

## **Comments of the Internet Committee of the International Trademark Association (INTA) on the Accountability and Transparency Review Team Final Recommendations**

February 11, 2011

### **Introduction**

The Internet Committee of the International Trademark Association (“INTA”) is pleased to provide its comments to the Internet Corporation for Assigned Names and Numbers (“ICANN”) on the Accountability and Transparency Review Team (“ATRT”) Final Recommendations.<sup>1</sup> We appreciate the efforts of the ATRT to provide a balanced review of accountability and transparency issues, as indicated in the report. Please find below our specific recommendations, request for clarifications and other observations.

### **Executive Summary**

In Recommendation 1 of the Final Recommendations, under ICANN Board of Directors Governance, Performance and Composition, we would like to see a mention of knowledge in intellectual property and in particular, trademark law added to the skill set. In addition, in Recommendation 17 of the Final Recommendations, under Public Input Processes and Policy Development Processes, while we agree with the comment and reply comment concept, we suggest that the commenting process should end with the reply comment. Permitting further comments after the reply comment is likely to lead to bureaucratic delays.

### **Working Group 1**

In paragraph 1 on page 15, we suggest quoting Finding #1 in its entirety: "The central purpose of the NomCom is to find genuinely independent and unaffiliated Board, Council, and ALAC members." The full inclusion of this quote will lend clarity to the full responsibilities of the Nominating Committee, while omitting the last few words results in an incomplete picture of these responsibilities.

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<sup>1</sup> <http://www.icann.org/en/public-comment/#atrt-final>

In addition, we suggest referencing Finding Nos. 2 and 7 from the October 2007 Report, which seem especially relevant to WG1. These findings are:

Finding #2: The responsibility for achieving and maintaining cultural and geographic diversity on the bodies to which it appoints makes it difficult for the NomCom to pursue its central purpose.

Finding #7: NomCom members do not consistently understand ICANN or its constituent bodies well enough to interpret and apply the criteria and qualifications for appointments.

We find that Item #4 on page 20 ("Building on the work of the Board Governance Committee, the Board should continue to enhance Board performance and work practices") is too vague to be an effective recommendation. We suggest adding specific details about how previous work and reforms can be improved and built upon, as each of the other recommendations provides more detailed guidance. As written, this recommendation does not explain what "enhancing" Board performance would entail, or what would constitute adequate enhancement of performance.

### **Working Group 2**

Overall, we agree with the recommendations provided in this section to improve the ICANN Board/GAC relationship.

### **Working Group 3**

We find the position of the ATRT to be clear, and we support the recommendations provided in this section.

### **Working Group 4**

We agree with the recommendations provided in this section. The input of an independent body is critical to ensuring stability and fairness. Moreover, binding decision could constitute a balance in the decision-making process.

### **Conclusion**

Overall, the Internet Committee of INTA agrees with the findings and recommendations presented in the ATRT Recommendations report. The addition of a few clarifications and details as requested above, especially the inclusion of intellectual property knowledge in the skill set and a clarification

regarding how Board performance may be enhanced and evaluated, will ensure that the report is a useful guide for improving accountability and transparency within ICANN.

Thank you for considering our views on these important issues. Should you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio DiGangi at: [cdigangi@inta.org](mailto:cdigangi@inta.org).

### **About the INTA Internet Committee**

The International Trademark Association (INTA) is a 131-year-old global organization with members in over 190 countries. One of INTA's key goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last decade, INTA has served as a leading voice for trademark owners in the development of cyberspace, including as a founding member of ICANN's Intellectual Property Constituency (IPC).

INTA's Internet Committee is a group of over two hundred trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, and to develop and advocate policies to advance the balanced protection of trademarks on the Internet.