

**THE INTERNATIONAL CENTRE FOR EXPERTISE OF THE
INTERNATIONAL CHAMBER OF COMMERCE**

CASE No. EXP/430/ICANN/47

TELECOMMUNICATIONS REGULATORY AUTHORITY OF THE UNITED ARAB
EMIRATES

(UAE)

vs/

ASIA GREEN IT SYSTEM BILGISAYAR SAN. VE TIC. TLD. STI.

(TURKEY)

This document is an original of the Expert Determination rendered in conformity with the New gTLD Dispute Resolution Procedure as provided in Module 3 of the gTLD Applicant Guidebook from ICANN and the ICC Rules for Expertise.

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OF THE
INTERNATIONAL CHAMBER OF COMMERCE**

CASE NO. EXP/430/ICANN/47

TELECOMMUNICATIONS REGULATORY AUTHORITY
OF THE UNITED ARAB EMIRATES
(UNITED ARAB EMIRATES)

OBJECTOR

v.

ASIA GREEN IT SYSTEM BILGISAYAR
SAN. VE TIC. LTD. STI.
(REPUBLIC OF TURKEY)

RESPONDENT

**EXPERT DETERMINATION BY
BERNARDO M. CREMADES
OCTOBER 24, 2013**

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LIST OF ABBREVIATIONS

Term	Meaning
Appendix III	Means Appendix III to the Rules for Expertise of the International Chamber of Commerce, Schedule of expertise costs for proceedings under the new gTLD dispute resolution procedure
Applicant	Means Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.
Centre	Means the International Centre for Expertise of the International Chamber of Commerce
DNS	Means Domain Name System
Expert	Means Bernardo M. Cremades
Expert Determination	Means this expert determination rendered on October 24, 2013
gTLD	Means generic top level domain
Guidebook	Means the gTLD Applicant Guidebook
ICANN	Means Internet Corporation for Assigned Names & Numbers
ICC	Means International Chamber of Commerce
ICC Practice Note	Means the ICC Practice Note on the Administration of Cases under the New gTLD Dispute Resolution Procedure
ICCIA	Means Islamic Chamber of Commerce, Industry and Agriculture
ICRIC	Means Islamic Chamber Research and Information Center
Objection	Means the community objection filed by the Objector against Respondent's application for the String on March 13, 2013
Objector	Means the Telecommunications Regulatory Authority of the United Arab Emirates
OIC	Means the Organization of Islamic Cooperation
OIC's Letter	Means the letter from the OIC dated January 29, 2013 (attached as Annex 1 to the Objection in English and as Annex 10 to the Reply in both Arabic and French)
Procedure	Means the Attachment to Module 3 of the gTLD Applicant Guidebook, New gTLD Dispute Resolution Procedure
Rejoinder	Means the rejoinder to the Reply filed by the Respondent on August 12, 2013

Reply	Means the reply to the Response filed by the Objector on August 1, 2013
Respondent	Means Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.
Response	Means the response to the Objection filed by the Respondent on May 15, 2013
Rules	Means the Rules for Expertise of the International Chamber of Commerce
String	Means the applied-for gTLD “.ISLAM” by the Applicant (Application No. 1-2130-23450)
Telecom Law	Means the UEA’s Federal Law by Decree No. 3 of 2003
UAE	Means the United Arab Emirates

1. This expert determination (the “**Expert Determination**”) is issued under the Rules for Expertise of the International Chamber of Commerce (the “**Rules**”), supplemented by the ICC Practice Note on the Administration of Cases (the “**ICC Practice Note**”), and under the Attachment to Module 3 of the gTLD Applicant Guidebook, New gTLD Dispute Resolution Procedure (the “**Procedure**”) of the gTLD Applicant Guidebook (the “**Guidebook**”).

I. THE PARTIES AND THE EXPERT

A. Objector

2. The Objector is:

Name	Telecommunications Regulatory Authority of the United Arab Emirates
Contact person	Mr. Abdulrahman Almarzouqi
Address	P.O.Box 26662, Sheikh Zayed Street, Abu Dhabi, United Arab Emirates
City, Country	Abu Dhabi, United Arab Emirates
Telephone	(+971) 4230 0083
Email	iam@tra.gov.ae

3. The Objector is represented herein by:

Name	Talal Abu Ghazaleh Legal Member to Talal Abu Ghazaleh Organization
Contact person	Mr. Badr El-Dein Abdel Khalek
Address	A26 Smart Village, Km 28 Cairo/Alex DesertRoad, P.O.Box: 150 Smart Village 12577, Egypt
City, Country	Cairo, Egypt
Telephone	(+ 202) 35 37 0434 / 35 37 0435
Email	taglegal.egypt@tag-legal.com

4. The Objector has appointed its legal representative to receive all communications and notifications in the present proceeding.

B. Respondent

5. The Respondent (also referred to as the Applicant) is:

Name	Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.
Contact person	Mr. Mehdi Abbasnia
Address	Büyükdere Cad. Kırgülü Sk. Metrocity AVM, D Block, Floor 4, No.11
City, Country	34394 Levent, Istanbul, Turkey
Telephone	(+90) 212 319 38 87
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6. The Respondent is represented herein by:

Name	Rodenbaugh Law
Contact person	Mr. Mike Rodenbaugh
Address	548 Market Street
City, Country	San Francisco, California, U.S.A.
Telephone	(+1) 415 738 8087
Email	mike@rodenbaugh.com

7. The Respondent has appointed its legal representative to receive all communications and notifications in the present proceeding.

C. Expert

8. The Expert is:

Name	Mr. Bernardo M. Cremades
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Address	Calle Goya 18 – Planta 2
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II. APPLIED-FOR GTLD

9. The applied-for generic top level domain (“**gTLD**”) is “.ISLAM” (the “**String**”).

III. PROCEDURAL MATTERS

10. On March 13, 2013, the Objector filed a community objection against Respondent’s application for the String in accordance with Article 3.2.1 of the Guidebook and Article 2 of the Procedure (the “**Objection**”).¹

11. According to Article 3.2.1 of the Guidebook, a community objection is filed when “[t]here 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”.

12. Prior to filing the Objection, the Respondent had secured funding from the Internet Corporation for Assigned Names & Numbers (“**ICANN**”) to cover the objection filing fees and the advance payment costs payable to the International Centre for Expertise of the International Chamber of Commerce (the “**Centre**”).²

13. On May 15, 2013, the Respondent filed a response disputing “both standing and grounds for the Objection” and “pray[ed] that it be dismissed” (the “**Response**”).³

14. On June 12, 2013, the Chair of the Standing Committee of the Centre appointed Mr. Bernardo M. Cremades as Expert in accordance with Article 7 and Article 3(3) Appendix I of the Rules. On July 17, 2013, the Centre transferred the file to the Expert and confirmed in writing that: (i) the estimated costs had been paid in full by each Party; and (ii) the full constitution of the Expert Panel had taken effect as of that same day.⁴

15. On July 18, 2013, the Expert issued Procedural Order No.1 directing both Parties to submit their views on certain procedural matters. The Parties replied on July 22, 2013. On July 23, 2013, the Expert issued Procedural Order No. 2 directing the Parties to submit additional evidence and allegations on very limited matters (Articles 17(a) and 18 *in fine* of the Procedure). The Expert also found that no hearing was necessary in this

¹ Objection, p. 3.

² Email from ICANN to Mr. Abdulrahman Almarzouqi, dated March 12, 2013.

³ Response, p. 4.

⁴ Letter from the Centre to the Parties and Expert, dated July 17, 2013.

proceeding (Article 19 of the Procedure) and that the Expert Determination should be published in full (Article 21(g) of the Procedure).

16. On August 1, 2013, the Objector filed its reply memorial together with the additional evidence requested by the Expert (the “**Reply**”). On August 12, 2013, the Respondent filed its second memorial, together with the supporting evidence, in response to the Reply (the “**Rejoinder**”).

17. In the Rejoinder, the Respondent requested the Expert to disregard the section “Further points raised in the response” of the Reply because, in its opinion, it was outside the scope of Procedural Order No. 2.⁵ Alternatively, the Respondent requested additional time to reply to the new allegations of the Objector.⁶ On August 20, 2013, the Expert invited the Objector to comment on the Respondent’s request. The Objector submitted its comment on August 21, 2013. On August 22, 2013, the Expert issued Procedural Order No. 3 and refused to accept the section “Further points raised in the response” of the Reply. In the Expert’s opinion, the Objector did not sufficiently justify the reasons to disobey the Expert’s instructions contained in Procedural Order No. 2. For this reason, such portion of the Reply will not be taken into consideration by the Expert to render the Expert Determination. However, as will be seen below, the Expert’s reasoning would not be affected by such disregarded allegations.

18. In accordance with Articles 5(a) and 6(a) of the Procedure, as well as Articles 3.3.1 and 3.3.3 of the Guidebook, all of the Parties’ communications were submitted electronically in English, which is the official language of this proceeding. The Expert notes, however, that Annex 9 to the Response and Annex 3 to the Rejoinder contain portions in languages other than English. Likewise, the Objector filed with the Reply the Arabic and French versions of Annex 1 to the Objection. In all cases, the Expert does not consider it necessary to provide certified or official translations pursuant to Article 5(b) of the Procedure.

19. For all purposes, the place of the proceedings is Paris (France), where the Centre is located (Article 4(d) of the Procedure).

⁵ Rejoinder, p. 1.

