Internationalized Domain Names Expedited Policy Development Process

B4, E2, E6

IDN-EPDP Team Meeting #56 | 27 October 2022

Agenda

1. Roll Call and SOI Updates (2 mins)
2. Welcome and Chair Updates (10 min)
    a. GNSO Council October Meeting Update
    b. Daylight saving - keep 13:30 UTC on Thursdays
    c. Schedule adjustments:
        - Holiday meeting cancellations - 24 Nov (US Thanksgiving), 29 Dec (ICANN Holiday Closure)
        - 3 Nov (Contracted Parties Summit)
        - 22 Dec (Last Call Before Holiday Period)
3. Continued Discussion of B4, Discussion Question 2 (20 min)
4. Continued Discussion of E2 - Options for Legal Rights and Community Objections (40 min)
5. Begin Discussion of E6 (20 min)
6. AOB (3 mins)

Continued Discussion of B4

Discussion Questions

D1b: What should be the process by which an existing registry operator could apply for a variant for its existing gTLD?

1. Based on the observations, is there a compelling reason to create a standalone round for existing Chinese and Arabic TLD registry operators to apply for variant gTLDs?

B4: What should an application process look like in terms of timing and sequence for an existing and future Registry Operator with respect to applying their allocatable variant TLD labels?

1. During an application round, are all these options allowed?
    a. A new applicant applies for a primary IDN gTLD only.
    b. A new applicant applies for a primary IDN gTLD AND one or more of its allocatable variant label(s).
    c. A registry operator applies for one or more variant label(s) of its existing IDN gTLD.
2. Based on the observations, is there a compelling reason to allow applications for variant gTLDs of existing gTLDs between application rounds?

Strawman Process Flow - Observations

1. Understand which elements in the New gTLD Program will be impacted by variant implementation

- The same stages/steps in the New gTLD Program are ***applicable*** to an application for an IDN gTLD variant label, just like a regular gTLD application

2. Consider how such elements will need to be modified to accommodate variant gTLDs

- Around half of the elements in the New gTLD Program will require ***specific*** consideration/modification, in accordance with the recommendations proposed by the EPDP Team, to accommodate variant gTLD applications

3. Analyze the level of efforts of evaluating variant applications and the associated cost/fees

- Only 44 existing gTLDs (35 Chinese gTLDs and 9 Arabic gTLDs) have allocatable variants
- Most Chinese gTLD ROs and two Arabic gTLD ROs who responded to the survey indicated interest in applying for variants
- It may be expensive and impractical to develop a standalone round to accommodate these registries, given the observations related to items 1-2 above.

Additional Observations

Conclusion of D1b Deliberations:

- The most expedient and cost-effective path forward for existing ROs to get variants delegated is through the next round
- Applications for IDN variants of existing TLDs could have priority in processing order in accordance with SubPro Recommendation 19.3
- While setting up the system for evaluating variant labels will likely incur a one-time cost, the cost of running the system will likely continue in future round(s) and cannot be eliminated

Question for EPDP Team

Based on the observations, is there a compelling reason to allow applications for variant gTLDs of existing gTLDs between application rounds?

Continued Discussion of E2

Legal Rights Objection Recommendation

OPTION 1

Legal Rights objection CAN be filed against:

1. **Primary applied-for string**
2. **Requested allocatable variants**

Legal Rights objection SHOULD NOT be filed against:

1. **Non-requested allocatable variants**
    a. However, IF variants are allowed to be activated between rounds, objection **CAN** also be filed against **non-requested allocatable variants** in the same round as the primary string
2. **Blocked variants**

OPTION 2

Legal Rights objection CAN be filed against:

1. **Primary applied-for string**
2. **ALL allocatable variants**
3. **ALL blocked variants**

Legal Rights Objection: Option 2 Rationale & Example

Rationale:

1. Help prevent the event where a delegated string may block the chance for a rightsholder to apply for another string that is the same or similar to any valid variant of the already delegated string
2. If the objection is filed against a non-requested allocatable or a blocked variant, **it needs to meet a higher bar to prevail** (e.g., the objector needs to demonstrate how an unapplied-for/undelegated string will infringe the existing legal rights of the rightsholder)

华鸟 (A1)

華鳥 (A2)

華鳥 (A3)
崋鳥 (A4)
崋鸟 (A5)
華鸟 (A6)

- A1 is a trademark and the only applied-for string in New gTLD Application **Round 1**
- <u>If Legal Rights objection option 1 is adopted</u>:
  - Objection can only be filed against A1
  - Objection cannot be filed against non-requested allocatable variant A2 and blocked variants A3-A6
- A1 passed evaluation and got delegated to the rootzone

華島 (B2)

- B2 is another trademark
- Rightsholder of B2, who did not submit an application during Round 1, would like to apply for a string in **Round 2**
- <u>If Legal Rights objection option 1 is adopted</u>, B2 may not pass the string similarity review in Round 2, because it is confusingly similar to A2 and A4, variants of the already delegated A1
- <u>If Legal Rights objection option 2 is adopted</u>:
  - Rightsholder of B2 CAN object to A1 by arguing that its variants A2 and A4 are similar to its existing mark B2
  - If objection prevails, application for A1 may be ineligible to proceed in Round 1, and B2 may have a chance to be delegated in Round 2

