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NEW GENERIC TOP-LEVEL DOMAIN NAMES (“gTLD”) DISPUTE RESOLUTION PROCEDURE

RESPONSE FORM TO BE COMPLETED BY THE APPLICANT

- Applicant responding to several Objections or Objections based on separate grounds must file separate Responses
- Response Form must be filed in English and submitted by email to expertise@iccwbo.org
- The substantive part is limited to 5000 words or 20 pages, whichever is less

Disclaimer: This form is the template to be used by Applicants who wish to file a Response. Applicants must review carefully the Procedural Documents listed below. This form may not be published or used for any purpose other than the proceedings pursuant to the New GTLD Dispute Resolution Procedure from ICANN administered by the ICC International Centre for Expertise (“Centre”).

References to use for the Procedural Documents

Name	Abbreviation
Rules for Expertise of the ICC	“Rules”
Appendix III to the ICC Expertise Rules, Schedule of expertise costs for proceedings under the new gTLD dispute resolution procedure	“Appendix III”
ICC Practice Note on the Administration of Cases	“ICC Practice Note”
Attachment to Module 3 - New gTLD Dispute Resolution Procedure	“Procedure”
Module 3 of the gTLD Applicant Guidebook	“Guidebook”

Annex A defines capitalized terms and abbreviations in addition to or in lieu of the foregoing.

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Identification of the Parties and their Representatives

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Objector

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Add separate tables for any additional representative (for example external counsel or in-house counsel).

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This address shall be used for all communication and notifications in the present proceedings. Accordingly, notification to this address shall be deemed as notification to the Applicant. The Contact Address can be the Applicant's address, the Applicant's Representative's address or any other address used for correspondence in these proceedings.

Disputed gTLD

gTLD Applicant has applied for and Objector objects to:

Name	<.REALTY> – Application ID 1-1598-77594 ICC EXP/472/ICANN/89 (c. EXP/473/ICANN/90, EXP/475/ICANN/92, EXP/478/ICANN/95, EXP/482/ICANN/99)
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Objection

The Objector filed its Objection on the following Ground (Article 3.2.1 of the Guidebook and Article 2 of the Procedure)

Limited Public Interest Objection: the applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law.

or

Community Objection: there is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

Copy the information provided by the Objector.

Point-by-Point Response to the claims made by the Objector (Article 3.3.3 of the Guidebook and Article 11 of the Procedure)

A.

INTRODUCTION

1. Objector Undermines New gTLD Goals.

ICANN adopted its new gTLD program to enhance choice and competition in domain names and promote free expression online. AGB Preamble, §1.1.2.3, and Mod. 2 Attmt. at A-1. Focused on accomplishing these same goals, Donuts has applied for <.REALTY>, <.REALESTATE> and 305 other generic TLDs, to offer domains on subjects that otherwise may not have their own forums. See Nevett Dec. ¶¶4-6, Ex. 2 (**Annex B**).

Such generics also bring competition to registries, which have not meaningfully experienced it in a world of but 22 gTLDs. This benefits consumers. Niche offerings such as <.REALTY>, in a growing Internet “shopping mall,” give users an alternative to the sprawling “department store” environment of incumbent registries such as <.COM>. *Id.* ¶¶6, 8.

Applicant would make the TLD open to all, for legitimate uses of that common word’s meanings. The registry would operate neutrally, without favoring any one constituency, but with two dozen anti-abuse mechanisms not required of existing gTLDs. Individual and institutional buyers and sellers, brokers, lenders, developers, contractors, insurers, investors, economists, service providers, commentators and others, including individuals and companies not specifically identified with the term, would have nondiscriminatory access to the TLD, with unprecedented protections. *Id.* ¶¶8-13.

The Objection threatens these important benefits. It marks an effort by a single, US-centric commercial organization to advance its own anti-competitive objectives by closing an

entire segment of the namespace to the much greater number of those outside its group who also have an interest in the broad subject of “realty,” a term that can describe every solid square inch on Earth. Objector cannot exert what amounts to a cyber-monopoly over a word already used in tens of thousands of domain names and which in no way denotes a clearly delineated community. “The ultimate goal of the community-objection process is to prevent the misappropriation of a community label by delegation of a TLD and to ensure that an objector cannot keep an applicant with a legitimate interest in the TLD from succeeding.” <http://www.icann.org/en/topics/new-gtlds/summary-analysis-proposed-final-guidebook-21feb11-en.pdf>.

