointQuébec was advised not to apply for ".québec" due to considerations for technical readiness and financial predictability for an IDN gTLD.[2] Hence it applied for the ASCII string ".quebec" first, but has been waiting to submit an application for the IDN string as a "variant" label in the next round.

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[1] The comments in question were submitted by: Nacho Amadoz on behalf of Amadeu Abril i Abril, Louis Houle, Normand Fortier, and Claude Menard
[2] See public comments submitted by Louis Houle and Claude Menard

Date: 24 July 2023

In 2022, version 5 of the Root Zone Label Generation Rules (RZ-LGR), which provides a consistent definition of variant labels, was published. SubPro PDP affirmed compliance with RZ-LGR for the generation of gTLDs and variants, and the ICANN Board adopted this recommendation.[3] In line with the SubPro recommendation, the EPDP-IDNs Team also affirmed RZ-LGR as the sole source for validating all existing gTLD strings and calculating their variant labels.

The RZ-LGR has placed strict limitations on the instances of allocatable variants in the Latin script.[4] For example, it determines that "e" and "é" are not variant labels, even though writing "labels without diacritics" is a way to present the equivalent variation for Latin script-based languages as a tradition. Consequently, the proposed string ".québec" would not be considered as an allocatable variant label of the existing gTLD .quebec, and PointQuébec would not be able to apply for it as a variant gTLD of .quebec.

Technically, PointQuébec could apply for ".québec" as a separate gTLD in the next round. Albeit not 100% certain, there is a very high chance that its application may be ineligible to proceed as a consequence of the String Similarity Review, as ".québec" may be perceived as confusingly similar to the already delegated .quebec. In their public comments for the EPDP-IDNs Phase 1 Initial Report, PointQuébec, as well as the CORE Association, raised this as the key obstacle for submitting the ".québec" application. It is very possible that ".québec" string could not be delegated unless and until .quebec is removed from the root zone.

A similar problem could happen to other existing Registries that currently manage ASCII gTLDs but may wish to apply for their IDN variations that are not deemed as allocatable variant labels according to the RZ-LGR.

As examples:
- DNS.be vzw, the existing registry operator of .brussels, may wish to apply for ".brüssels";
- Binky Moon, LLC, the existing registry operator of .cafe, may wish to apply for ".café";
- Hermes International, the existing registry operator of .hermes, may wish to apply for ".hermès";[5]
- Booking.com B.V., the existing registry operator of .hotels, may wish to apply for ".hôtels".[6]

Furthermore, this problem may not only be limited to existing registry operators, but could also affect future applicants. As a consequence, they will be discouraged from applying for such IDN

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[3] See Recommendation 25.2 and Implementation Guidance 26.10 in the SubPro Final Report, pp.115, 119: https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp02feb21-en.pdf#page=115;
[4] The Latin Generation Panel determined that only allocatable variants are ß (sharp ss in German) and ı (dotless i in Turkish). "ss" is allocatable for 'ß', but 'ß' is blocked variant of "ss"; "i" is allocatable for 'ı', but 'ı' is blocked variant of "i". Other than these instances, ASCII and accented labels in the Latin script are deemed either non-variants, or having blocked variant relationships.
[5] This example may not be applicable as ".hermès" must be an exact match to a registered trademark to be applied-for as a .brand variant TLD.
[6] These examples were raised in PointQuébec's public comment as well as the ALAC Chair's letter to the GNSO Chair.

strings despite their business interest or needs, as well as the interests or needs of the intended language communities.

Besides the public comments submitted by PointQuébec and CORE Association, the ALAC Chair wrote to the GNSO Chair after ICANN77, bringing the same issue to the attention of the GNSO Council.

Parallel Situation Among ccTLDs:

A partially similar situation happened to the IDN ccTLDs. EURid, the registry manager of the already delegated ccTLD .eu, requested to manage ".εu", the Greek variation of .eu. It faced a similar dilemma as .quebec – "εu" and "eu" were not considered as allocatable variant labels for each other, but confusingly similar. Consequently, ".εu" would unlikely pass the DNS Stability Evaluation in the IDN ccTLD Fast Track Process, which includes a string similarity evaluation component. In addition, this parallel situation also relates to the strings serving a geographically defined community (".εu" is a meaningful representation of the EU, serving Greek speaking users in the European Union; ".québec" is intended to serve French speaking users in the Quebec region of Canada).

