



INTERNATIONAL
OLYMPIC
COMMITTEE

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Legal Affairs Department
Ref. No. HMS/MCS/shr

Lausanne, 1st February 2011

Re: Reserving "Olympic" And "Olympiad" In The New gTLDs

Dear Mr. Pritz and Ms. Stathos:

Thank you for meeting with representatives from Silverberg, Goldman & Bikoff LLP—our outside counsel for intellectual property relating to Internet law—at the recent ICANN meeting in Cartagena, Colombia.

We understand that your discussion was positive and productive, and that you are amenable to reserving the words OLYMPIC and OLYMPIAD across the new generic Top-Level Domains if we provide specific criteria to demonstrate the uniqueness of these words, and to show that their reservation serves the public interest of the international community.

As a follow-up to the discussion in Cartagena, please accept this letter, and the annexed materials, which set forth our proposed criteria for reserving the words OLYMPIC and OLYMPIAD at the top and second levels of all new gTLDs. We believe that reserving these Olympic words is the only practical way of protecting them amidst an unprecedented expansion of the domain name system.

I. Summary of Proposed Criteria for Reservation of the Olympic Properties.

The Olympic properties—defined as words or symbols that identify the Olympic movement—enjoy unique international statutory and treaty protection, which reserve their exclusive use to the International Olympic Committee ("IOC"), the National Olympic Committees and the Organising Committees for the Olympic Games, so that we may use them to carry out our mission of promoting the Olympic movement and our philosophy of Olympism—the placing of sports at the service of humanity.

The following proposed criteria are narrowly tailored to reflect this special recognition and protection:

1. The properties are protected by *sui generis* legislation, in effect before 26 June 2008, in over twenty-five (25) countries;
2. The *sui generis* legislation protecting the properties has been upheld or recognized by a national and/or territorial high court;
3. The properties are protected by international treaty, in effect before 26 June 2008 in over forty (40) countries; and



4. Reserving the properties at the top and second level serves the public interest of the international community by assisting the non-profit owner of the properties in fulfilling its humanitarian mission.

We believe that these criteria reflect the unique recognition and protection that have been accorded to the Olympic properties worldwide, enabling us to carry out the mission of the Olympic movement.

II. Unique Statutory and Treaty Protection for the Olympic Properties.

The Olympic properties are protected in well over twenty-five countries around the world by unique legislation reserving their exclusive use to the IOC and its National Olympic Committees.

The Asia-Pacific Region—For example, in the ICANN Asia-Pacific Region, Chinese Regulations on Protection of Olympic Symbols proscribes “use [of the] Olympic symbols for commercial purposes (including potential commercial purposes) without authorization ... [including] expressions such as Olympic, Olympiad, Olympic Games (中国奥林匹克委员会的名称、徽记、标志) and their abbreviations.”

Similarly, the Australian Olympic Insignia Protection Act of 1987 proscribes use of protected Olympic expression for commercial purposes, including the words Olympic, Olympics, Olympic Games, Olympiad and Olympiads.

The European Region—In the ICANN European Region, the Belgian Decree of 30 March 1983 on the Protection of the Symbol, Logo and Motto Olympics proscribes use of the terms Jeux Olympiques, Olympiades, Olympique, Olympische Spelen, Olympiades and Olympische for physical education and sport, or with commercial or advertising purposes, without permission from the Belgian Olympic Committee.

Similarly, the United Kingdom’s Olympic Symbols Protection Act of 1995 reserves exclusive rights to Olympic symbol, the Olympic motto and the words Olympiad, Olympiads, Olympian, Olympians, Olympic and Olympics including any translation into any language.

Indeed, Article 3 of N 2598/1998 in Greece specifically reserves exclusive use of the Olympic properties to the IOC and its National Olympic Committees in “domain names on the Internet.”

The Latin American and Caribbean Island Region—In the ICANN Latin America and Caribbean Island Region, the Creation of the Costa Rican Institute of Sports and Recreation and of the Legal Framework for Physical Education, Sports, and Recreation Act grants the National Olympic Committee of Costa Rica the “exclusive right to use, for commercial or publicity purposes, the words Olimpico and Olimpiada.”

Similarly, the Guatemalan National Law for the Development of Physical Culture and Sports provides the Guatemalan Olympic Committee with the “exclusive right to use the ... terms Olympia, Olimpico and Olimpiadas.” Indeed, the Olympic Act of Brazil specifically reserves exclusive use of the Olympic properties to the IOC and its National Olympic Committees in “domains in websites.”

The North American Region—Finally, in the ICANN North American Region, the Canadian Olympic and Paralympic Marks Act proscribes adoption or use of the words Olympia, Olympiad, Olympiades, Olympian, Olympic, Olympie, and Olympique—as well as any translations thereof—in connection with a business or otherwise. In addition, the United States Ted Stevens Olympic and Amateur Sports Act provides the United States Olympic Committee with the exclusive right to use the words Olympic and Olympiad.