⁶ *Id.*

IV. OBJECTOR'S STANDING

20. In this section, the Expert will summarize the Parties' positions as to the Objector's standing to file the Objection. Thereafter, the Expert will draw his conclusions in this regard.

A. Objector's Position

21. As described in section I.A above, the Objector is the Telecommunications Regulatory Authority of the United Arab Emirates ("**UAE**"), which claims to be a governmental agency representing both the people and Government of said country.⁷ The Objector asserts that it is acting following an "invitation" of the Organization of Islamic Cooperation ("**OIC**"), of which the UAE is member, to file the Objection that triggered the present proceeding.⁸ Such "invitation" was furnished by the Objector in English as Annex 1 to the Objection and in both Arabic and French as Annex 10 to the Reply (collectively, "**OIC's Letter**"). The English version of the OIC's Letter provides in its relevant portion as follows:

[T]he OIC would like to draw the attention to the fact that new applications were already submitted for new gTLDs and these new applications are being evaluated according to the consensus-based mechanism determined by ICANN. The period for submitting any objections, if any, has been expanded until 13th March 2013 for any group and/or community that holds objection on religious or ethical values. The OIC Member States may kindly like to avail of this opportunity to act quickly through their representation in the organs of the ICANN, to avoid any misuse and misrepresentation of gTLDs of concern to them, including the ones like .ISLAM or .HALAL.⁹

22. Together with the Reply, the Objector submitted a draft resolution of the OIC and letters of support from governmental agencies of Bahrain, Qatar, Kuwait, Egypt, Oman

⁷ Objection, p. 4.

⁸ *Id.*

⁹ Annex 1 to the Objection, p. 1.

Turkey and Malaysia, as well as from the Gulf Cooperation Council.¹⁰ For these reasons, the Objector claims to represent a substantial portion of the Muslim community.

23. The Objector was incorporated by Federal Law by Decree No. 3 of 2003 (the “**Telecom Law**”).¹¹ The Objector argues that, since its inception, it has been charged with a “wide range of responsibilities related to the Telecommunications and Information Technology Sector, both within and outside the UAE.”¹² The Objector lists a number of its “functions and powers” – none of which relate to religious or public policy matters – but fails to provide documental support.¹³ The Expert notes, however, that such functions and powers are contained in Article 13 of the Telecom Law.

24. In light of the foregoing, the Objector claims to be “an established institution associated with the Arabian and Islamic UAE community having an institutional purpose related to the benefit of the community”.¹⁴

25. For the Objector, because the Respondent allegedly gained neither the support of the Muslim Community nor of the OIC, it lacks legitimacy to register the String.¹⁵ The Objector concludes by stating that, since religious matters are very sensitive, the Respondent – a commercial entity – should not be authorized to register or control a new gTLD of a religious nature.¹⁶

B. Respondent’s Position

26. The Respondent takes the opposite view regarding the Objector’s standing to file the Objection. First, the Respondent sustains that the Objector is the regulatory authority of just one Islamic country – namely, the UAE – which “demonstrates no

¹⁰ Reply, p. 1. See also Annexes 1-9 to the Reply.

¹¹ Objection, p. 4 (*citing* Federal Law by Decree No. 3 of 2003). The Expert notes that the Objector has not provided an electronic copy of the Telecom Law. However, the Expert has been able to obtain a copy of the Telecom Law by following a link included in the Objection (p. 4). The incorporation of the Objector is set forth in Chapter 3 (Part 1) of the Telecom Law under the official name “General Authority for Regulating the Telecommunication Sector”.

¹² Objection, p. 4.

¹³ *Id.*, p. 5.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

relevance to the global Muslim population”.¹⁷ The Respondent adds that the Objector merely provides a domestic technical function within the UAE and that, far from defending a community interest, is pursuing its own commercial interest.¹⁸

27. Second, the Respondent advances an argument based on Article 3.2.2.4 of the Guidebook,¹⁹ which provides in the part quoted by Respondent as follows:

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection.

28. For the Respondent, the Objector has “no association whatsoever with any Muslim community, other than it is one of 57 member states of the [OIC]”.²⁰ Furthermore, the Respondent criticizes the Objector for grasping support from OIC’s Letter, specifically because such letter does not contain an invitation from the OIC to its members to file an objection (but is rather a simple instruction to review ICANN’s new gTLD program and act if necessary).²¹

29. Third, the Respondent points out that the OIC did not file an objection itself and that only the regulatory authority of one of its members (of a total of 57) filed an objection. Accordingly, for the Respondent, this represents no “semblance of the global Muslim community” and thus the Objector lacks standing.²² Had there been substantial opposition, either the OIC itself or a significant number of States would have filed an objection.

30. Fourth, the Respondent asserts that all the functions and powers mentioned by the Objector are circumscribed to the territory of the UAE and that, in any case, they are of technical nature without relationship whatsoever to the global community of Muslim

¹⁷ Response, p. 4.

¹⁸ *Id.* See also *id.*, p. 6.

¹⁹ *Id.*, p. 4.

²⁰ *Id.*

²¹ *Id.*, p. 5.

²² *Id.*

individuals.²³ The Respondent adds that, even if the Objector were to have governmental authority within the UAE, it would only represent a small percentage (*i.e.*, 0.01%) of the Muslims of the world as of 2009.²⁴ In addition, the Respondent notes that the OIC did not entrust the Objector to act on its behalf or in the name of any other of its remaining 56 members.²⁵ For this reason, in the Respondent’s opinion, the Objector only “purport[s] to represent less than 2% of the OIC’s collective weight”, which does not amount to a representation of the “global Muslim community to which the .Islam TLD will be targeted”.²⁶

31. Finally, the Respondent argues that one of the OIC’s most relevant affiliates – the Islamic Chamber Research and Information Center (“**ICRIC**”) – has endorsed Respondent’s application to register the String, which would support its argument that the Objector is not backed by the OIC, that the Objector does not represent any greater Muslim community than the UAE and, in sum, that it lacks standing overall.²⁷

C. Expert’s Conclusion

(a) Standard

32. Article 3.2.2.4 of the Guidebook provides guidance on who may file a community objection. As the Respondent has correctly quoted in its Response, such article provides in its very first paragraph as follows:

Established institutions associated with clearly delineated communities are eligible to file a community objection. The community named by the objector must be a community strongly associated with the applied-for gTLD string in the application that is the subject of the objection. . . .²⁸

33. The Guidebook provides some explanation regarding the main requirements set forth in the quoted passage. In this regard, the Guidebook states that, “[t]o qualify for standing for a community objection, the objector must prove both of the following”, which

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*, pp. 5-6.

²⁸ Guidebook, Article 3.2.2.4 (emphasis added).

makes abundantly clear that the two requirements that follow must be met.²⁹ These two requirements are: (i) the objector must be an “established institution”; and (ii) the objector must have “an ongoing relationship with a clearly delineated community”.³⁰ Each of them will be analyzed separately below.

34. For each requirement, the Guidebook lists some “factors” to steer the Expert’s judgment. As a threshold matter, the Expert will analyze the value of the “factors” outlined in Article 3.2.2.4 of the Guidebook. In this regard, the Guidebook states that the “[f]actors that may be considered [by the Expert] in making its determination include, but are not limited to. . . .” The use of the optional term “may” instead of any other mandatory term clearly implies that the Expert has absolute discretion to apply or not the factors expressly included in the Guidebook. In addition, the final portion of the quoted passage – “but are not limited to” – opens the door to other factors not expressly listed in the Guidebook. This conclusion is also supported by the last paragraph of Article 3.2.2.4 of the Guidebook, which states that the Expert “will perform a balancing of the factors listed above, as well as other relevant information, in making its determination”.³¹ The reference to “other relevant information” eliminates any doubt as to the orientative nature of the factors contained in the Guidebook.

35. All the above is consistent with the last phrase of Article 3.2.2.4 of the Guidebook, which provides that “[i]t is not expected that an objector must demonstrate satisfaction of each and every factor considered in order to satisfy the standing requirements”.

(b) Analysis

36. As advanced, according to Article 3.2.2.4 of the Guidebook, only “[e]stablished institutions associated with clearly delineated communities are eligible to file a community objection”.

37. In relation to the question of whether the Objector is an established institution, the Expert will take into consideration several factors. First, the orientative factors outlined

²⁹ *Id.* (emphasis added).

³⁰ *Id.*

³¹ Emphasis added.

in Article 3.2.2.4 of the Guidebook include “validation by a government” of the objector. In this case, the Objector was incorporated under Article 6 of the Telecom Law, which states as follows:

It is hereby established an independent public authority, called the “General Authority for Regulating the Telecommunication Sector” for the purpose of performing the functions and implementing the duties given to it under this Federal Law by Decree and its Executive Order.³²

38. Furthermore, it is worthwhile noting that the Telecom Law was signed by Mr. Zayed bin Sultan Al Nahyan, the UAE’s President at the time.³³

39. According to the Telecom Law, the Objector “shall have an independent legal personality and shall have full capacity to act accordingly and to perform legal actions in accordance with this Federal Law by Decree, including the capacity to enter into contracts of all types and to own and lease movable and immovable assets of all types and the capacity to sue”.³⁴ Therefore, the Objector has an independent legal personality under UAE’s law and the capacity to sue, which most certainly includes the capacity to file the Objection.

40. Second, the Telecom Law was enacted in 2003, which is almost a decade ago. In the Expert’s view, this period of time is sufficient to consolidate a governmental agency. More importantly, this evidences that the Objector was not “established solely in conjunction with the gTLD application process”.³⁵

41. For the foregoing reasons, the Expert finds that the Objector is an established institution for the purposes of filing the Objection.

42. The Expert will now turn to analyze whether the Objector is “associated with clearly delineated communities” or, in other words, whether it “has an ongoing relationship with a clearly delineated community”, such as the Muslim community.³⁶ The Expert notes

³² Telecom Law, Article 6.

³³ *Id.*, p. 34.

³⁴ *Id.*, Article 7.

³⁵ Guidebook, Article 3.2.2.4.

³⁶ *Id.*

that, as opposed to Article 3.5.4 of the Guidebook, the word association in Article 3.2.2.4 is not preceded by the adjective “strong”.³⁷ As a consequence, in the Expert’s opinion, the threshold is lower for the purposes of Article 3.2.2.4 than for Article 3.5.4 of the Guidebook.

43. The question of whether the Muslim community is “clearly delineated” will be dealt with in section V.B below. For the time being and for the sake of argument, the Expert will assume that it is a clearly delineated community, an assumption that will be confirmed below (see ¶¶ 62-67 below).

44. Each Party places a great deal of emphasis on its association or relationship with the relevant community. In a few words, the Objector claims to represent a number of Muslim countries and to have been invited by the OIC to file the Objection whereas the Respondent sustains that the Objector is acting solely on behalf of the Muslims of the UAE and that, on the contrary, the Respondent’s position is the one endorsed by the OIC though one of its affiliates (*i.e.*, ICRIC). Additionally, the Respondent asserts that the Objector provides domestic technical functions with no relevance whatsoever to the relevant community.

45. In the Expert’s view, the threshold requires a “relationship” or an “association” with a clearly delineated community but does not require an objector – for the purpose of establishing standing – to represent a substantial portion, not to mention the majority, of the members of such community. Therefore, the discussion regarding whether the Objector represents a wider Muslim community than the one circumscribed to the UAE is irrelevant for the purpose of analyzing the Objector’s standing. The important question is whether the “relationship” or “association” between the Objector and UAE’s Muslim community in fact exists.

46. A few issues should be taken into consideration. First, under public international law, the government of a nation is entitled to represent the interests of its constituents. Second, it has been established that the Objector is a governmental entity with certain functions and powers.³⁸ Among these functions and powers, the Objector has

³⁷ According to Article 3.5.4 of the Guidebook, there should be “a strong association between the community invoked and the applied-for gTLD string”. Emphasis added.

³⁸ See ¶¶ 37-41, *supra*. See also Telecom Law, Article 13.

been charged with registering and managing the UAE's country code top-level domains (ccTLD).³⁹ For these reasons, the Objector is undoubtedly a relevant governmental agency to represent the people of the UAE in proceedings dealing with the registration of domain names, including the String.

47. Indeed, the Objector provides services to the people of the UAE, a country with a population of 4.7 million (as of 2010).⁴⁰ There is no doubt that the UAE is a Muslim country. This is evidenced by its membership to the OIC and Article 7 of the UAE's Constitution:

Islam is the official religion of the Union. The Islamic Shari'ah shall be a main source of legislation in the Union. The official language of the Union is Arabic.⁴¹

48. The telecommunication services provided by the Objector in the UAE certainly benefit the people of the UAE, including its Muslim community. For this reason, the Expert is of the view that there is a relationship with the Muslim community. As a result, in the Expert's opinion, two of the factors listed in the relevant subsection of Article 3.2.2.4 of the Guidebook are satisfied:

- "Institutional purpose related to the benefit of the associated community"; and
- "Performance of regular activities that benefit the associated community".

49. In addition, the Expert is convinced that the Objector takes a leadership role in matters related to domain names within the territory of the UAE, which is part of another factor listed in the same subsection of the Guidebook.⁴² Hence, the Expert finds that three out of four factors of the relevant subsection of Article 3.2.2.4 of the Guidebook favor the Objector's position.

³⁹ Annex 1 to the Response.

⁴⁰ Annex 3 to the Response.

⁴¹ See Constitution of the UAE at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=category&category=LEGAL&publisher=&type=&coi=ARE&docid=48eca8132&skip=0>. See also Annex 4 to the Response (map showing demographics of Islam at p. 19) and Annex 1 to the Rejoinder.

⁴² Guidebook, Article 3.2.2.4 ("The presence of mechanisms for participation in activities, membership, and leadership").

50. In sum, in the Expert's view, the Objector can be considered an established institution with an ongoing relationship with the Muslim community in the UAE. In section V.B below, the Expert will analyze whether the relevant community is "clearly delineated" for the purpose of this community objection.

V. SUBSTANCE OF THE OBJECTION

51. In this section, the Expert will consider the substance of the Objector's community objection. First, the Expert will set the applicable standard. Thereafter, the Expert will analyze the Parties' submissions point by point and will reach a number of conclusions.

A. Standard

52. Article 3.5.4 of the Guidebook establishes the four tests that enable the Expert to "determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted". Article 3.5.4 expresses the four tests as follows:

For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a clearly delineated community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and
- The application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted. Each of these tests is described in further detail below.⁴³

53. The Expert notes that each one of the four tests transcribed is separated by the term "and", which implies that each one of them must be met in order to sustain an objection. This is further confirmed by the last sentence of Article 3.5.4 of the Guidebook, which states that "[t]he objector must meet all four tests in the standard for the objection to

⁴³ *Id.*, Article 3.5.4 (emphasis added).

prevail”. This leaves no room for interpretation and evidences the high threshold that a community objection must satisfy.

54. The Expert observes that the Guidebook provides some explanation of the above-transcribed four tests. For each test, the Guidebook lists some “factors” to steer the Expert’s judgment. However, as with the factors relating to the standing discussed in ¶¶ 34-35 above, the language of the factors relating to each of the four tests is open. In particular, all factors set forth in Article 3.5.4 of the Guidebook are introduced with an optional language, such as “a panel could balance a number of factors to determine this” or “[f]actors that could be balanced by a panel to determine this include”. Once again, this proves the mere orientative nature of these factors.

55. Additionally, in all instances the Guidebook mentions that the factors included therein are not exhaustive (*i.e.*, the Guidebook uses language in the fashion of “including but limited to” or “include but are not limited to”). Therefore, the Expert may weigh other factors if considered appropriate.

B. Is the Community Invoked by the Objector Clearly Defined?

(a) Objector’s Position

56. The Objector sustains that the “notion of ‘community’ is wide and broad, and is not precisely defined by ICANN’s guidebook for the new gTLD program”.⁴⁴ For the Objector, such notion “can include a community of interests, as well as a particular ethnical, religious, linguistic or similar community”.⁴⁵ In short, the Objector argues that a “community is a group of individuals who have something in common . . . or share common values. . . .”⁴⁶

57. Hence, the notion of community includes the world’s total number of Muslims, which the Objector claims to be 1.4 to 1.6 billion people.⁴⁷ For the Objector, these Muslims

⁴⁴ Objection, p. 6.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

are adherent to Islam and share common religious values and interests.⁴⁸ As a result, they form a clearly delineated community.

(b) Respondent’s Position

58. The Respondent’s argument begins with the following caveat:

While Applicant would concede that the .Islam TLD is targeted generally to Muslim individuals throughout the globe, it will prove that there is no delineated community of global Muslims, there is no substantial opposition to the applications, and there is no likelihood of material detriment to anyone.⁴⁹

59. The Respondent quotes the factors set forth in Article 3.5.4 of the Guidebook (“Community” subsection) to support the position that “[t]here are no formal boundaries around who can claim faith in Islam” and adds that “Islam is a religion open to anyone”.⁵⁰

60. The Respondent then draws a distinction between Catholicism and Islam in an attempt to evidence that there is no global hierarchy in Islam, mainly because there are different branches of Islam.⁵¹ Additionally, the Respondent points out that nobody “can claim to speak for all Muslims, or even a majority of them, particularly on such a topic as new gTLD applications”.⁵²

61. For these reasons, the Respondent concludes that the global Muslim community is not “clearly delineated”.⁵³

(c) Expert’s Conclusion

62. The subsection of Article 3.5.4 of the Guidebook regulating the issue at bar provides that “[t]he objector must prove that the community expressing opposition can be regarded as a clearly delineated community”. The same subsection expresses that “[i]f opposition by a number of people/entities is found, but the group represented by the

⁴⁸ *Id.*

⁴⁹ Response, p. 7.

⁵⁰ *Id.*

⁵¹ *Id.*, pp. 7-8.

⁵² *Id.*, p. 8.

⁵³ *Id.*

objector is not determined to be a clearly delineated community, the objection will fail". Therefore, the threshold for this test is not whether a great number of people or entities oppose, as the Objector appears to suggest, but rather whether the community may in fact be clearly delineated.