To enable the eventual delegation of ".εu", an exception procedure was developed to handle the potential consequence of string similarity review. Excerpts of this procedure are included below:

> *"In the event that the DNS Stability Panel or the EPSRP determines a requested IDN ccTLD string is confusingly similar to an existing two-letter ASCII ccTLD corresponding to the same country or territory as the requesting country or territory entity, the DNS Stability Panel or the EPSRP shall document this in its report to ICANN.*
>
> *If, at the time of the request or within two months after receiving the notification of the findings of the DNS Stability Panel, the requester, and, if considered necessary by ICANN, the relevant public authority, provide(s) a clarification that documents and demonstrates to ICANN that:*
>
> *1. The intended manager for the requested IDN ccTLD and the manager for the existing two-letter ASCII ccTLD are one and the same entity; and*
>
> *2. The intended manager shall request the delegation for the IDN ccTLD string if validated; and*
>
> *3. The IDN ccTLD and ccTLD shall remain to be managed by one and the same entity, and*
>
> *4. The intended manager shall agree to specific and pre-arranged conditions with the goal to mitigate the risk of user confusion as of the moment the IDN ccTLD becomes operational,*

then the requested string is deemed to have passed the DNS Stability Panel evaluation.[7]

To summarize, a requested IDN ccTLD string that is confusingly similar to an existing ASCII ccTLD can be delegated if:
- it corresponds to the same country or territory of the ASCII ccTLD; and
- the same registry operator of the ASCII ccTLD applies for such a string and will manage it; and
- there is plan put in place to mitigate the risk of user confusion

With the help of this exception procedure, .εu completed the Fast Track Process and EURid launched this IDN ccTLD in November 2019. Registrants under .εu are required to create a domain name in full Greek script at the top- and second-levels. Additional rules, such as homoglyph bundling rules, are put in place to mitigate potential security / stability risks due to confusing similarity with domain names under the .eu in Latin script.[8]

Furthermore, ccPDP4, ccNSO's ongoing policy development process focusing on IDNs, has been developing policy recommendations that will eventually replace the Fast Track Process. According to its draft Initial Report, similar to the EPDP-IDNs Team, the ccPDP4 working group has affirmed that RZ-LGR must be the only source for determining the variant labels with corresponding disposition values for existing and future ccTLDs. Notwithstanding, ccPDP4 has also affirmed the continuation of the exception procedure with modifications / enhancement in order to allow for the eventual delegation of a requested IDN ccTLD string that is confusingly similar to another ccTLD string (ASCII or IDN; existing or requested) but is not deemed as its variant label according to the RZ-LGR.

Consideration for GNSO Council:

To consider the development of an exception procedure for handling the consequence of String Similarity Review and create a potential path for the ".québec" application, a GNSO Policy Development Process is likely the necessary avenue to do so.

The SubPro PDP could have been best suited to discuss this topic. However, this issue was not raised in the SubPro PDP WG when deliberation was ongoing.

There are two other paths that the GNSO Council may consider:
1. Requesting an Issue Report with the consideration of potentially launching a separate PDP effort;
2. Using an ongoing PDP to address this issue.

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[7] See Final Implementation Plan for IDN ccTLD Fast Track Process, Section 5.6.3 DNS Stability Evaluation, p.28: https://www.icann.org/en/system/files/files/idn-cctld-implementation-plan-28mar19-en.pdf#page=28
[8] Learn more: https://eurid.eu/en/register-a-eu-domain/guidelines-eu-greek/

Date: 24 July 2023

Regarding Path 1, the GNSO Council may also consider requesting an Issues Report to thoroughly study this topic and consider whether launching a separate PDP effort would be appropriate. The discussion questions included on pages 6-7 of this paper may serve as a starting point for developing such an Issues Report.

Regarding Path 2, the EPDP-IDNs is the only ongoing GNSO PDP that might be a potential home for this work. PointQuébec and CORE Association, via their public comment submissions, also requested the EPDP-IDNs to develop "recommendations regarding those [applicants] who expressed their intention to apply for an IDN and were unable to do so".

However, the challenge faced by PointQuébec is not precisely about variant TLD management, which is the area that the EPDP-IDNs Team tasked to develop policy recommendations. The EPDP Team holds the view that this issue is outside scope, and the EPDP Team Chair also reaffirmed this view during her presentation to the GNSO Council on 20 July 2023 and sought GNSO Council guidance on appropriate actions. Nevertheless, one may argue that the relationship between "quebec" and "québec" may be considered akin to variants, and the "same entity" principle is relevant to this discussion.