2. Objector Lacks Standing.

ICANN created the community objection for groups of people with a shared characteristic who can demonstrate that a particular application would cause them harm. Objector, a single American trade association, does not fit this paradigm. Rather, it represents an isolated industry segment seeking to prevent a perceived outsider from obtaining a competing name.

ICANN did not develop the community objection as “a means for a single entity to eliminate an application.” See <http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv4-12nov10-en.pdf> at 15. Objector seeks to do exactly (and only) that, and thus has no right to object.

3. The Objection Fails on the Merits.

The Objection also falls well short on the merits. ICANN has made clear that:

There is a presumption generally in favor of granting new gTLDs to applicants who can satisfy the requirements for obtaining a gTLD – and, hence, a corresponding burden upon a party that objects to the gTLD to show why that gTLD should not be granted to the applicant.

<http://archive.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf>. More specifically, ICANN demands that community objectors prove *all of four* substantive elements: (i) a clearly delineated community; (ii) substantial opposition from that community; (iii) a strong association between the community and the applied-for string; and (iv) material detriment to the community caused by Applicant’s operation of the string. AGB §3.5.4.

Objector does not satisfy that burden of proof. It cannot do so with respect to an everyday word that Applicant offers for generic Internet use. No clearly delineated “realty” community exists, and Objector cannot co-opt that term for its own restrictive purposes. Nor does it show that any such “community” has substantial opposition to, or a strong association with, Applicant’s proposed <.REALTY> string.

Most significantly, Objector demonstrates no likelihood of material detriment to any “community.” It *concludes* that detriment will occur based simply on the belief that Applicant would not run the TLD as Objector believes the registry should operate – in other words, for the benefit of Objector’s self-designated “community” of American “realtors.” However, no applicant has any obligation to act for the benefit of any alleged community.

Indeed, affiliates of Objector, who have applied for <.REALTOR> and <.REALESTATE> themselves, have not done so as communities. Rather, Objector attempts to use the objection process to help its own competitive position. It has utilized such tactics in other contexts. However, Objector’s concern with its *own* competitive position does not establish the material detriment it must show as to all those around the world interested in realty.

In contrast to Objector's complete absence of proof of material detriment, the actual facts show that Applicant will employ an unprecedented array of measures to prevent misconduct within the TLD. Those procedures – not this Objection – provide the proper means to address issues that have yet to arise. The barriers to entry for which Objector advocates do not.

Applicant has the same free speech rights as the general public to conduct its affairs using an ordinary word from the English language. Objector seeks to control the market for that word and all expression within it. To allow this would negate paramount public rights, impede the growth of and competition on the Internet, and set dangerous precedent that takes choice away from the many and places control in the hands of a few.

B.

OBJECTOR LACKS STANDING

The Panel first must determine whether NAR has the right, or standing, to object. It does not. By its multi-stakeholder process, ICANN designed the community objection as a vehicle for legitimate, clearly delineated communities of people (e.g., Navajo) to block an applicant that would harm that specific community – that is, “to prevent the misappropriation of a string that *uniquely or nearly uniquely* identifies a well-established and *closely connected* group of people or organizations.” See <http://archive.icann.org/en/topics/new-gtlds/agve-analysis-public-comments-04oct09-en.pdf> at 19 (emphases added).

This does not describe Objector or what it attempts to do. Rather, Objector “[s]imply [does] not want[] another party to ... obtain the name,” which “is not sufficient” to support a community objection. *Id.* See also AGB at 3-24 (potential delegation to a party other than objector cannot form basis for objection).

Objector does not contest an application for <.NAR> or even its claimed trademark, <.REALTOR>. Rather, Objector seeks unilaterally to restrict the use of a dictionary term that it perceives as similar – that is, in potential conflict with its own commercial interests – to the exclusion of the millions of individuals and entities around the globe with a potential interest in “realty.” Allowing such an abuse of the objection process would defeat the open nature of the Internet and the goals of the new gTLD program.

