

The following comments relate to Section 22 "Names of International Intergovernmental Organizations" of the "Request for comments on issues addressed in the Second WIPO Internet Domain Process" (WIPO RFC-2):

1. Names or acronyms of international intergovernmental organisations are protected by Article 6ter of the Paris Convention and by national legal provisions which are sometimes highly divergent in the scope of protection. The primary reason why these designations enjoy such protection is to ensure that they are clearly attributed to the area of activity of the international organisation concerned and to prevent situations in which extraneous use of the designations could give the erroneous impression that there is a connection between the user and the organisation.

International organisations have a legitimate interest in being clearly identifiable by the logo, acronym or name they use in the course of their business and in not being incorrectly associated with the activities or tasks of other natural or legal persons as a result of the abusive use thereof. This applies all the more in the case of transactions and communications via the Internet. Associations are often established worldwide via the Internet between parties who have previously had no contact with one another. Moreover, if the name, logo or acronym of an international organisation is used to find particular individuals, companies or goods and services, the organisation concerned runs the high risk that those signs will, to its detriment, increasingly lose their power of identification, not only on the Internet but also in the course of the organisation's normal business transactions. In view of the growing importance of e-commerce, it can be assumed that misleading designations on the Internet and those likely to lead to organisations being mistaken for one another will undermine name protection in general.

At least the names and acronyms of international organisations protected by Article 6ter of the Paris Convention and notified accordingly should be protected from abusive use on the Internet by appropriate protection mechanisms.

2. In our opinion, the point at which use of the name or acronym of an international organisation on the Internet is abusive and therefore has to be prevented is reached when the use has not been authorised by the organisation concerned and can be construed as a means of identifying that organisation, even though neither the organisation itself nor its area of activity is actually intended to be referred to, described or designated.
3. As a way of protecting the names and acronyms of international organisations notified under the Paris Convention, the administrators of domain name systems should be required in principle to block such names and acronyms for other applicants when new domain names are being allocated. A list of protected names and acronyms should be made available to domain name administrators for that purpose. The exclusion should apply to both the gTLDs and the ccTLDs of those countries which are member states of the organisation concerned. Since ccTLDs can be called up from anywhere in the world, they should also not be made available - at least in the member states - as a platform for using the name or notified acronym of an international organisation in what might be an unfair or even illegal manner.

Criteria should be set defining the conditions under which requested mutations of the protected names and acronyms are to be covered by the exclusion.

In the case of gTLD '.org', the exclusion should be lifted only if the applicant provides

the registration office with a written declaration of approval by the organisation concerned with regard to the application for the domain name, or such a declaration is transmitted by the international organisation to the registration office direct. In the case of the other gTLDs and the ccTLDs to which they relate, the exclusion should be lifted only if certain conditions are met. Such conditions could include the following:

- The international organisation concerned has issued a declaration of agreement.
 - The applicant for a domain name has filed a declaration of obligation under which he will not use the requested domain address for business activities which could affect or damage the area of activity of those international organisations whose name or acronym will be part of the address. In addition, the applicant must declare that he will also impose this obligation on all those to whom he transfers the right to use the domain address. The registration contract should state that, in the event of contravention of this obligation, the registration will be terminated.
 - If the international organisation concerned does not issue a declaration of agreement and the applicant is not willing to issue the aforementioned declaration of renunciation, the registration office should lift the exclusion only if the applicant can claim his own protected right to use the name or acronym applied for. The decision whether the applicant should be given precedence over protection of the international organisation's interests should be taken in consultation with the international organisation concerned. If the latter disputes the precedence of the applicant's right to the name, a decision should be taken, by a panel of experts attached to the registration office, on whether it appears justifiable to lift the exclusion.
4. It should be made clear that neither the imposition of an exclusion nor the lifting thereof by decision of the panel of experts is intended in any way to prejudice the national courts and authorities, insofar as the latter have to take a decision on guaranteeing the protection of the name or acronym of an international organisation as defined by Article 6ter of the Paris Convention and national provisions.