63. Both the Objector and the Respondent concede that the world's total population of Muslims is around 1.6 billion.⁵⁴ This figure is confirmed by the Wikipedia articles submitted by Respondent.⁵⁵

64. The Expert finds that Muslims in general – regardless of the different branches of Islam – form a large group of individuals which share at least certain core values. Support for this consensus is found in a document submitted by Respondent, which evidences that all Muslims share at least the Five Pillars of Islam:

The Pillars of Islam (*arkan al-Islam*; also *arkan ad-din*, "pillars of religion") are five basic acts in Islam, considered obligatory for all believers. The Quran presents them as a framework for worship and a sign of commitment to the faith. They are (1) the shahadah (creed), (2) daily prayers (salat), (3) almsgiving (zakah), (4) fasting during Ramadan and (5) the pilgrimage to Mecca (hajj) at least once in a lifetime. The Shia and Sunni sects both agree on the essential details for the performance of these acts.⁵⁶

65. The Respondent agrees with the Expert in this regard, as evidenced in its application for the String ("[Muslims] are a disparate group, yet they are united through their core belief").⁵⁷ For this reason, the Respondent expressly recognized that the String will be "targeted" to the "the global Muslim community".⁵⁸ Therefore, even the Respondent

⁵⁴ Objection, p. 6 ("All over the world there are approximately 50 countries having Muslim-majority. With over 1.4 to 1.6 billion followers amounting to approximately 25% of the earth's population, Islam is the second-largest and one of the fastest-growing religions in the world."); Response, p. 5 ("Whereas there were an estimated 1.57 billion Muslims in the world as of 2009. (Annex 4, Wikipedia article, p. 19.)").

⁵⁵ Annex 4 to the Response, p. 1; Annex 1 to the Rejoinder, p. 1.

⁵⁶ Annex 4 to the Response, p. 6 (emphasis added, footnotes omitted).

⁵⁷ Annex 13 to the Response, section 18(a). The Respondent further develops this point by expressly recognizing the following: "Religious concepts and practices include the five pillars of Islam, which are basic concepts and obligatory acts of worship, and following Islamic law, which touches on virtually every aspect of life and society, providing guidance on multifarious topics from banking and welfare, to warfare and the environment". *Id.*

⁵⁸ Response, p. 5.

acknowledges that the String will affect the Muslim community exclusively. On its part, the Objector has also recognized that all branches of Islam share certain common beliefs.⁵⁹

66. In view of the above, the Expert has no hesitation in finding that all Muslims, regardless of the branch of their faith, form a large, clearly delineated community of approximately 1.6 billion people. As a result, the Expert concludes that the community invoked by the Objector is clearly delineated.

67. As a final check, the above discussion supports the conclusion that all factors included in Article 3.5.4 of Guidebook (“Community” subsection) are fulfilled:

Factor	Compliance with Factor
The level of public recognition of the group as a community at a local and/or global level.	Yes. Islam enjoys global recognition and is the second-largest religion in the world. ⁶⁰
The level of formal boundaries around the community and what persons or entities are considered to form the community.	Yes. Although there are different branches of Islam, all branches share the same core principles. ⁶¹
The length of time the community has been in existence.	Yes. Islam was founded around approximately 1400 years ago. ⁶²
The global distribution of the community (this may not apply if the community is territorial).	Yes. Islam is widespread across the world, with special emphasis in certain areas of the globe. ⁶³
The number of people or entities that make up the community.	Yes. The community is formed of approximately 1.6 billion individuals. ⁶⁴

C. Is the Community Opposition to the Application Substantial?

(a) Objector’s Position

68. The Objector sustains that “[a] substantial portion of the Muslim community is opposing the string .Islam”.⁶⁵ Without providing documentary evidence in the Objection, the

⁵⁹ Reply, p. 1 (“Though all the Islamic groups share main common beliefs such as the reality of one God (Allah) and the existence of angels of Allah ... etc.”).

⁶⁰ Annex 4 to the Response, p. 1.

⁶¹ *Id.*, p. 6.

⁶² See Annex 4 to the Response, p. 11; Annex 13 to the Response, section 18(a).

⁶³ Annex 4 to the Response, p. 19.

⁶⁴ *Id.*, p. 1; Annex 1 to the Rejoinder, p. 1.

Objector mentions that most of the one hundred comments regarding Respondent's application for the String are against its registration.⁶⁶ In addition, the Objector states that there have been early warnings from the UAE and India, together with expressions of concern by the Communications and Information Technology Commission (CITC) of the Kingdom of Saudi Arabia.⁶⁷ The Objector does not provide any evidence in support of such allegations.

69. Furthermore, as mentioned earlier, the Objector submitted together with the Reply letters of support from governmental agencies of Bahrain, Qatar, Kuwait, Egypt, Oman, Turkey and Malaysia, as well as from the Gulf Cooperation Council.⁶⁸

70. The Objector also claims to have the support of the OIC. In this regard, the Objector heavily relies on the OIC's Letter, which claims to be an "invitation" from the OIC urging all its members to oppose and act against the registration of the String.⁶⁹ For the Objector, the OIC "is the collective voice of the Muslim world and ensur[es] to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world".⁷⁰

71. In addition, the Objector submitted with the Reply a draft resolution of the OIC (to be voted in November 2013) pursuant to which the OIC will presumably oppose the registration of the String by the Respondent.⁷¹

72. Per the Expert's request in Procedural Orders No. 1 and 2, the Objector explained in the Reply the relation between the OIC and both ICRIC and HalaWorld (because, as discussed below, the Respondent claims that the latter two institutions support its position). As to ICRIC, the Objector sustains that "no 'subsidiary' or even 'affiliation' relation ever existed between OIC and ICRIC".⁷² The Objector mentions that

⁶⁵ Objection, p. 6 (emphasis omitted).

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Reply, p. 1. See also Annexes 1-8 to the Reply.

⁶⁹ Objection, pp. 4, 6. As noted, this "invitation" has been provided as Annex 1 to the Objection (in English) and as Annex 10 to the Rejoinder (in both French and Arabic).

⁷⁰ Objection, p. 4.

⁷¹ Annex 9 to the Reply.

⁷² Reply, p. 1.

ICRIC neither appears listed as a subsidiary or affiliate of the OIC in the latter's official website nor is there a link to ICRIC included in the section "OIC Organs and Institutions" of such webpage.⁷³ Further, the Objector sustains that ICRIC's website does not introduce the organization as an affiliate of the OIC, but rather merely mentions that ICRIC was "established through a Memorandum of Understanding between [the Islamic Chamber of Commerce, Industry and Agriculture (ICCIA)] and the Iran Chamber of Commerce, Industries and Mines. . . ."⁷⁴ The Objector recognizes that ICCIA "is an affiliate organ of the OIC and represents the private sector of 57 member countries".⁷⁵ For the Objector, the fact that ICRIC was established through a Memorandum of Understanding between an affiliate of the OIC and a national chamber of commerce does not make ICRIC an affiliate of OIC and does not place ICRIC under OIC's umbrella.⁷⁶ On the contrary, for the Objector, ICRIC is an organization closely related to Iran.⁷⁷

73. For the Objector, after analyzing the Charter of the OIC, unless OIC's Islamic Summit or the Council of Foreign Ministers recognize ICRIC as an affiliate or member of the OIC family, the Respondent cannot claim such relation.⁷⁸ For the Objector, the same is true for HalalWorld.

74. As to HalalWorld, the Objector points out that it has not provided its support for the registration of the String (HalalWorld has only supported the string ".Halal").⁷⁹ The Objector sustains that HalalWorld is nothing more than an affiliate of ICRIC with no connection with OIC.⁸⁰ For the Objector, neither the OIC nor the Islamic countries have entrusted HalalWorld with the task of issuing Halal certifications.⁸¹ Instead, there are many

⁷³ *Id.* See Annexes 10-12 to the Reply.

⁷⁴ Reply, p. 1 (emphasis omitted). See Annex 14 to the Reply. ICCA was formerly known as "ICCI". Both Parties agree on this point. See Reply p. 2 and Rejoinder, p. 2.

⁷⁵ Reply, p. 2.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*, pp. 1-2. The Objector supports this statement on Articles 23 and 25 of the Charter of the OIC. See Annex 5 to the Response, Articles 23, 25.

⁷⁹ Reply, p. 2.

⁸⁰ *Id.*

⁸¹ *Id.* See Annex 17 to the Reply.

Halal certification bodies and the requirements for Halal food labeling vary from one country to another (which may differ from HalalWorld's standards).⁸²

75. For these reasons, the Objector claims to represent a substantial portion of the relevant community.

(b) Respondent's Position

76. The Respondent, on its part, relies on the language of the Guidebook to support its position.⁸³ First, the Respondent alleges to have presented "voluminous evidence and documented support from many community leaders and leadership organizations", as well as a letter from the Ministry of ICT of Iran (Information Technology Organization), in support of its application for the String.⁸⁴ These documents have been provided as Annexes 6 through 9 to the Response and Annexes 2 through 4 to the Rejoinder. The Respondent argues that support for its application generally comes from the following categories of entities:

1. Major Organizations / Associations / Leaders representing Muslim populations throughout the world -- from Belarus to Brazil, such as the ICRIC, HalaWorld, The Management Center for Islamic Schools of Thought, the ECO Cultural Institute, and Dr. Mahatir Bin Mohamed.
2. Islamic Institutes / NGOs in Muslim Countries -- some 17 of them, such as Islamic Unity Magazine, and The Association of Development, Promotion, Production and Trade of Halal, and Brasil Halal Foods.
3. Famous Muslim Researchers / Academic people -- three well-respected academics.
4. Newspapers / Media / Publications -- eleven different popular media outlets.⁸⁵

77. Among the letters of support, the Respondent argues that the most relevant entity within the OIC -- ICRIC -- has fully endorsed the Respondent's new gTLD

⁸² Reply, p. 2.

⁸³ Response, p. 8.

⁸⁴ *Id.*; Annex 4 to the Rejoinder.

