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**WIPO- World Intellectual Property Organisation**

WIPO Internet Domain Name Process

Mr Francis GURRY

Assistant Director General and Legal Counsel

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PO Box 18

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by mail & by e-mail

**Re: Second WIPO Internet Domain Name Process: use of INNs in Internet Domain Names.**

Dear Mr Gurry,

Anakena.com is a consulting company specialising in Pharmaceutical communication on the Internet. The following items are our comments and recommendations concerning the use of INNs in Internet Domain Names.

**1- Should the use of INNs be reserved to the pharmaceutical industry?**

The comment made by the World Health Organisation, suggests that manufacturers producing the pharmaceutical substance may be allowed to use a domain name as "[INN] [name of manufacturer]".

In fact, "International Non-proprietary Names" (INNs) are used not only by manufacturers of the pharmaceutical substance but also by many stakeholders.

For example:

- The World Health Organisation and other national groups who define and create the INNs
- Researchers (in universities and private companies) who create and develop pharmaceutical substances
- Manufacturers of pharmaceutical substances
- Marketers of medications that include pharmaceutical substances (pharmaceutical companies)
- Editorial companies
- Physicians who prescribe the medication
- Patients who take the medication
- Health authorities who promote the use of generic drugs
- Insurance companies, HMO, social security, etc., who pay for these medications
- Associations of patients who play a very important role in the promotion of these substances through patient education and participation in clinical trials.

We see from this list, which is certainly not exhaustive, that all these interested parties play an important role in the use of pharmaceutical substances.

**Should all these stakeholders be prohibited to use INNs in domain names? If so, why ?**

Imagine, for instance, an association of Parkinson-disease patients maintaining a site named '[levodopa-info.org](http://levodopa-info.org)' to provide important information to patients being treated with the levodopa pharmaceutical substance. *It seems perfectly legitimate for such an organisation to be allowed to use this domain name.*

In fact, INNs not only characterise the pharmaceutical substance, they also represent a value for the treatment of a particular pathology. This value is of utmost importance because it could make the difference of life or death for millions of people.

If INNs are excluded from Internet domain names, the only domain names related to the pharmaceutical substance would be those that correspond to the trademarks.

This situation would clearly be:

- Unfair, because it gives only large pharmaceutical companies the right to promote the pharmaceutical substance this way, preventing other legitimate organisations from using them to improve the life and health of patients.
- Misleading, because it would lead people into thinking that there are no alternatives to trademarked (in other words, expensive) medications.
- Abusive and unethical because some pharmaceutical companies would have a 'de-facto' monopoly.

## **2- Bad faith registration of INNs?**

This concept is difficult to define since an INN is not a trademark by definition. Therefore there was clearly no intention by the registrants to act in ‘bad faith’.

In addition, since almost all pharmaceutical companies have registered domain names containing INNs, it is difficult to believe that their trademark lawyers would not have checked before registering a name.

*Therefore the notion of cybersquatting (registering a name without a legitimate right) does not, in our opinion, apply in the case of INNs.*

## **3- How can INNs be used to improve global health?**

The use of INNs is widespread in the healthcare environment. A reason for that is due to the obligation, in many countries, to print the INN under the brand name on the packaging. Although this measure was not well received by manufacturers of the original products, it is clear that it has contributed to the increased use of generic drugs. Another reason is that many health authorities, especially in Europe, are actively promoting the use of generic medications identified by their INNs.

Because of this trend, more and more people will use generic drugs and will turn to the Internet to find information about them. At this moment, because e-healthcare is still in its infancy, sites using INN are not completely developed. However Internet sites dedicated to specific generic drugs should appear within the next 2 years. That would allow the promotion of generic medications as well as the creation of communities of doctors and patients on a worldwide basis.

Needless to say that the World Health Organisation should play a major role in the development and promotion of this new trend.

## **4- INNs and safety of patients**

It is extremely important that the medical information available on the Internet be safe, objective and reliable. Unfortunately, many sites are disseminating information (about treatments to cure cancer, AIDS, etc.) that appears to be biased and incorrect, under domain names which do not include INNs.

But the same problem could occur with sites containing INNs. To our knowledge, however, *no case has been reported on the Internet of a domain name containing INNs that would threaten the safety of patients.*

The World Health Organisation's idea to promote the 'dot health' domain name suffix as a 'seal of approval' was a good initiative for bringing some form of control. We hope that ICANN will reconsider this option in one of their next meetings.

It is not necessarily true that the use of INNs in domain names would compromise the safety of patients. On the contrary, domain names containing INNs could be used to create sites that could well improve the safety of patients.

For instance, a site called [amoxicillin-check.org](http://amoxicillin-check.org) could be created for the purpose of listing all the counterfeit amoxicillins known to exist. A site such as that, could help authorities, doctors and hospitals detect dangerous medications sold as amoxicillin. Because it would contain the name amoxicillin, this domain name would be easy to find in search engines and be of great value, possibly saving many lives.

However, to guarantee the accuracy of the information on these sites, a 'seal of approval' granted by the WHO would give this organisation some control on these sites. This 'seal' would be given to those sites providing reliable medical information, in particular to those promoting the use of medications in developing countries.

#### **5- Should the World Health Organisation help promote the use of INNs ?**

The World Health Organisation represents all the members of the United Nations. Most of these members are developing countries where access to basic pharmaceutical substances (even generic medications) is a major issue.

The Internet represents an inexpensive, global and uncomplicated way to help these countries improve their healthcare system. Restrictions placed on the use of INNs will clearly benefit pharmaceutical companies from developed countries (basically Europe, USA and Japan) and would prevent developing countries from finding less costly ways to improve their healthcare systems.

Therefore, promoting the use of INNs and helping people who want to develop sites focused on INNs would seem more coherent with WHO's mission than supporting companies which are lobbying against the use of generic drugs through their professional associations.

It is important that the World Health Organisation realise what the issue is: *lobby from pharmaceutical companies concerned with profits vs. promotion of generic medications to save lives*, especially in developing countries.

#### **6- Should Pharmaceutical companies lobby against the use of INNs in Internet domain names?**

Pharmaceutical companies selling trademarked medications may benefit greatly by communicating on generic names of drugs. In fact, some pharmaceutical companies

(including several of the largest) are currently preparing sites using domain names that include INNs to improve their communication with physicians.

#### **7- Regulation of other generic Internet domain names related to healthcare.**

If INNs are to be regulated or prohibited, the World Health Organisation and the WIPO *should be consistent and include in this process other generic names* such as:

- Oncology.com
- Diabetes.com
- Flu.com
- Arthritis.com
- Depression.com
- Hepatitis.com
- Cholesterol.com
- etc

The same risks that are involved with INNs would also exist with these names.

In our opinion, *the WIPO and the WHO should explain why they consider these domain names as safe and why they are not included in the second WIPO Internet Domain Name Process, together with the INNs.*

We hope this letter will contribute to the process begun by the World Intellectual Property Organisation on Internet Domain Names and we remain at your disposal for any further information you may require.

Sincerely,

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c.c. Dr. Kamil Idris, Director General, WIPO – Geneva (by mail)  
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