Community Objection Recommendation

OPTION 1

Community objection CAN be filed against:

1. **Primary applied-for string**
2. **Requested allocatable variants**

Community objection SHOULD NOT be filed against:

1. **Non-requested allocatable variants**
   a. However, IF variants are allowed to be activated between rounds, objection **CAN** also be filed against **non-requested allocatable variants** in the same round as the primary string
2. **Blocked variants**

OPTION 2

Community objection CAN be filed against:

1. **Primary applied-for string**
2. **ALL allocatable variants**
3. **ALL blocked variants**

Community Objection: Option 2 - Rationale & Example

Rationale:

1. Help prevent the event where a delegated string may block the chance for a community to apply for another string that is the same or similar to any valid variant of the already delegated string
2. If the objection is filed against a non-requested allocatable or a blocked variant, **it needs to meet a higher bar to prevail** (e.g., the objector needs to demonstrate how an unapplied-for/undelegated string will encounter substantial opposition from the community)

华鸟 (A1)

華鳥 (A2)

華鳥 (A3)
崋鳥 (A4)
崋鸟 (A5)
華鸟 (A6)

- A1 is the only applied-for string in New gTLD Application **Round 1**
- <u>If Community objection recommendation option 1 is adopted</u>:
  - Objection can only be filed against A1
  - Objection cannot be filed against non-requested allocatable variant A2 and blocked variants A3-A6
- A1 passed evaluation and got delegated to the rootzone

華島 (B2)

- A community, who did not submit an application during Round 1, would like to apply for B2 in **Round 2** as a community TLD
- <u>If Community objection option 1 is adopted</u>, B2 may not pass the string similarity review in Round 2, because it is confusingly similar to A2 and A4, variants of the already delegated A1
- <u>If Community objection option 2 is adopted</u>:
  - The community CAN object to A1 by arguing that its variants A2 and A4 are similar to B2 and have substantial opposition from the community
  - If objection prevails, application for A1 may be ineligible to proceed in Round 1, and B2 may have a chance to be delegated in Round 2

Begin Discussion of E6

Charter Question E6

Is there any reason to permit the registration of gTLDs consisting of decorated two-character Latin labels which are not variant labels of any two-letter ASCII labels? If so, rationale must be clearly stated.

What is the question asking:

1. Can a two-letter gTLD label in the Latin script be applied for?
2. Can a two-character IDN gTLD label in the Latin script be applied for?
3. Can a two-character IDN gTLD label in the Latin script that is not a variant of any two-letter ASCII label be applied for?

ccTLDs Context

- two-letter ASCII labels are country code top level domains. The two-letter labels are derived from the ISO 3166-1 list that allocates two and three letter alphabetic codes, among other things, to represent countries.
- In order to ensure no conflicts with **future ISO country name assignments**, **ICANN maintains a restriction on the use of two-letter TLDs**.
- Currently all two-letter ccTLD labels in the Latin script are ASCII labels and there are **no IDN ccTLD labels in the Latin script** (i.e., “decorated” ISO 3166 two-character codes).

What Happened in 2012 Round

Can a New gTLD string be 2 letters?

1. **Two-letter ASCII strings were not permitted**, to avoid conflict with **current and future country-codes** based on the ISO 3166-1 standard.
2. An applied-for **two-character IDN string was reviewed for visual similarity to any possible two-character ASCII combination to protect possible future ccTLD delegations**. An applied-for gTLD string that was found to be too similar to any possible two-character ASCII combination would not pass this review.
3. Applications for **two-character IDN strings were allowed**:
   a. **Two-character IDN strings in non-Latin script** applications were received (e.g., コム, 中信, 世界)
   b. Applications for **two-character IDN strings in the Latin script** were not received (i.e., the only applied-for IDN strings in Latin script were ".vermögensberater" and ".vermögensberatung"). **If such applications were received, it would be considered unlikely that they would have passed the String Similarity Review as they would likely be considered similar to two-character ASCII strings**

Analyze the Question

1. Can a two-letter gTLD label in the Latin script be applied-for?
   - Applications for two-letter ASCII labels were not allowed in 2012, and will not be allowed in future round(s)
   - There is currently no restrictions on applications for two-letter IDN gTLD labels in Latin script. Delegation will be subject to successful evaluation of the application, including string similarity review.

2. Can a two-character IDN gTLD label in the Latin script be applied-for?
   - An application for a two-character IDN gTLD label in the Latin script is allowed, but it will be extremely unlikely that such an application would pass the String Similarity Review.
   - According to the Hybrid model, such an applied-for string will be compared for visual similarity against not only any two-letter ASCII combinations, but also the blocked and allocatable variant labels of those combinations, which may include decorated two-character Latin labels

3. Can a two-character IDN gTLD label in the Latin script that is not a variant of any two-letter ASCII label be applied-for?
   - It is extremely unlikely that a two-character IDN label in the Latin script is NOT a variant of a certain two-letter ASCII combination
   - If such a label is a variant of a two-letter ASCII label, its application would not pass the String Similarity Review

Question for EPDP Team

Drawing on the analysis, should a recommendation be developed to explicitly prohibit application for any two-letter gTLD string in the Latin script?