⁸⁵ Response, p. 6.

application.⁸⁶ In this regard, the Respondent has furnished a letter of support to its application signed by ICRIC's Director General.⁸⁷ Therefore, "by logical extension, the [Objector] effectively admits that a majority of the global Muslim community supports the Applicant".⁸⁸ In addition, the Respondent claims to have furnished a positive letter from HalalWorld, a widespread Halal certification body operated by ICRIC.⁸⁹

78. Pursuant to the Expert's instructions in Procedural Orders No. 1 and 2, the Respondent further explained in the Rejoinder the relation between the OIC and both ICRIC and HalalWorld. The Respondent places emphasis on the fact that ICRIC was established via a Memorandum of Understanding between ICCIA – an affiliate of OIC – and a local chamber of commerce in order to evidence ICRIC's affiliation with the OIC.⁹⁰ In addition, the Respondent points out that ICCIA's Secretary General is a Vice Chairman of ICRIC and that ICRIC's Board Members are appointed by ICCIA.⁹¹ As to HalalWorld, the Respondent first mentions that ICRIC operates HalalWorld.⁹² Then, citing Annex 17 to the Reply, the Respondent claims that HalalWorld's "mandate stems from the OIC adoption of Halal Food Standards".⁹³

79. Second, for the Respondent, the Objector refers in its Objection to around one hundred "unspecified public comments", which are "unsupported with evidence of [the] same".⁹⁴ For this reason, the Respondent argues that the Expert should disregard such comments.⁹⁵

80. Third, the Respondent points out that neither India nor the Kingdom of Saudi Arabia – or anyone else besides the Objector – has filed objections to Respondent's

⁸⁶ *Id.*, pp. 6, 8.

⁸⁷ Annex 6 to the Response.

⁸⁸ Response, p. 8.

⁸⁹ *Id.*, p. 6. See also Annex 7 to the Response.

⁹⁰ Rejoinder, p. 2. As mentioned earlier, ICCA was formerly known as "ICCI". Both Parties agree on this point. See *id.* and Reply p. 2.

⁹¹ Rejoinder, p. 2 (*citing* Annex 6 to the Response, p. 7).

⁹² *Id.*

⁹³ *Id.* Notably, the Respondent does not attempt to evidence any direct relationship between HalalWorld and the OIC.

⁹⁴ Response, p. 9.

⁹⁵ *Id.*

application.⁹⁶ The Respondent adds that only one of the 57 members of the OIC – namely, the UAE – has formally filed a community objection through the Objector, which would clearly indicate the lack of support for the Objection from the OIC.⁹⁷

81. In the Rejoinder, the Respondent argues that Bahrain, Kuwait, Oman, Qatar, Turkey, Malaysia and the Gulf Cooperation Council, all of which have submitted letters of support to UAE’s objection, amount to a “small fraction of the global Muslim population”.⁹⁸ As to Malaysia, the Respondent asserts that the email from the Malaysian representative does not even clearly support the Objection.⁹⁹ In any case, the Respondent argues that all these countries cannot be deemed “substantial opposition”.¹⁰⁰ In addition, for the Respondent, many Muslims live in non-OIC countries.¹⁰¹

82. Moreover, the Respondent points out that the OIC is composed of 57 members and these 7 countries only amount to just over 10% of the OIC member countries (or roughly 6% of the Global Muslim population).¹⁰²

83. Finally, as to the OIC’s draft resolution submitted with the Reply, the Respondent elaborates a few arguments. For the Respondent, such draft is yet to be voted.¹⁰³ In this regard, the Respondent points out that the OIC will presumably not reach a consensus. For this reason, a vote will be taken with no guarantees that the draft resolution will eventually be approved.¹⁰⁴

84. In sum, for Respondent, the Objection should fail because the Objector has failed to evidence substantial opposition to Respondent’s application.

⁹⁶ *Id.*, pp. 8-9.

⁹⁷ *Id.*, p. 9.

⁹⁸ Rejoinder, p. 1. Surprisingly, the Respondent omits that Egypt also filed a letter of support to the Objector’s position (see Annex 1 to the Reply). However, the Expert considers this omission a *bona fide* error and not an attempt to mislead.

⁹⁹ *Id.*, n. 1.

¹⁰⁰ *Id.*, p. 1.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*, pp. 1-2.

(c) Expert's Conclusion

85. According to Article 3.5.4 of the Guidebook (“Substantial Opposition” subsection), “[t]he objector must prove substantial opposition within the community it has identified itself as representing”. The key element of this provision is “substantial opposition”. For this reason, quite unsurprisingly, the Guidebook concludes the same subsection by stating that, “[i]f some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail”.

86. The Expert agrees with the Respondent in that the OIC is a political organization and not a religious one.¹⁰⁵ However, the OIC is the second largest international organization after the United Nations,¹⁰⁶ and among OIC’s objectives is “[t]o disseminate, promote and preserve the Islamic teachings and values based on moderation and tolerance, promote Islamic culture and safeguard Islamic heritage”.¹⁰⁷ Therefore, the Expert agrees with the Objector that the OIC is a valid speaker for the world’s Muslim population.¹⁰⁸

87. The first question presented to the Expert is whether the OIC has urged its members to file an objection to Respondent’s application or has simply invited its members to review such application and act if necessary.

88. Article 38 of the Charter of the OIC states that the “[l]anguages of the Organisation shall be Arabic, English and French”.¹⁰⁹ This Article does not establish that any language should prevail over the others and thus all of them are equally valid. As a consequence, if the versions of the OIC’s Letter written in two official languages are identical, but differ from the one written in a third official language, the former versions should prevail over the latter one.

¹⁰⁵ See Rejoinder, p. 2.

¹⁰⁶ Annex 2 to the Response, p. 1.

¹⁰⁷ Annex 5 to the Response, Article 1(11).

¹⁰⁸ See Objection, p. 4 (“The [OIC] is the collective voice of the Muslim world and ensur[es] to safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony among various people of the world”).

¹⁰⁹ Annex 5 to the Response, Article 38.

89. The Expert will now turn to analyze the versions of the OIC’s Letter written in the three official languages. At the outset, the Expert notes that the English and French versions of the OIC’s Letter are identical. As a result, regardless of the wording of the Arabic version, the language of the English and French versions must control the Expert’s findings. The English and French versions of OIC’s Letter say:

English	French
<p>“[T]he OIC would like to draw the attention to the fact that new applications were already submitted for new gTLDs and these new applications are being evaluated according to the consensus-based mechanism determined by ICANN. The period for submitting any objections, if any, has been expanded until 13th March 2013 for any group and/or community that holds objection on religious or ethical values. <u>The OIC Member States may kindly like to avail of this opportunity to act quickly through their representation in the organs of the ICANN, to avoid any misuse and misrepresentation of gTLDs of concern to them, including the ones like .ISLAM or .HALAL</u>”.¹¹⁰</p>	<p>“[L]’OIC voudrait attirer l’attention sur le fait que de nouvelles demandes ont déjà été soumises pour les nouveaux gTLD et ces nouvelles demandes sont en cours d’évaluation selon mécanisme de consensus établi par l’ICANN. Le délai pour la présentation d’éventuelles objections a été étendu jusqu’au 13 Mars 2013 pour tous les groupes et / ou communautés qui ont une objection sur des valeurs religieuses ou éthiques. <u>Les États membres de l’OCI peuvent bien profiter de cette occasion pour agir rapidement à travers leur représentation dans les organes de l’ICANN, afin d’éviter toute utilisation abusive et fausse déclaration de gTLD qui les concernent, y compris celles comme : ISLAM ou HALAL</u>”.¹¹¹</p>

90. After a careful review of the transcribed passage, the Expert concludes that the OIC directed its members to review Respondent’s application and, in case of concern, act through their representation in the organs of the ICANN. Ergo, the OIC neither endorsed nor opposed Respondent’s application and certainly did not openly instruct its members to file an objection thereto. Hence, the Expert is of the opinion that the OIC’s letter is not a statement of policy against Respondent’s application.

91. As a result of the above, there would be no need to analyze the Arabic version. However, for the sake of completeness, the Expert will briefly look into the Arabic version of the OIC’s Letter, which is slightly different to the other two. The literal translation into English of the relevant portion of the Arabic version is:

¹¹⁰ Emphasis added.

¹¹¹ Emphasis added.

The OIC member States should seize this important opportunity to act quickly against any party that wishes to own the gTLDs that end with (.ISLAM) or (.HALAL). And encourages the member States to file within the time limit specified their objections, if any, to prevent any company or private institution from buying or registering the gTLD (.ISLAM) or (.HALAL) to avoid any complications that could lead to any disputes or the misuse of these gTLDs.¹¹²

92. This language is clearly stronger than the English and French versions. However, by including the underlined words “if any”, the Expert finds that the OIC left to the member States the ultimate decision of filing an objection or not. Hence, the OIC anticipated that no objections may be filed by the member States should none of them chose to do so. This may be indicative of the intention behind this version of the letter, but the drafting could have easily been less ambiguous. In any case, a detailed discussion and analysis of this wording is irrelevant, as the Expert has already found that the English and French versions of the OIC Letter shall prevail.