Beyond the foregoing, the “community named by the objector must be ... strongly associated with the applied-for gTLD string.” AGB §3.2.2.4 at 3-7. In other words, the word “realty” must readily bring Objector's organization to mind. Merely stating that proposition reveals its folly. The term does not “uniquely or nearly uniquely” identify any “well established and closely connected group of ... organizations,” and certainly not Objector's group of *American* companies out of the countless other entities, organizations and individuals that reasonably could associate themselves with the word.

Objector either lacks any significant relationship with a substantial portion of the “community” it claims to represent, or that “community” is too broad, diverse and wide-ranging to be “clearly delineated.” The Panel should dismiss the Objection on standing alone. It need never consider the substance of the Objection. Nevertheless, we reveal its absence of merit below.

C.

THE OBJECTION HAS NO MERIT

For a valid community objection the Objector has the burden to prove four distinct elements: (1) a clearly delineated community; (2) substantial opposition to the application from a significant portion of the community to which the string is targeted; (3) a strong

association between that community and the subject string; **and** (4) a “likelihood” that the Application will cause “material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be ... targeted.” AGB at 3-22. “The objector must meet all four tests ... for the objection to prevail;” failure on any one compels denial. *Id.* at 3-25. Objector here meets none.

1. Objector Fails to Establish a Clearly Delineated Community.

Objector necessarily must overcome a more stringent test on the merits than it need do for standing. ICANN would have no reason to make “clearly delineated” a substantive element of the objection if it meant nothing more than the criterion for standing. Rules “should be interpreted so as not to render one part inoperative.” *Colautti v. Franklin*, 439 U.S. 379, 392 (1979).

To meet the substantive test, Objector must show that *the string itself* describes a clearly delineated community. This requires evidence of the following as to the “community” denoted by the string: (1) its level of public recognition; (2) its formal boundaries, or what persons or entities form it; (3) the length of time it has existed; (4) its global distribution; and (5) the number of “members” that comprise it. AGB §3.5.4.

The term “realty” refers generally to land, houses and other buildings. See, e.g., <http://dictionary.reference.com/browse/realty?s=t> (defining “realty” as “real estate” or “real property”) (**Annex C**). It appears doubtful that the public would recognize “realty” as a “community,” and Objector certainly does not prove that it does.

The only “formal boundaries” of “realty” are dry land and solid structures. The former, at least, has existed as long as Earth itself, and certainly with “global distribution.” Its “members” consist of everyone present at those locations – the entire world population. “Realty” does not “delineate” a “community;” it forms a planet.

None other than ICANN's own Independent Objector has expressed the inability of generic strings to “clearly delineate” any “community.” Specifically, the IO notes:

By definition, a “generic term” is a term which is used by a significant number of people, who do not necessarily share similar goals, values or interests. A specific community should distinguish itself from others, precisely by its characteristics or specificities. It cannot be the case for a “generic term” which, by definition, goes beyond specificities as it is used by very different persons.

<http://www.independent-objector-newgtlds.org/english-version/the-issue-of-closed-generic-gtlds/>.

Objector attempts to define a narrower group more susceptible of “delineation” than the vast, diverse and competing interests that actually make up the universe of those with some connection to “realty.” However, that does not comport with the objection standard. The American “realtors” that Objector represents provide specific services in a circumscribed geographic area, comprising but a tiny segment of the services, uses, locations, persons and subjects associated with “realty.” The divergence and multitude of these associations make it impossible for Objector to show – and it does not – that “realty” describes a “clearly delineated community.”

2. Objector Demonstrates No Substantial Opposition Within the Subject “Community.”

The second test for a community objection requires proof of: (1) the number of expressions of opposition to the Application relative to the asserted community’s

composition; (2) the representative nature of those expressing opposition; (3) the stature or weight of sources of opposition; (4) the distribution or diversity of opposition within the invoked community; (5) Objector's historical defense of the alleged community in other contexts; and (6) costs incurred by Objector in expressing opposition. AGB §3.5.4 at 3-23. Objector presents no proof on any of these elements. Rather, it dismisses each in a sentence or two.

