

GAC Early Warning – Submittal Patagonia-Chile-78254

Application ID:	1-1084-78254
Entity/Applicant Name:	Patagonia Inc.
String:	PATAGONIA
Early Warning Issue Date:	20 November 2012

Early Warning Description – This will be posted publicly:

GAC Member(s) to indicate a description of the Early Warning being filed

PATAGONIA is the name of an important part of the Chilean territory, and is made up by very important and well known places at international level, like the Torres del Paine, Riesco Island, San Rafael Lagoon, Tierra del Fuego, Punta Arenas, Puerto Aisen, the Strait of Magellan and the Cape Horn.

The region is globally known by its name, as a major tourist destination of our Country, but it is also an important part of the territory of Chile, and it is the home of a vibrant and strong community. In addition, is a region of enormous natural wealth and resources, which are part of the identity of the Chilean people.

Reason/Rationale for the Warning – This will be posted publicly:

GAC Member(s) to indicate the reason and rationale for the Early Warning being filed.

Patagonia is a region of Chile located in the south of its territory.

Chilean Patagonia is well known around the world by the beauty of its landscapes, views and places, and also it is a very important region for the Chilean's economy because it has fishing, cattle industry, mining, tourism and agriculture resources.

Patagonia is the homeland of a local community that belongs to several immigrations that came to Chile from countries as diverse as Germany and Croatia, as well as natives from the land.

Patagonia comprises the Palena province in the Region of Los Lagos, and the Aisén and Magallanes Regions, both comprising the Coyhaique, Aisén, General Carrera, Capitán Prat, Última Esperanza, Magallanes and Tierra del Fuego provinces, all of them part of the territory of Chile.

In the following official websites of the Government of Chile, can be found touristic and geographical information regarding the Chilean Patagonia (in Spanish):

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/importantes-medios-sudamericanos-destacan-belleza-de-la-patagonia-chilena.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/come-to-feel-the-patagonia-obtiene-segundo-lugar-en-tourfilm-brazil.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/un-imperdible-en-la-patagonia-segundo-festival-invernal-de-aysa-n-2011.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/expedicion-internacional-de-kayak-en-la-patagonia.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/nuestro-chile-21-maravillas-de-la-naturaleza-cavernas-de-marمول.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/region-de-aysa-n-el-paraiso-de-la-pesca-patagonica.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/coyhaique-un-paraiso-de-la-pesca-y-del-avistamiento-de-candores.html>

<http://www.chileestuyo.cl/historias-y-novedades-de-chile/sumar-gente-en-los-genuinos-sabores-de-la-patagonia.html>

Also, Patagonia –as a part of the South of Chile- appears in several old and antique maps and books about the region, like “Historia de la Patagonia, Tierra del Fuego e Islas Malvinas” by Frédéric Lacroix, written in 1841, specially page 2 (http://books.google.cl/books?id=YPXmQ5wkJ0C&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false); or in these early maps about this area:

- J. Harrison: A Map of South America Published under the Patronage of the Duke of Orleans by D'Anville. Drawn and Engraved for J. Harrison: <http://www.raremaps.com/gallery/enlarge/0305gh> (map from 1791).
- John Russell: A General Map of South America Drawn From the Best Surveys: <http://www.raremaps.com/gallery/enlarge/31812> (map from 1794).
- John Greenleaf: South America: <http://www.raremaps.com/gallery/enlarge/30585> (map from 1842).
- John Tallis: South America: <http://www.raremaps.com/gallery/enlarge/30647> (map from 1851)
- J Andriveau-Goujon: Amerique du Sud: <http://www.raremaps.com/gallery/enlarge/14437> (map from 1858).

Those maps are an important precedent about how antique is the tradition that named these territories of Chile and Argentina as “Patagonia”.