93. As to OIC’s draft resolution submitted with the Reply, two points should be addressed in this Expert Determination. First, the Expert is of the opinion that it is a mere draft with no binding power. In this regard, the Expert agrees with the Respondent in that the approval of OIC’s draft resolution is yet to be seen.¹¹³ The resolution may not be adopted by a unanimous vote because it may find the opposition of at least Iran.¹¹⁴ Since the Objector has not furnished letters of support from the necessary majority of OIC’s members to pass such resolution, it is not evidenced that it will be approved for sure. Second, OIC’s draft resolution refers to a report from OIC’s General Secretariat on the matter which has not been submitted to the Expert by either Party.¹¹⁵ Without such report, the Expert cannot assess the recommendation of OIC’s General Secretariat to its member States on the position they should take when voting the OIC’s draft resolution. For these reasons, it remains unclear whether OIC’s draft resolution will finally be approved.

¹¹² The Expert sought an independent translation of this passage from another member of his firm. Emphasis added.

¹¹³ Rejoinder, p. 1.

¹¹⁴ Annex 4 to the Rejoinder.

¹¹⁵ Annex 9 to the Reply.

94. The Respondent has provided a letter of support from ICRIC.¹¹⁶ The Parties disagree as to the relationship between ICRIC and the OIC, but both Parties agree that ICRIC was established by a Memorandum of Understanding between ICCIA – an affiliate of OIC – and a local chamber of commerce.¹¹⁷ In the Expert’s opinion, the Respondent has failed to evidence that ICRIC is a subsidiary, an affiliate or is otherwise under the umbrella of the OIC. This is also confirmed by the fact that nowhere does the OIC refer to ICRIC as a subsidiary or an affiliate thereof. Nor does ICRIC hold itself as a subsidiary or an affiliate of the OIC.

95. As to the letter from HalalWorld, the Expert agrees with the Objector that it only refers to the string “.Halal” and thus cannot be considered as a valid letter of support for the String.¹¹⁸ Therefore, there is no need to analyze the relationship between HalalWorld and the OIC.

96. In light of the foregoing, it has not been established whether the OIC favors or disfavors the Respondent’s application for the String. Consequently, the Expert is of the opinion that the OIC remains neutral as to the registration of the String by the Respondent.

97. Notably, the OIC itself has not filed an objection. Dr. Alain Pellet, the Independent Objector, expressed in a report discussed by both Parties that

In the present case, the [Independent Objector] is of the opinion that the Organization of Islamic Cooperation is an established institution representing and associated with a significant part of the targeted community. The Organization of Islamic Cooperation is already fully aware of the controversial issues and is better placed than the IO to file an objection, if it deems it appropriate.¹¹⁹

¹¹⁶ Annex 6 to the Response.

¹¹⁷ At the time, ICCIA was known as ICCL.

¹¹⁸ See Annex 7 to the Response

¹¹⁹ Annex 12 to the Response, last paragraph (emphasis added). The Independent Objector may file objections against “highly objectionable” gTLD applications to which no objection has been filed. The Independent Objector is limited to filing two types of objections: (i) Limited Public Interest objections and (ii) Community objections. The Independent Objector acts solely in the best interests of the public who use the global Internet. See Article 3.2.5 of the Guidebook.

98. In our case, as it is plainly evident, the OIC did not deem it appropriate to file a community objection itself. In the Expert's opinion, this is a confirmation of OIC's neutrality in this matter.

99. On a separate note, the Respondent places great emphasis on the number of letters of support to its position from individuals and organizations. However, regardless of the level of endorsement to Respondent's application, the ultimate test under the Guidebook is whether there is substantial opposition and not whether there is a substantial level of support. Therefore, the Expert will focus exclusively on the letters of support to the Objector's position.

100. The Expert observes that only the Objector has filed an objection against Respondent's application. No other individual, organization or country – whether member of the OIC or not – has opposed Respondent's application within ICANN's relevant channel.

101. Some countries – such as India and Saudi Arabia – inquired about Respondent's application and raised some early concerns in this regard.¹²⁰ However, since such countries neither filed a separate objection nor subscribed that of the Objector, the Expert can draw the conclusion that they finally did not officially back a community objection to Respondent's application. In fact, in Procedural Order No. 2 the Objector was instructed to submit additional letters of support but did not submit letters from these two countries. This is highly indicative of their lack of official support to the Objector's community objection.

102. The Objector filed with the Reply letters of support from governmental agencies of Bahrain, Qatar, Kuwait, Egypt, Oman, Turkey and Malaysia, as well as from the Gulf Cooperation Council.¹²¹ The Gulf Cooperation Council is composed of the UAE, Bahrain, Saudi Arabia, Oman, Qatar and Kuwait.¹²² Therefore, the Gulf Cooperation

¹²⁰ Objection, pp. 5-6; Annexes 10 and 11 to the Response.

¹²¹ Reply, p. 1. See *also* Annexes 1-8 to the Reply. For the avoidance of doubt, the Expert is satisfied that the email of the Malaysian representative sufficiently supports the Objector's position. See Annex 4 to the Reply ("I would like to express my support [to] the UAE and other Islamic countries with regards to the application of .islam and .halal.").

¹²² See www.gcc-sg.org/eng/. See *also* Annex 8 to the Reply.

Council would only add to the list of supporting countries, at best, Saudi Arabia. However, the Expert has previously found in ¶ 101 above that the opposition of Saudi Arabia has not been evidenced. Consequently, the Objector has only evidenced support from 8 countries (including itself and excluding Saudi Arabia) out of a total of 57 which form the OIC.

103. Furthermore, the Objector has referred to around one hundred comments to Respondent's application of which, allegedly, the majority are against such application. However, no evidence of such comments has been provided to the Expert and thus the Objector has failed to meet its burden of proof in this regard.

104. In accordance with the foregoing, the Expert finds that the "[n]umber of expressions of opposition relative to the composition of the community", which is the first factor in the "substantial opposition" subsection of Article 3.5.4 of the Guidebook, favors Respondent's position.

105. The same is true for the second factor listed in the same subsection of the Guidebook. More precisely, the Guidebook finds relevant "[t]he representative nature of entities expressing opposition". As has been evidenced, the Objector cannot speak for the OIC or any other member thereof. At best, the Objector could speak for the citizens of the UAE and the other 7 supporting countries only. There are around 1.6 billion Muslims worldwide,¹²³ but the total Muslim population of the 8 opposing countries is 207 million, representing roughly 13% of the Muslims of the world.¹²⁴ In the Expert's opinion, this is not a substantial portion of the Muslims around the world for the purposes of sustaining a community objection. Therefore, the Expert finds that this factor favors the Respondent.

106. As to the "[l]evel of recognized stature or weight among sources of opposition", which is the third factor listed in the Guidebook, the Expert wishes not to minimize the authority of the Objector. However, Article 13 of the Telecom Law generally circumscribes the Objector's functions and power's within the territory of the UAE. Therefore, the Expert finds that the Objector does not have sufficient international weight – without the support of a substantial number of Muslim countries or the OIC itself – to globally represent the interests of the Islamic community throughout the world. For the

¹²³ Annex 4 to the Response, p. 1; Annex 1 to the Rejoinder, p. 1.

¹²⁴ Calculation made using data from Annex 1 to the Rejoinder.

avoidance of doubt, for the reasons given in ¶ 105 above, the Expert is of the opinion that the other 7 supporting countries cannot be considered as a substantial number.

107. Finally, as to the factor related to costs incurred by the Objector in expressing opposition,¹²⁵ no other costs have been evidenced besides those related to the Centre's filing fee and request for deposit of the estimated costs, which have been paid by ICANN.¹²⁶ The Expert will also assume some costs related with the Objector's legal representation in this proceeding. All these costs do not appear to be excessive in relation to the potential impact of a decision affecting a community of around 1.6 billion people. Additionally, the Objector has furnished no evidence of pursuing any "other channels the objector may have used to convey opposition".¹²⁷ Thus, this factor disfavors the Objector.

108. The Expert does not need to consider any other factors and is confident in reaching the conclusion that there is opposition to Respondent's application to some extent, but such opposition is not substantial. Accordingly, the Objection must fail.

D. Is there a Strong Association between the Applied-for gTLD and the Community Represented by the Objector?

(a) Objector's Position

109. The Objector sustains that the applied-for gTLD explicitly targets the Islamic community.¹²⁸ In this regard, the Objector quotes the following passage from the Respondent's application:

There are hundreds of millions of Muslims worldwide, practicing their faith in a huge variety of different ways. They are a disparate group, yet they are united through their core beliefs. They are a group whose origins are found some 1400 years in the past, their ethnicity often inextricably linked with their faith. Hitherto, however, there has been no way to easily unify them and their common

¹²⁵ Guidebook, Article 3.5.4 ("Substantial Opposition" subsection) ("Costs incurred by objector in expressing opposition, including other channels the objector may have used to convey opposition").

¹²⁶ See ¶ 12, *supra*. See also Email from ICANN to Mr. Abdulrahman Almarzouqi, dated March 12, 2013.

¹²⁷ Guidebook, Article 3.5.4 ("Substantial Opposition" subsection).

¹²⁸ Objection, p. 6.

appreciation of Islam. The .ISLAM gTLD will change this.¹²⁹

110. The Objector cites substantively Dr. Alain Pellet's report, which mentions that the Respondent had acknowledged the sensitivity of the String.¹³⁰ Moreover, in the Objector's opinion, the governance platform designed by the Respondent for the String – which purports to include the OIC – is evidence that the String targets the Muslim community.¹³¹

111. For the Objector, the fact that the Respondent is gathering letters of support from Islamic communities throughout the world is additional evidence that the String is targeting the Muslim community.¹³² In addition, the Objector argues that the letters of support furnished by Respondent:¹³³ (i) come from a minority of the Islamic population and represent less than 5% of the world's total Muslims; (ii) do not include many of the branches of Islam; and (iii) are not signed by current officials of governments or of International Organizations (such as the OIC).