Objector accomplishes this by defining the "community" as its own organization. In that way, its conclusions follow directly from that premise. While "I think, therefore I am" may have been enough for Descartes, it does not satisfy Objector's burden to prove "substantial" opposition with a "community" defined by "realty."

Objector and its members make up only a fraction of *that* "community." As already mentioned, myriad divergent interests and countless individuals and organizations populate the sphere of "realty" around the world. Objector does not claim to speak on behalf of any of them, but rather only its own membership in the United States. In terms of the elements required for this facet of the community test, Objector: (1) voices only one opposition among billions whose lives touch "realty;" (2) stands only for itself and none of those others; (3) demonstrates no stature or weight among those numerous varied interests; (4) represents only the homogenous interests of its American members and none of the other diverse "realty" constituencies in the U.S. or elsewhere around the world; (5) shows no actions taken historically in defense of any such interests other than its own; and (6) establishes no "costs" incurred on behalf of the much larger realty "community," if one can even call it that.

Objector fails to establish these elements even with respect to its self-defined community of "realtors." It offers *no* evidence of *any* opposition from *any* of them – no statement from even a single member, no resolution among them authorizing the Objection specifically, no organizational documentation by which members vest the NAR leadership with the power to speak for them generally, nothing. Presenting zero expressions of opposition among its members (1), Objector does not and cannot prove their representative nature (2), stature or weight (3), or diversity or distribution (4). Although Objector may take action historically in defense of its members (5), that means nothing where no facts evidence it acts, or incurs costs (6), on their behalf here.

Objector does not and cannot sustain its burden of proving "substantial" opposition within a "realty" community, if such a thing exists, or even among "realtors" for which Objector anoints itself spokesperson. Its failure to establish this essential element dictates rejection of the Objection. AGB §3.5.4 at 3-25.

3. Objector Demonstrates No "Strong Association" Between the "Community" and the Applied-For String.

Objector bears the burden of proving a "strong association" between the applied-for string and the so-called community it invokes. It may do so by showing (1) statements made in the Application; (2) other public statements by Applicant; and (3) public associations between the string and the objecting "community." AGB §3.5.4 at 3-24.

Objector admits that Applicant offers a completely open gTLD, not "targeting" any "community." The statements in its Application refer to a wide variety of users. For example:

This TLD is attractive and useful to end-users as it better facilitates search, self-expression, information sharing and the provision of legitimate goods and services.

This TLD is a generic term and its second level names will be attractive to a variety of Internet users.

No entity, or group of entities, has exclusive rights to own or register second level names in this TLD.

See Application Q18A, **Annex B** (Nevett Dec. Ex. 1 at 8). Indeed, targeting a discrete group or community runs directly contrary to Donuts' philosophy regarding this TLD specifically and operation of registries generally:

Making this TLD available to a broad audience of registrants is consistent with the competition goals of the New TLD expansion program, and consistent with ICANN's objective of maximizing Internet participation. Donuts believes in an open Internet and, accordingly, we will encourage inclusiveness in the registration policies for this TLD. In order to avoid harm to legitimate registrants, Donuts will not artificially deny access, on the basis of identity alone (without legal cause), to a TLD that represents a generic form of activity and expression.

Id. While Applicant references "realty" in a generic sense, its Application makes clear that the TLD "will be attractive to a variety of Internet users," stating that:

The .REALTY TLD will be attractive to registrants with a connection to the real estate industry and related services. This is a broad and diverse group and may include those involved in owning, managing, purchasing, selling, brokering, and leasing real property throughout the world. It also may include real estate-related lenders and funds, as well as experts who use the TLD as a platform for discussion of issues and data relating to the industry. Finally, it may be used by consumers as a way to help rent, buy and sell their homes or properties. We would operate the .REALTY TLD in a legitimate and secure manner, and in the best interests of registrants in all jurisdictions who approach the TLD from a variety of perspectives.

