

**Before the
World Intellectual Property Organization
Geneva, Switzerland**

In the Matter of

)	
Second WIPO)	
Internet Domain Name Process)	RFC-1
)	

**Comments of the
Office of Advocacy
U.S. Small Business Administration**

The Office of Advocacy of the United States Small Business Administration (“Advocacy”) is responding to the World Intellectual Property Organization’s (“WIPO”) Request for Comments (“RFC-1”) on its Second Internet Domain Name Process. The WIPO has issued a general request to all interested parties to review the issues presented in RFC-1 and submit comments on the scope of the issues identified and whether additional issues should be considered. Advocacy has reviewed RFC-1 and submits the recommendations below to the WIPO.

The U.S. Congress established the Office of Advocacy in 1976 by Pub. L. No. 94-305, codified as amended at 15 U.S.C. §§ 634(a)-(g), 637, to represent the views and interests of small business before policy-making bodies. Advocacy’s statutory duties include serving as a focal point for concerns regarding policies as they affect small business, developing proposals for changes in policies, and communicating these proposals to the decision makers, 15 U.S.C. § 634(c)(1)-(4). It is in this capacity that Advocacy is submitting the following recommendations for modification and additions to the RFC-1.

1. The WIPO Should Request Comment on Necessity of and Legal Basis for Additional Protection in Identified Areas

Although Advocacy recognizes that the WIPO is responding to a request from its member nations, we have found in the past that identifying a specific need is an important part of any policy formation. Therefore, Advocacy recommends that, for each issue area contained in RFC-1, the WIPO request comments on why current legal protections are insufficient to protect intellectual property rights and why additional protection is needed in the areas identified by the WIPO and not in other areas. We also recommend that the WIPO request comment on whether additional protections will amount to an expansion of rights for intellectual property holders beyond current law and treaty.

2. The WIPO Should Request Comment on the Impact to the “New Economy”

Any new policy recommendations by the WIPO could have far reaching impact that will alter the developing digital economy. Advocacy recommends that the WIPO request comment on how changes in policy that alter the relationship between trademarks and domain names will affect the non-protected class. Specifically, the WIPO should inquire as to how the proposed policy changes will affect small businesses, how these changes will affect new entrants to the Internet, and what impact they will have on developing nations. The WIPO should take a serious look to see if proposed policies for each of the issues listed in RFC-1 favor developed nations and large established corporate entities unfairly and create barriers to full participation in the digital economy by developing nations and small entities.

3. The WIPO Should Request Comment on the Impact on the Internet Domain Name System

Policy changes that accord additional protections for certain classes of entities identified by the WIPO in RFC-1 could have significant impact on the Domain Name System (“DNS”). Advocacy recommends that the WIPO request comment on how different proposals will affect the DNS. Specifically, the WIPO should inquire if the proposed policies would require a review process to get a domain name, if it is logistically possible to enforce the protection, and would it overly burden the DNS registration system. Policies that distort or impede the rapid and fair registration of domain names could act as a barrier to entry for small businesses and entrepreneurs from developing nations. The WIPO should request comment on this subject for each of the issues identified in RFC-1.

4. The WIPO Should Request Comment on How Additional Protections Will Interact with Existing Law and Third-Party Actions

As the WIPO is aware, its policy recommendations will not exist in a vacuum. Advocacy recommends that the WIPO request comment on how each of the issues in RFC-1 interact with third-party law, actions, and policies. In particular, the WIPO should solicit comment on how the disparate legal protections of the WIPO’s member countries, such as free speech and different requirements for registering trademarks, will affect the issues identified. Furthermore, the WIPO should request comment on whether and how the addition of new top level domains on the Internet will affect the issues identified in RFC-1.

5. The WIPO Should Give More Clarification on the Issues Identified.

Finally, Advocacy recommends that the WIPO clarify the issues that are presented in RFC-1. Clarifying the issues will allow the WIPO to gather better comments. For example, the WIPO should clarify what exactly is a “personal name” (Is it just the surname or is it the full name?); what exactly constitutes a “geographic name”; and which types of international intergovernmental organizations would qualify for the additional protection.

Advocacy believes that inclusion of these recommendations into the WIPO’s request for comments will generate better and more helpful comments and encourage all parties to consider

the impact on the digital economy if new protections are adopted. If the WIPO wishes any further information, please contact myself or one of my assistant chief counsels at 202-205-6532.

Sincerely,

/s/ _____

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/s/ _____

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