(b) Respondent's Position

112. In page 7 of the Response, the Respondent lists the four tests contained in Article 3.5.4 of the Guidebook and thereafter analyzes them one-by-one, except for the one that requires "a strong association between the community invoked and the applied-for gTLD string".¹³⁴ The Expert takes note of this omission.

113. In addition, in the conclusion of the Response, the Respondent stresses that the Objector has failed to "prove standing or three of the four elements of a Community Objection".¹³⁵ The omitted fourth element seems to be the association between the applied-for gTLD and the community represented by the Objector.

¹²⁹ *Id.* (quoting Annex 13 to Response, section 18(a)).

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Response, pp. 7-12.

¹³⁵ *Id.*, p. 12 (emphasis added).

114. This is confirmed by the Respondent in another section of the Response, where it expressly acknowledges that the Objector “does not represent the global Muslim community to which the .Islam TLD will be targeted”.¹³⁶

(c) Expert’s Conclusion

115. The Respondent appears not to dispute the association between the String and the community represented by the Objector. However, this does not prevent the Expert from analyzing the issue.

116. According to Article 3.5.4 of the Guidebook (“Targeting” subsection), “[t]he objector must prove a strong association between the applied-for gTLD string and the community represented by the objector”. The last sentence of such subsection stipulates that, “[i]f opposition by a community is determined, but there is no strong association between the community and the applied-for gTLD string, the objection will fail”.

117. In section V.B(c) above, the Expert found that the relevant community is clearly defined. The question now is whether the String has a “strong association” with such community. The first salient fact is the identity of the terms. Indeed, the String is precisely the word “Islam”. It is patently clear that Muslims in general will be identified by the String.

118. According to the foregoing, the last factor listed in the corresponding subsection of the Guidebook is met (*i.e.*, “[a]ssociations by the public”). It is hard to imagine anyone who will not associate the String with Islam.

119. Moreover, according to the corresponding subsection of Article 3.5.4 of the Guidebook, another factor that the Expert may analyze is the “[s]tatements contained in application”. The statements contained in the application are very clarifying in this regard. In addition to the passage quoted at ¶ 109 above, Respondent’s application contains many other references that unequivocally result in that the targeted audience is the Islamic community. Indeed, other instances of statements in Respondent’s application that support the conclusion that there is a strong association between the String and the Muslim community are:

¹³⁶ *Id.*, p. 5 (emphasis added).

- “A robust gTLD has the power to bring together Muslims across national borders in a free-flowing exchange of information and commerce. There is not a .COM or .ORG equivalent of .ISLAM--a domain that has universal appeal across a common religion”.¹³⁷
- “The .ISLAM gTLD will increasingly open up the vast resources of the Internet and the interconnectedness it brings to the Muslims community [*sic*], while stimulating the introduction of more information and resources among Muslims online”.¹³⁸
- “The benefits of the .ISLAM gTLD will be manifold, not just to registrants but also to tens of millions of Muslim internet users, as well as many others with an interest in or curiosity regarding Islam”.¹³⁹
- “As it is rolled out, the .ISLAM gTLD will rapidly develop as the gTLD of choice among Muslims in all countries. The demand for Islamic content from this group isn’t and won’t be satisfied by .COM or .ORG offerings within the current gTLDs and in fact has hampered collaboration and innovation. The Islamic people demand content that is tailored to their own unique needs and wants, under the umbrella of a dedicated gTLD”.¹⁴⁰
- “The history of .COM will be of interest here, because .ISLAM should grow quickly and face demand as high among the Muslim community as .COM has in the English-language online community”.¹⁴¹

120. Another factor contained in the “Targeting” subsection, namely the “[o]ther public statements by the applicant”, sheds light in this regard.¹⁴² In the Response, the Respondent explicitly acknowledges that the String will specifically target the Muslim community:

The ICRC has provided a letter of support to the Applicant with respect to both the .Halal and .Islam TLDs. (Annex 6.) ICRC operates the only Halal certification body to be recognised by all Islamic countries, HalalWorld, which provided a separate letter of support. (Annex 7.) This is a strong sign of support from this TLD’s target community.¹⁴³

¹³⁷ *Id.*, section 18(a).

¹³⁸ *Id.*

¹³⁹ *Id.*, section 18(b).

¹⁴⁰ *Id.*

¹⁴¹ *Id.*, section 18(c).

¹⁴² Guidebook, Article 3.5.4 (“Targeting” subsection).

¹⁴³ Response, p. 6.

121. Elsewhere in the Response, the Respondent makes a similar concession when it states that the Objector “does not represent the global Muslim community to which the .ISLAM TLD will be targeted”.¹⁴⁴ Additionally, the Respondent “concede[s] that the .Islam TLD is targeted generally to Muslim individuals throughout the globe”.¹⁴⁵

122. The Respondent even provides letters of support from different Islamic organizations.¹⁴⁶ Therefore, the Respondent has conceded that the String will have effects in the Muslim community.

123. In sum, the Expert finds that there is a strong association between the String and the community represented by the Objector, which is the Muslim community.

E. Does the Application Create a Likelihood of Material Detriment?

(a) Objector’s Position

124. For the Objector, “there is clearly a level of certainty that the alleged detrimental outcome[] will occur” because of the “obvious lack of community involvement and support” to Respondent’s application.¹⁴⁷ The Objector explains that the obvious lack of support from the majority of the community will “most probably” result in that the String will “be dominated by a subgroup from the religion and will ignore the interests of the remaining majority”.¹⁴⁸

125. The Objector highlights that religion is an “extremely sensitive subject”.¹⁴⁹ Since Islam includes different subgroups and sects, it would be very difficult to unite all of them under the same gTLD unless an organization that represents the community (or its majority) runs and supports said domain.¹⁵⁰ For the Objector, the Respondent’s application fails to evidence any mechanisms that will effectively prevent abuses or misuses of the String, which is further exacerbated by the fact that the Respondent is not supported by the

¹⁴⁴ *Id.*, p. 5 (emphasis added).

¹⁴⁵ *Id.*, p. 7.

¹⁴⁶ *Id.*, p. 5. See also Annexes 6-9 to the Response and Annexes 2-3 to the Rejoinder.

¹⁴⁷ Objection, p. 7.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*, p. 8.

¹⁵⁰ *Id.*

majority of the Muslim community.¹⁵¹ The Objector concludes that all this will result in damage to the reputation of the Muslim community.¹⁵²

(b) Respondent's Position

126. The Respondent relies on the factors included in Article 3.5.4 of the Guidebook ("Detriment" subsection).¹⁵³ For the Respondent, the Objector "wholly fails to provide any evidence by which the Applicant or the Panel could assess these factors".¹⁵⁴ The Respondent argues that the Objector mistakenly places emphasis on the lack of support and that it merely speculates on a possible dominance by a religious subgroup, which is totally unsupported because (i) Respondent has furnished substantial community support to its application; and (ii) allowing a dominance by a subgroup will make no sense from a business perspective.¹⁵⁵

127. Furthermore, the Respondent argues that it has repeatedly promised to operate the String "in the best interests of the community as a whole" and quotes its response to ICANN's Government Advisory Committee's Beijing Communiqué.¹⁵⁶ In such response, the Respondent pledged to implement measures "to limit second-level domain registrations to those of Muslim faith or with a positive interest in the Muslim community" and expressed that it "will not tolerate radical content or criticism of Islam and the Muslim faith".¹⁵⁷ The Respondent "will take immediate and severe action" if necessary and will establish "safeguards, keyword alerts, name selection polices, all governed by an Acceptable Use Policy and post registration protections".¹⁵⁸

128. The Respondent points out that it has drafted a "Governance Model for its TLDs",¹⁵⁹ which led the Indian Government to withdraw its concerns about the String.¹⁶⁰ In

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ Response, p. 9.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* p. 10.

¹⁵⁶ *Id.* (attached to the Response as Annex 11).

¹⁵⁷ *Id.* (quoting Annex 11 to the Response).

¹⁵⁸ *Id.* (quoting Annex 11 to the Response).

¹⁵⁹ Annex 10 to the Response.

¹⁶⁰ Response, p. 10.

addition, the Respondent explains that, as mentioned in the String application, it “will endeavor to the utmost in order to minimize the social costs to registrants of a .ISLAM second-level domain”.¹⁶¹ The Respondent highlights the adoption of a policy matrix and other recommendations, as well as a complaint resolution service, all of which are geared towards minimizing harm in TLDs.¹⁶²

129. The Respondent also explains that it has made a binding public interest commitment whereby certain requirements are imposed on the registry operator to foster transparency and to avoid misuses and abuses of the String.¹⁶³

130. For the Respondent, all the above “documented efforts and intentions must outweigh [Objectors]’ rank speculation as to the applicant’s intentions”.¹⁶⁴

131. On a separate note, the Respondent places strong emphasis on the fact that Dr. Alain Pellet, ICANN’s Independent Objector, “thoroughly reviewed the purported public opposition to the .Islam TLD, and found no basis for any objection”.¹⁶⁵

132. Finally, the Respondent sustains that the “global Muslim community is not dependent upon the DNS for its core activities”, which stands for “**Domain Name System**”, and that there “will be no damage to anyone, but instead the TLDs will operate to the benefit of the global Muslim community”.¹⁶⁶

(c) Expert’s Conclusion

133. Article 3.5.4 of the Guidebook (“Detriment” subsection) requires that the “objector must prove that the application creates a likelihood of material detriment to the rights or legitimate interests of a significant portion of the community to which the string may be explicitly or implicitly targeted”. Notably, the Guidebook adds that “[a]n allegation of detriment that consists only of the applicant being delegated the string instead of the objector will not be sufficient for a finding of material detriment”.