Id. Nowhere does Objector show a "strong association" between the string and Objector's asserted "community" (*i.e.*, licensed "realtors" in the USA). Having not established that Applicant "targets" its alleged "community," or any public association between the string and that "community," Objector fails to satisfy its burden to prove this essential "strong association" element. Its Objection, therefore, cannot prevail. AGB at 3-24.

4. Objector Does Not Prove Material Detriment.

To prove "likelihood" of "material detriment," Objector must demonstrate factors such as: (1) the nature and extent of potential damage to the invoked "community" or its reputation from Applicant's operation of the string; (2) evidence that Applicant does not intend to act consistent with the interests of the invoked community; (3) interference with the core activities of the invoked community by Applicant's operation of the string; (4) extent the invoked community depends on the DNS for core activities; and (5) the level of certainty that detrimental outcomes will occur. AGB §3.5.4 at 3-24. Objector offers hyperbole, speculation and conclusions, but no evidence satisfying any of these criteria. Its own record, by contrast, shows the need for Applicant's open and unbiased approach to "realty."

a. Objector shows no "likely" harm to the "community" or its reputation from Applicant's operation of a <.REALTY> string.

Objector does not prove that Applicant's <.REALTY> gTLD poses a likelihood of damage to the NAR as a "community," or to its "reputation." Indeed, Objector's own arguments prove just the opposite.

Objector expresses concern that the open nature of Applicant's <.REALTY> registry would attract registrants who do not act in accordance with the standards of professionalism and ethics that Objector believes appropriate online (and which it has worked to cultivate in other areas). Yet, Objector also concedes that many users of that term online already fall short of its standards. "Applicant's current guidelines would promote unregulated, unvetted registration and use of realty-targeted domains and websites *in the same vein as current websites which are not operated professionally or ethically* by non-Community members." Objn at 11 (emphasis added).

Objector does not go to the next step. It tenders no evidence that Applicant's proposed string would create any *greater* or *different* harm to Objector's members than what it concedes they already experience under the existing regime of <.com> and other generics. As such, Objector does not prove that an open <.REALTY> gTLD itself would *cause* any such harm.

To the contrary, Objector admits that granting Applicant the TLD will simply *perpetuate* the "status quo." Objn at 10. The only impact on Objector and its members would be having to "*compete* with un-regulated, non-Community members." *Id.* (emphasis added). That constitutes not "detriment," but *competition*. While Objector may fear this – indeed, it has a history of working hard to restrict competition, as its Objection attempts to do¹ – these subjective concerns are not sufficient to constitute "material detriment" for purposes of a community objection. See AGB at 3-24.

Objector argues that the "REALTOR" designation differentiates those who are active members of its organization from others who are not. Objn at 11. That distinction does not come into play on this community-based Objection to the more descriptive or generic term "realty." Indeed, in six existing gTLDs, including <.COM>, the term "realty" appears more than 50,000 times in second-level domain names. Nevett Dec. ¶16 (**Annex B**). These include obvious uses such as www.realty.com, as well as more obscure but just as legitimate uses where individuals simply attempt to sell their homes.

Objector would have the Panel bar such uses in new gTLDs. While such uses present ample opportunity for abuse in existing registries, Objector proves none of the debilitating consequences in that context – including harm to "realtors" or their "reputation," or the ability of the term "realtor" to distinguish its members' services – that it also portends for this new gTLD.

Objector fears "confusion" between "realtors" as "trusted" sources of services, on the one hand, and <.REALTY> domains which may not merit the same level of trust, on the other hand. Such concerns more aptly apply to string confusion or legal rights objections, and not to the community Objection brought here. AGB §§3.5.1-.2. Moreover, they have no basis in fact. To the contrary, the evidence shows that Applicant will operate the <.REALTY> domain, and Objector's members can more safely participate in it, with protections that go well beyond what ICANN ever has imposed on any gTLD, and even what it requires of new gTLDs. See Nevett Dec. ¶¶11-12 and Ex. 1 at 7-10 (**Annex B**).