Importantly, unique legislative protection in more than twenty-five countries is not an exhaustive characterization of the special recognition and protection accorded to the Olympic properties worldwide. Rather, we highlight these materials for illustrative purposes.

For your convenience, we have provided copies of each statute cited herein in Annex B.

Legislation Upheld By High Courts—These statutes have been in existence for many years. In the very rare instances where this special legislative protection of the Olympic properties have been legally challenged, national high courts and intellectual property offices have uniformly upheld their validity. In *San Francisco Arts & Athletics, Inc. v. United States Olympic Committee*, the Supreme Court of the United States held that “Congress clearly intended to grant the [United States Olympic Committee] exclusive use of the word OLYMPIC without regard to whether use of the word tends to cause confusion, and [without regard to] defenses available under the Lanham Act.”

The U.S. Supreme Court further explained that Congress—in enacting the Olympic and Amateur Sports Act—had “a broader public interest in promoting, through the activities of the USOC, the participation of amateur athletes from the United States in ... the Olympic Games.” The Act “directly advances these governmental interests by supplying the USOC with the means to raise money to support the Olympics and ... ensuring that it will receive the benefit of its efforts.”

For your convenience, we have included this decision—as well as an illustrative sample of similar rulings from other nations—in Annex C.

International Treaty Protection—The Nairobi Treaty on the Protection of the Olympic Symbol obligates all participating nations to protect the Olympic Symbol—the five interlocking rings—against any commercial use without the express authorization of the IOC. The Nairobi Treaty demonstrates that sixty-five signatory nations, including forty-eight contracting parties, are dedicated to protecting the Olympic rings—and also the Olympic properties generally—in recognition of the unique nature of the Olympic movement.

Signatories and contracting parties to the Nairobi Treaty are also truly diverse, including sixteen countries from the ICANN African Region, fourteen countries from the ICANN Asia-Pacific Region, twenty countries from the ICANN European Region, and thirteen countries from the ICANN Latin America and Caribbean Island Region.

III. Olympism And The Public Interest.

Reserving the words OLYMPIC and OLYMPIAD unequivocally serves the public interest by assisting the IOC and its National Olympic Committees in fulfilling the non-profit mission of the Olympic movement.

Olympism is the philosophy of the Olympic movement as codified in the Olympic Charter. It blends sport with culture and education. The goal of Olympism is to place sport at the service of the harmonious development of man with a view toward promoting a peaceful society concerned with the preservation of human dignity. Accordingly, the IOC and all the members of the Olympic family are dedicated to ensuring regular celebration of the Olympic Games, promoting world peace, humanitarian development through sport, environmental sustainability, education of youth, HIV/AIDs prevention and gender equality.

Peace Through Sport—The modern Olympic movement has revived the ancient Greek observation of the Olympic Truce, asking those in conflict to stop fighting while athletes from the entire family of nations meet under the Olympic flame. The Olympic Truce has received over ten years of endorsement from the United Nations General Assembly, which has unanimously adopted, every two years, a resolution entitled *Building A Peaceful And Better World Through*



Sport And The Olympic Ideal. In addition, every year the National Olympic Committees organize activities to promote the culture of peace and observance of the Olympic Truce in their respective countries.

Human Development Through Sport—Many projects have been implemented by the IOC and its international and local partners to place sport at the service of improving people’s well-being, health and physical activity. Indeed, the efforts of ICANN to spread geographic and cultural diversity on the Internet are akin to the efforts of the IOC to provide sport to the world. Just as ICANN strives to close the digital divide, the IOC strives to instill the spirit of Olympism globally and provide sport to the millions of young people around the world who have no access to sports facilities. Recent examples include the inauguration by the IOC President, Dr. Jacques Rogge and the Head of State of Zambia, Mr. Rupiah Banda, of the Olympic Youth Development Centre in Lusaka, Zambia under the Olympic “Sports for Hope” program. In Mozambique, the IOC and its international and local partners have implemented a poverty alleviation and economic development program for the community of Boane, supporting the academic education of children from under-privileged families. In El Salvador, the IOC and its international partners have initiated a “Sport for Peace and Development” project to intervene in some of the most impoverished and violent municipalities in the country. These are but a few of the many examples of the IOC’s efforts in the sector.

Education Through Sport—Education is an important pillar of Olympism. Indeed, like ICANN, the IOC was formed to serve charitable and educational purposes, among other beneficent ends. Most recently, the IOC has devised a multi-level strategy—which is widely disseminated via the Internet—aimed at mentoring young people and using sport to instill human values, such as healthy ambition, shared responsibility, self-respect and respect for others. These fundamental principles of Olympism are taught by way of example—such as the perseverance personified by Olympic speed skater Dan Jansen, who, despite serious personal losses and earlier defeats, finally won gold in 1994 at his fourth and final Olympic Games; or the respect personified by African-American track and field legend Jesse Owens and his German counterpart Luz Long during the 1936 Olympic Games in Berlin, Germany, who after a very close competition in the long jump, walked off the field arm in arm, in defiance of pervasive racism and prejudice at that time. These and many similar educational programs have already reached four hundred million young people in China and another ten million young people in India.