Similar to other PDP charters, the EPDP-IDNs charter recognizes the possibility of expansion for its mission and scope, subject to GNSO Council approval. Therefore, it is noted that the EPDP Team, "at a minimum", is expected to consider the questions mentioned in its charter.[9]

Finally, the charter also refers to the ICANN Board request in its 14 March 2019 resolution that "the GNSO and ccNSO keep each other informed of the progress in developing the relevant details of their policies and procedures to ensure a consistent solution for IDN variant gTLDs and IDN variant ccTLDs." ccNSO's exception procedure may be an area for potential alignment, although it is intended for the evaluation of requested ccTLDs that are non-variants and as a "workaround" to overcome the limitations set by the RZ-LGR

In summary, the EPDP-IDNs charter provides some flexibility in scope to potentially discuss whether the exceptional procedure in IDN ccTLD Fast Track Process can be leveraged to address a similar or the same problem facing gTLDs. The Board resolution may provide some justification for the EPDP-IDNs Team to discuss whether alignment with the ccTLD approach is appropriate.

Nevertheless, it remains uncertain whether this issue can be timely addressed with the existing expertise in the EPDP-IDNs Team while not impacting its projected timeline for completion.

Discussion Questions:

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[9] See p.4 of EPDP-IDNs Charter:
https://gnso.icann.org/sites/default/files/policy/2021/presentation/CharterGNSOIDNsEPDPWorkingGroup20May21.pdf#page=4

Date: 24 July 2023

This section contains a series of discussion questions, which were developed with the intent to gauge the level of effort to potentially develop a similar solution to the exception procedure in the IDN ccTLD Fast Track process. These discussion questions may also help the GNSO Council determine which path is best suited to address the issue, and understand whether the current remit / skill / expertise within the EPDP-IDNs Team is adequate in answering these questions without the risk of jeopardizing its timeline.

Staff's preliminary assessment is that some of these questions seem difficult to reach quick answers and may require additional study to fully grasp the issue.

1. What is the breadth of this problem?
    a. Is it only concerning an IDN string that may be confusingly similar to an ASCII string but is not its variant? Or it can also concern an IDN string that may be confusingly similar to another IDN string?
    b. What languages / scripts of confusingly similar strings may be affected by such a problem? Is it only concerning IDN strings in the Latin script? Or does it also concern strings in other alphabet scripts such as Greek and Cyllic? How about strings in non-alphabet scripts?
    c. Is there a specific type of gTLD that is affected? Is it only concerning GeoTLDs, as mentioned in PointQuébec's public comments? Or it can concern other types of gTLDs, such as community, brand, generic, and others, as the ALAC Chair's letter pointed out?
2. If an exception procedure is to be developed, what circumstances would it be allowed?
    a. Is it only applied to an applied-for gTLD string that is confusingly similar to an existing delegated gTLD? Or can it be applied to two applied-for strings that are confusingly similar to each other?
    b. Is it limited to any specific type of new gTLD application?
3. How to apply the "same entity" principle in the exception procedure?
    a. Is the exception procedure "reactionary", meaning the applicant is expected to respond to the notification of the findings of the String Similarity Review Panel? Or the applicant can proactively submit relevant materials for evaluation?
    b. How to translate "corresponding to the same country or territory" in the gTLD space? Does it mean the strings must mean exactly the same thing for each other and their "equivalence" is widely recognized by users? If so, based on what criteria and who will make the assessment?
    c. From the application standpoint, do any of the requirements or benefits for variant gTLD applications apply to such applications for non-variants?
    d. Do any of the contractual requirements or benefits for variant gTLDs apply to such strings, if they are approved?
    e. From an operational standpoint, do any of the operational requirements for variant gTLDs apply to such strings, if they are delegated?
    f. How to translate "specific and pre-arranged other conditions with the goal to mitigate the risk of user confusion" to gTLDs? Does it mean any specific second-level rules should be established?

g. Should any "same entity" rules at the second-level apply for registrations under such gTLDs?

4. What should be excluded from such an exception procedure, and why?
   a. ASCII strings that are confusingly similar to each other?
   b. What additional exclusions should be considered?

5. What would be the impact of such an exception procedure on the authoritative status of the RZ-LGR? Will it potentially create an alternative definition of variants?

6. What would be the impact of such an exception procedure on:
   a. String Confusion Objection?
   b. Contention Resolution?
   c. Other stages in the evaluation process?

7. How would such an exception procedure intersect with the challenge and appeal mechanisms related to String Similarity as recommended by SubPro PDP?

8. Is there any other additional mechanism / path outside of policy development to develop an equitable solution for PointQuébec and other registries / applicants that may face the same challenge?