Finally, we can find in the following official documents the name “Patagonia”:

1.- Article 3 of the Treaty of Limits of July 23, 1881, between the Republics of Argentina and Chile:

"As for the islands, to Argentina will belong the Island States, the near islets and the other islands that

GAC Early Warning – Submittal Patagonia-Chile-78254

there are on the East Atlantic, from Tierra del Fuego and eastern coasts of **Patagonia**; and to **Chile** will belong all the islands from the South of the Beagle Channel to Cape Horn and all of them at the west of the Tierra del Fuego"

2. - The Arbitration Award of April 18th, 1977, about the Beagle Channel, states the following for the term "Patagonia":

"For these purposes, it will consider like Patagonia the region that is located at the east of Los Andes and the south of the Río Negro to the Dungeness - Andes line described in the text above; for convenience purposes can be called **Patagonia**, strictly speaking. With the region that is located at the south of that line and until the Strait of Magellan (included, also, geographically, in the notion of **Patagonia**) sometimes were considered "**Patagonia continental**"; but this region -that is located at the west and to the north of the Strait and to the Dungeness - Andes line fits better the name "**Patagonia**". Other candidates for the name – according early writings and maps - would be: Isla Grande de Tierra del Fuego (**Patagonia fueguina**) and islands (**archipelagic Patagonia**) which, like the **Magellanic Patagonia**, could, however, comprise the Big Island" (Chiloe)."

According to that and the historical background that we have in the Chilean official documents, the name Patagonia covers the Chilean and Argentinian territory located at the south of latitude 40° South, i.e. from the south of the Valdivia River in the Region of Los Rios, Chile, and from the south of the Río Negro in the province of Neuquén, Argentina, to the far southern cone of South America.

3.- Finally, recently, on November 8th, 2012, was signed a Ministerial Statement between Chile and Argentina Governments, where all the Ministers of both countries indicate the following:

"They agreed on the importance of protecting the use of the name Patagonia, in all the international forums, because it is an important geographic region belonging to the territory of both countries."

The original text (in spanish) can be found in the official web site of the Foreign Affairs Ministry of Chile(page 14):

http://www.minrel.gob.cl/prontus_minrel/site/artic/20121108/asocfile/20121108174808/declaracion_d_e_ministros.pdf

Taking into account all the previous considerations, Chile does not accept the .patagonia request for a brand TLD, as it is shown in the list of New gTLD Applied for Strings.

The national community and geographic meaning of the requested TLDs must prevail above any brand interest.

This case of .patagonia must not become a precedent for other brand TLDs capturing names of regions of countries in this and next rounds of new gTLD applications.

Possible Remediation steps for Applicant – This will be posted publicly:

GAC Member(s) to identify possible remediation steps to be taken by the applicant

GAC Early Warning – Submittal Patagonia-Chile-78254

- The applicant shall withdraw its application based on the information and reasons provided above

Further Notes from GAC Member(s) (Optional) – This will be posted publicly:

INFORMATION FOR APPLICANTS

About GAC Early Warning

The GAC Early Warning is a notice only. It is not a formal objection, nor does it directly lead to a process that can result in rejection of the application. However, a GAC Early Warning should be taken seriously as it raises the likelihood that the application could be the subject of GAC Advice on New gTLDs or of a formal objection at a later stage in the process. Refer to section 1.1.2.4 of the Applicant Guidebook (<http://newgtlds.icann.org/en/applicants/agb>) for more information on GAC Early Warning.

Instructions if you receive the Early Warning

ICANN strongly encourages you work with relevant parties as soon as possible to address the concerns voiced in the GAC Early Warning.

Asking questions about your GAC Early Warning

If you have questions or need clarification about your GAC Early Warning, please contact gacearlywarning@gac.icann.org. As highlighted above, ICANN strongly encourages you to contact gacearlywarning@gac.icann.org as soon as practicable regarding the issues identified in the Early Warning.

Continuing with your application

If you choose to continue with the application, then the “Applicant’s Response” section below should be completed. In this section, you should notify the GAC of intended actions, including the expected completion date. This completed form should then be sent to gacearlywarning@gac.icann.org. If your remediation steps involve submitting requests for changes to your application, see the change request process at <http://newgtlds.icann.org/en/applicants/customer-service/change-requests>.

In the absence of a response, ICANN will continue to process the application as submitted.

Withdrawing your application

GAC Early Warning – Submittal Patagonia-Chile-78254

If you choose to withdraw your application within the 21-day window to be eligible for a refund of 80% of the evaluation fee (USD 148,000), please follow the withdrawal process published at <http://newgtlds.icann.org/en/applicants/customer-service/withdrawal-refund>. Note that an application can still be withdrawn after the 21-day time period; however, the available refund amount is reduced. See section 1.5 of the Applicant Guidebook.

For questions please contact: gacearlywarning@gac.icann.org

Applicant Response: