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AIPLA Comments Regarding the Development of a Consensus Recommendation for GNSO Restructuring

These comments are submitted on behalf of the American Intellectual Property Law Association (AIPLA) to the ICANN Board regarding the Board's creation of a small working group to develop a consensus recommendation for GNSO Council structural change.

AIPLA is a national bar association whose more than 16,000 members are primarily lawyers in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of trademark, copyright, patent, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

The structural change proposed for the GNSO Council in the February 3, 2008 report of the Board's governance committee would have melded representation of the intellectual property community with a diverse grouping of business and registrar interests. We were and remain gravely concerned that this structural change would have seriously diluted the IP community's voice and representation before the Council and the ICANN Board. AIPLA believes that the structural changes proposed in the operation of the GNSO Council contained in the Joint Proposal submitted on April 23, 2008 by the At-Large Advisory Committee and the Commercial and Business Users, Intellectual Property, Internet Service and Connection Providers, and Non-Commercial Users Constituencies would have led to greater stakeholder participation and more balanced policies.¹ It would have preserved the democratic goal of assuring that all interested members of the DNS user community would have a voice in the governance of the Internet.

AIPLA was therefore gratified by the thoughtful consideration given by the Board to the proposals for the restructuring of the GNSO Council. We applaud its decision to establish a small working group to develop a "consensus recommendation on council restructuring by no later than July 25." We also endorse the composition adopted by the Board for the working group that will include one representative from the current Nom Com appointees, one member from each constituency, and one member from each liaison-appointing advisory committee.

Our members represent trademark owners, in the United States and abroad, whose brands allow the consuming public to select the products they need with confidence. It is therefore critically important that the GNSO Council have a balanced and fair representation of all interested stakeholders, including IP stakeholders, to ensure that their legitimate concerns have a voice in the governance of the Internet. AIPLA strongly encourages the working group established by the Board keep the need for such representation squarely in mind in its deliberations to achieve the consensus position requested by the Board.

¹ AIPLA is a member of the Intellectual Property Constituency.