¹ Objector's ethics have not always lived up to the standards it professes. Its history includes explicit racial discrimination. See <http://www.thenation.com/article/camera-civil-rights-north>; see also <http://www.chicagomag.com/Chicago-Magazine/The-312/June-2012/The-Early-History-of-Segregation-in-Chicago/>). Objector also has had liability for antitrust violations and unfair competition activities found "deliberately designed to ... create economic and personal hardship on brokers deviating from price-fixing policies" which "were aimed at either forcing price cutters to join in the illegal price-fixing or go out of business." *People v. National Association of Realtors*, 155 Cal. App. 3d 578, 587 (1984). In another matter, the U.S. Department of Justice recently obtained a judgment against the NAR for using its policies to obstruct Internet-based real estate brokers from offering their services at lower costs to consumers. See http://www.justice.gov/atr/public/press_releases/2005/211008.htm.

ICANN has prescribed fourteen protective measures for which it never has asked from existing gTLD operators. Donuts has committed to implement those as well as eight additional safeguards. Among other things, as to Objector's purported trademark rights, Donuts' Protected Marks List ("DPML") allows those concerned with cybersquatting and other Internet schemes to register in advance to get notification of such activities, whereas now they must affirmatively search for separate needles of violation in the haystack of the entire Internet. See *id.*

Donuts will employ a full-time staff dedicated to implementation and maintenance of these mechanisms, and also has lodged public interest commitments (PICs) with ICANN as to this and all of its TLDs, giving ICANN contractual rights to terminate its registry operations for failure to honor the PICs, which incorporate all of the 22 protections mentioned above. *Id.* ¶11. In fact, Objector's members could move all of their domains to Applicant's <.REALTY> TLD and have significantly greater protections than they have now or could have with any other registry, including any run by their own affiliates.

Donuts has passed the Initial Evaluation process for approximately 110 of its applications. Nevett Dec. ¶12. ICANN has thus found, with its second-to-none familiarity with registry operation issues, and after examining the types of concerns raised here – in greater depth than the Panel possibly could do – that Donuts is ethically, technically and financially fit to operate the many registries for which it has applied.

So, too, should the Panel find here. Applicant will operate the registry in a safe and secure matter, and will operate the TLD in a neutral fashion without showing favoritism to one segment of interests. All evidence so demonstrates, and Objector offers none to the contrary. As such, it fails to carry its burden to show likely harm.

b. Applicant intends to act in the equal interest of all who may register <.REALTY> names, including those in Objector's claimed community.

Objector similarly provides no evidence supporting the second element – namely, that Applicant “does not intend to act in accordance with the interests of the community or of users more widely,” including that Applicant “has not proposed or does not intend to institute effective security protection for user interests.” AGB §3.5.4 at 3-24. Nor could Objector make such a showing. Applicant has expressed its affirmative intent to act in the best interests of and to protect all users, including asserted communities, and to “make this TLD a place for Internet users that is far safer than existing TLDs.” Application Q18A, **Annex B** (Nevett Dec. Ex. 1 at 8). As stated, it will do so with the 14 protections that ICANN demands for new gTLDs (but never required for existing gTLDs); will go beyond that by implementing eight additional safeguards; and will employ a staff dedicated full time to implementing these measures. *Id.*

While Objector states its conclusory belief that the Application offers inadequate protections, it fails to show how any of the mechanisms proposed by Applicant fall short. Rather, it simply insists that potential registrants undergo a verification process to confirm they would adhere to the high standards of the NAR and its “community” or “realtors.”

Applicant vehemently disagrees.

First, the Guidebook does not require an applicant to run a gTLD as a community. Virtually any generic word could attract some self-proclaimed community to oppose it. That a TLD could function for the benefit of a community does not replace the obligation of Objector to prove detriment and the other three substantive objection elements.

Second, imposing registration restrictions as Objector urges here would hinder free speech, competition and innovation in the namespace. As the Application states:

[A]ttempts to limit abuse by limiting registrant eligibility is unnecessarily restrictive and harms users by denying access to many legitimate registrants. Restrictions on second level domain eligibility would prevent law-abiding individuals and organizations from participating in a space to which they are legitimately connected, and would inhibit the sort of positive innovation we intend to see in this TLD.

Application Q18A, **Annex B** (Nevett Dec. Ex. 1 at 8). ICANN supports the same objectives. Indeed, they lie at the heart of the entire new gTLD program. AGB Preamble, §1.1.2.3, and Mod. 2 Attmt. at A-1.

The Objection would have the Panel gut these principles in deference to the self-interest of Objector and its theoretical community. This would subvert the goals of the objection process and lead the namespace down a dangerous path. Such censorship has no place on the Internet. How would Objector treat those who may criticize it or its members? Would Objector even allow all persons with a legitimate association with "realty" to participate in the domain, or just its own members in its narrow territory (and who pay its licensing fees)? Applicant's content-neutral approach strikes the proper balance that promotes free speech and the growth of cyber media, while protecting users more thoroughly than both the current landscape and ICANN's new gTLD enhancements do. Objector does not and cannot show that Applicant will act against the legitimate interests of the invoked "community."

c. Objector makes no showing that Applicant's TLD would interfere with the community's core activities.

Objector also does not show that it depends on the DNS for its core activities, or that a <.REALTY> TLD by Applicant would interfere with any such activities. AGB 3-24. For this factor to be meaningful, any "core activity" referenced by an Objector must "depend" (*i.e.* be conditioned upon in order to function) on the *domain name* system, a "hierarchical distributed naming system for computers, services, or any resource connected to the Internet or a private network." See http://en.wikipedia.org/wiki/Domain_Name_System. Rather, Objector merely cites the fact that its members make use of *websites* and the Internet generally (Objn at 11). If the objection standard meant nothing more, it would become meaningless, since any potential objector could claim to use the Internet to some degree.

Applicant would implement safeguards that surpass those of <.COM> and even most new gTLD applications. The TLD will provide new avenues of access, business and interest. In fact, Objector readily admits that its former implementation model, centered around "proprietary, closed systems," is obsolete and no longer viable. Objn at 12. Rather than "interfering" with Objector's (or anyone else's) "core activities," Applicant's TLD will instead facilitate and strengthen them.

In any event, Applicant does not need to *disprove* that any "interference" will occur; Objector must affirmatively *prove* that it will. This, of course, it does not do.

d. Objector makes no showing that there is any level of certainty that alleged detrimental outcomes would occur and makes no reasonable quantification of those detrimental outcomes.

Objector also offers no evidence demonstrating any level of certainty regarding the detriment it speculates that its members may suffer. Objn at 13. Instead, Objector simply pontificates about how the "history of the DNS" has "empirically shown" that unregulated TLDs "will not provide websites that are consistent with any professional and ethical guidelines," and that "[d]etriment to the Community, and users in general, is a certainty." *Id.* Such naked, unsubstantiated allegations are patently insufficient to satisfy Objector's significant burden of proof.

Applicant has every right to compete for the gTLD at issue. ICANN has so provided, and Objector fails in every respect to meet its burden to divest Applicant of that right. The Objection cannot succeed. Applicant therefore respectfully urges the Panel to reject it and to direct Objector to pay the costs reasonably incurred by Applicant in opposing the Objection.

Communication (Article 6(a) of the Procedure and Article 1 of the ICC Practice Note)

A copy of this Response is/was transmitted to the Objector on June 12, 2013, by email, to the following addresses: kburlington@realtors.org; mthiel@realtors.org; and bdj@secondgen.com.

A copy of this Response is/was transmitted to ICANN on June 12, 2013, by email, to the following address: drfiling@icann.org

Filing Fee (Article 1 Appendix III to the Rules and Article 11(f) of the Procedure)

As required, Euros 5 000 were paid to ICC on **May 15, 2013**.

Evidence of the payment is attached for information.**

Description of the Annexes filed with the Response (Article 11(e) of the Procedure)

List and Provide description of any annex filed.

Annex A – Table of Defined Terms

Annex B – Declaration of Jonathon Nevett, with the following exhibits:

Exhibit 1 – Application 1-1598-77594 for <.REALTY> gTLD by Dash Bloom, LLC

Exhibit 2 – List of new gTLDs applied for by Donuts Inc. Companies

Annex C – Dictionary.com screenshot for “realty”

DATED: June 12, 2013

Respectfully submitted,

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