¹⁶¹ *Id.*, p. 11 (*quoting* Annex 13, section 18(c)).

¹⁶² *Id.*

¹⁶³ *Id.*, pp. 11-12.

¹⁶⁴ *Id.*, p. 12.

¹⁶⁵ *Id.*, p. 10.

¹⁶⁶ *Id.*, p. 12. “DNS” means “**Domain Name System**”.

134. The Guidebook sets a high bar in order for the Expert to find any detriment:

If opposition by a community is determined, but there is no likelihood of material detriment to the targeted community resulting from the applicant's operation of the applied-for gTLD, the objection will fail.¹⁶⁷

135. In this case, as discussed in section V.C(c) above, there is some opposition from the community but such opposition is not substantial. The question now presented is the likelihood of material detriment to the targeted community. To reach an answer, the Expert will analyze the factors included in the relevant subsection of Article 3.5.4 of the Guidebook.

136. The first factor in the Guidebook is:

Nature and extent of damage to the reputation of the community represented by the objector that would result from the applicant's operation of the applied-for gTLD string

137. The Expert finds particularly illustrating Dr. Pellet's report to address this point.¹⁶⁸ Dr. Pellet reviewed a number of binding and non-binding international instruments, both at global and regional levels, which deal with the freedom of religion.¹⁶⁹ The Expert notes that a common denominator of these instruments is the protection of freedom of religion and the freedom to manifest one's religion. Of particular relevance is the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948. Notably, the UAE has been a member of the United Nations since 1971.¹⁷⁰

138. As Dr. Pellet correctly mentions, the Universal Declaration of Human Rights explicitly says:

¹⁶⁷ Guidebook, Article 3.5.4 ("Detriment" subsection) (emphasis added).

¹⁶⁸ A copy of this report is attached to the Response as Annex 12.

¹⁶⁹ Annex 12 to the Response (Limited Public Interest Objection section, ¶¶ 5-10).

¹⁷⁰ See www.un.org/en/members/.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.¹⁷¹

139. For the Expert, the registration of the String will contribute to promoting this objective, as it will become a vehicle for Muslims to express themselves and expand their faith across the world.

140. The possible damages asserted by the Objector, which have not been sufficiently evidenced, are outweighed by the necessity of promoting human rights, such as the freedom of religion and the opportunity for every individual to manifest his or her own religion. Therefore, this factor favors the Respondent.

141. The second factor in the Guidebook is:

Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community or of users more widely, including evidence that the applicant has not proposed or does not intend to institute effective security protection for user interests

142. The Objector has certainly not provided any evidence that the Respondent is not acting or does not intend to act in accordance with the interests of the Muslim community. On the contrary, the Respondent has promised to operate the String in a manner that will prevent “radical content or criticism of Islam and the Muslim faith”, and the Respondent “will take immediate and severe action against this should it occur”.¹⁷²

143. It has been evidenced that the Respondent intends to implement security measures to avoid the misuse or abuse of the String.¹⁷³ In this regard, the Guidebook does

¹⁷¹ Universal Declaration of Human Rights, Article 18 (emphasis added) (*quoted* in Dr. Pellet’s report at Limited Public Interest Objection section, ¶ 6).

¹⁷² Annex 11 to the Response, p. 2. See also Annex 13 to the Response, section 18(b) (“Equally, AGITSys will not tolerate radical content, nor will it tolerate content that criticizes Islam and the Muslim faith. Immediate and severe action will be taken against registrants promulgating either, and a black list will be created in an attempt to pre-empt any such attempts.”).

¹⁷³ Annex 10 to the Response, pp. 13-18; Annex 2 to the Rejoinder, pp. 31-38; Annex 11 to the Response, p. 2; Annex 13 to the Response, section 18(b). The Respondent has furnished a new version of Annex 10 to the Response as Annex 2 to the Rejoinder. See Annex 2 to the Rejoinder.

not require that the measures be in place at this time, but rather that such measures be proposed (or an appearance of an intention to propose or implement them in the future).

144. Among these measures already proposed, the Respondent intends to:

- Design a multi stakeholder governing system (a/k/a “Policy Advisory Council), where Islamic governments, organizations and individuals will have representatives that will participate in the management of the String under direct supervision of a multinational Islamic organization or institute.¹⁷⁴
- Implement a strict policy under which not everyone will be eligible to apply for a second-level “.Islam” domain, but only those who meet certain requirements.¹⁷⁵ Additionally, certain second-level domains will be restricted and all second-level domains will be subject to a policy of use.¹⁷⁶
- Impose penalties and suspensions upon violators of the user’s policy.¹⁷⁷
- Include one addendum to its Registry Agreement with ICANN whereby certain requirements will be imposed on the registry operator in order to promote transparency and avoid misuses or abuses.¹⁷⁸

145. In accordance with the above, the second factor favors the Respondent.

146. The third factor in the Guidebook is:

Interference with the core activities of the community that would result from the applicant’s operation of the applied-for gTLD string

147. The key language in this factor is “core activities”. In ¶ 64 above the Expert transcribed the five pillars or core principles of Islam. The Expert is of the opinion that the operation of the String will not, on its face, interfere with any of them. Nonetheless, as discussed above, the Respondent intends to implement policies and mechanisms to ensure that the integrity of Islam is preserved. Consequently, this factor favors the Respondent.

148. The fourth factor in the Guidebook is:

Dependence of the community represented by the objector on the DNS for its core activities

¹⁷⁴ Annex 10 to the Response, pp. 13-15; Annex 2 to the Rejoinder, pp. 31-33.

¹⁷⁵ Annex 10 to the Response, pp. 16-17; Annex 2 to the Rejoinder, p. 34.

¹⁷⁶ Annex 10 to the Response, pp. 17-18; Annex 2 to the Rejoinder, p. 35.

¹⁷⁷ Annex 10 to the Response, p. 18; Annex 2 to the Rejoinder, p. 36. See also Annex 13 to Response, section 18(b).

¹⁷⁸ Response, pp. 11-12; Annex 14 to the Response.

149. The Respondent has stated that “[t]he global Muslim community is not dependent upon the DNS for its core activities”.¹⁷⁹ The Objector has remained silent in this regard.

150. Islam originated around 1400 years ago, long before Internet was created.¹⁸⁰ Therefore, the Islamic community is not dependent on the DNS. As a result, this factor favors the Respondent.

151. The fifth factor in the Guidebook is:

Nature and extent of concrete or economic damage to the community represented by the objector that would result from the applicant’s operation of the applied-for gTLD string

152. Neither of the Parties has argued a concrete or economic damage to the Islamic community. In fact, the Expert is of the opposite view. In line with ¶ 139 above, the Expert agrees with the Respondent in that the String may serve as a platform for the expansion of online Islamic resources.¹⁸¹

153. The sixth factor in the Guidebook is:

Level of certainty that alleged detrimental outcomes would occur

154. The Objector has not evidenced any immediate or imminent detriment. Rather, the Objector has speculated with some possible outcomes. In light of the foregoing, the Expert finds that the likeliness of detriment to the Muslim community, though possible, is remote. As a consequence, this factor favors the Respondent.

155. In sum, the Expert concludes that the Objector has failed to prove the likelihood of any material detriment to the rights or legitimate interests of a significant portion of the Islamic community. For this reason, the Objection must fail.

¹⁷⁹ Response, p. 12.

¹⁸⁰ Annex 4 to the Response, p. 11.

¹⁸¹ Annex 18 to the Response, section 18(b).

VI. COSTS

156. In accordance with Article 14(e) of the Procedure, the Centre shall refund to the prevailing party its advance payment of costs.

VII. SUMMARY OF FINDINGS

157. Within the 45 day time-limit set forth in Article 21(a) of the Procedure, the Expert concludes as follows:

- (i) the Objector has standing to file the Objection;
- (ii) the community invoked by the Objector is clearly defined;
- (iii) there is not substantial opposition from the community to Respondent's application;
- (iv) there is a strong association between the String and the community represented by the Objector;
- (v) Respondent's application does not create a likelihood of any material detriment to the rights or legitimate interests of a significant portion of the relevant community;
- (vi) the Centre shall refund to the prevailing party its advance payment of costs; and
- (vii) this Expert Determination shall be published in full.

158. For these reasons, the prevailing party is the Respondent and thus the Objection shall be dismissed.

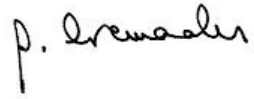
VIII. DECISION

159. For the above reasons and according to Article 21(d) of the Procedure, I hereby render the following Expert Determination:

- (i) The Objection of the Telecommunications Regulatory Authority of the United Arab Emirates is dismissed;
- (ii) Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti. prevails; and
- (iii) Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.'s advance payment of costs shall be refunded by the Centre to Asia Green IT System Bilgisayar San. ve Tic. Ltd. Sti.

* * * *

Date: 24/October/2013

A handwritten signature in black ink, appearing to read "B. Cremades". The signature is written in a cursive style with a large initial "B" and a distinct "Cremades" following.

Signature: _____
Bernardo M. Cremades
Expert