Sport And Sustainable Development—The environment is another important pillar of Olympism. The IOC continues to play an important role in the greater resources and sustainable development through sport at the national, regional and international level, and particularly at the Olympic Games. The IOC applies considerable financial resources to the “Sport and Environment” program, creating a Sport and Environment Commission and assisting National Olympic Committees and Organizing Committees for the Olympic Games promoting Olympic Games that respect the environment and promoting awareness of the importance of a healthy environment.

HIV/AIDs Prevention And Gender Equality—Both health and gender equality are of critical importance to the IOC and the world of sport in general. Accordingly, the IOC has developed a policy and related programs of activities to promote HIV/AIDs awareness and prevention—running special awareness campaigns during the Olympic Games, organizing regional workshops on prevention through sport, gathering international and local partners to discuss how sport can help support further awareness and prevention efforts, and publishing the first Toolkit for HIV/AIDs prevention through sport. In addition, the IOC strives to ensure that women and girls are given equal opportunities to engage in sport and physical activities throughout their lifespan—ensuring that access to sport and physical activity is fully part of the international conventions and documents adopted by the United Nations and other institutions, taking action in the field of advocacy among National Olympic Committees and International Sports Federations, and working with young people to instill values of gender equality.

These examples are not an exhaustive characterization of Olympism in action. Although we have



attached Annex D—including a wealth of materials describing the Olympic movement and our philosophy of Olympism, in addition to our global work toward placing sport at the service of humanity—it is simply not possible to detail all of the beneficent efforts of the modern Olympic movement dating back to the first Olympic Games in 1896.

More importantly, funding for each of these humanitarian pursuits is made possible only through the sale of broadcasting and sponsorship rights to the Olympic Games (which comprises ninety-two percent of our total marketing revenue) in addition to ticket sales and licensing revenue (which comprises eight percent of our marketing revenue). Less than ten percent of the total marketing revenue is retained for the operational and administrative costs of governing the Olympic movement; the rest is distributed to organizations throughout the Olympic movement to support the staging of the Olympic Games and to promote Olympism worldwide.

Each of these revenue sources hinges upon the international and exclusive rights to use the Olympic properties—truly making them crucial to the Olympic movement.

By reserving the words OLYMPIC and OLYMPIAD at the top and second levels, ICANN will adhere to international, special statutory and treaty protection of the Olympic properties. More importantly, ICANN will serve the intent of such laws by preserving the lifeblood of the Olympic movement—allowing the IOC and its National Olympic Committees to maintain and expand efforts to benefit the international community through sport by making the world a better and more stable and peaceful place.

IV. Proposed Amendments Protecting Olympic Properties.

The IOC's efforts to place sport at the service of humanity depend upon its exclusive rights to use the Olympic properties, and the unique legal recognition and protection afforded to those Olympic properties. To protect these properties in the new gTLDs, we attach Annex A—containing our proposed amendments to reserve the words OLYMPIC and OLYMPIAD at the top and second levels.

The proposal would amend Section 2.2.1.2 of the Applicant Guidebook on reserved names at the top level, and amend Specification Five of the new gTLD Registry Agreement on reserved names at the second level. We are confident that these proposed amendments truly serve the public interest by safeguarding properties vital to the Olympic movement.

In effect, we have proposed a blanket reservation of the words OLYMPIC and OLYMPIAD at the top-level. Thus, for the first round of applications, no one may register dot-Olympic or dot-Olympiad, foreign translations or any confusingly similar strings at the top-level. We have further proposed a blanket reservation of the literal words OLYMPIC and OLYMPIAD at the second-level, with the caveat that Registry Operators may opt reach an agreement with the IOC to register these strings in a manner consistent with any grandfathered rights or fair uses.

We believe that our proposed amendments strike a fair balance between *sui generis* legislation and the original 1996 agreement between the United States National Olympic Committee and Network Solutions, which uniformly “block[ed] domain name registration of the literal words OLYMPIC, OLYMPIAD and CITIUS ALTIUS FORTIUS.” Network Solutions also agreed to accord sympathetic consideration to written requests from the Olympic Committee for removal of registrations making unauthorized use of the Olympic properties. We have included a copy of that agreement in Annex E.

Presently, numerous registrars and auction sites routinely block or remove domain names containing the words OLYMPIC and OLYMPIAD at the request of the IOC, as well as other domain names containing any Olympic property.



VI. Conclusion.

Given the ambitious timeline that ICANN has provided for the launch of new gTLDs, we believe that the words OLYMPIC and OLYMPIAD should be placed on the reserved names list as soon as possible. As we move forward to achieve this objective, please keep in mind that funding for all of the beneficent endeavors of the Olympic movement depends upon the exclusive rights of the IOC and other constituents of the Olympic movement that are so authorized by the IOC, to use the Olympic properties.

If you need any further information from us, or if you wish to discuss anything further with either our outside counsel or us, then please let us know.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Urs Lacotte".

Urs LACOTTE
Director General

A handwritten signature in blue ink, appearing to read "Howard M. Stupp".

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