

## GAC Early Warning – Submittal Fail-AU-73190

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<b>Application ID:</b>	1-1448-73190
<b>Entity/Applicant Name:</b>	Atomic Pipe LLC
<b>String:</b>	.fail
<b>Early Warning Issue Date:</b>	20 November 2012

### Early Warning Description – This will be posted publicly:

**Defensive registrations:** The string (.fail) has an overtly negative or critical connotation, and Atomic Pipe LLC does not appear to have proposed sufficient mechanisms to address the potential for a high level of defensive registrations.

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

The proposed string has an overtly negative or critical connotation. As a result, many individuals, businesses and organisations may seek to protect their brands or reputations in this TLD. In this context, Atomic Pipe LLC does not appear to propose sufficient mechanisms to limit the need for defensive registrations. The issue of defensive registrations has been the subject of previous GAC advice (for example, Principle 2.9 of the [GAC Principles regarding new gTLDs](#)).

Early warnings provide a mechanism to initiate a discussion between a government and an applicant on particular issues or questions. It is intended that a constructive dialogue through this process will assist applicants to better understand the concerns of governments, and help governments to better understand the planned operation of proposed gTLDs.

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

Atomic Pipe LLC should detail appropriate mechanisms to limit the need for defensive registrations.

These mechanisms should form part of any binding contract with ICANN, and be subject to clear compliance oversight by ICANN.

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

This Early Warning is from the Department of Broadband, Communications and the Digital Economy (DBCDE), on behalf of the Australian Government. In the first instance, communications and responses to this early warning should be emailed to [gacearlywarning@gac.icann.org](mailto:gacearlywarning@gac.icann.org), with the text “Australian EW” and the application ID in the subject field.

## **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](mailto:gacearlywarning@gac.icann.org). As highlighted above, ICANN strongly encourages you to contact [gacearlywarning@gac.icann.org](mailto: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](mailto: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**

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.

<b>For questions please contact: <a href="mailto:gacearlywarning@gac.icann.org">gacearlywarning@gac.icann.org</a></b>
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**Applicant Response:**

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