

New gTLDs: New Opportunities for Brands? New Risks and more expense for IP Owners? Make Your Voice Heard as ICANN Consults

ITMA calls on Members to provide comment to ICANN

ICANN, the Internet Corporation for Assigned Names & Numbers, is planning to launch hundreds of new gTLD (generic Top Level Domain) registries in a rolling process that will commence in early 2010.

Following the concerns expressed by many IP organisations including MARQUES about the impact of the process on the rights of others, ICANN created an Implementation Recommendation Team (IRT) to consider whether standardised Rights Protection Mechanisms (RPM) could reduce the financial and administrative burden on trademark owners. ICANN is now seeking feedback on the work of the IRT.

You can provide this feedback in two ways:

- **By commenting by email - closing date 6 July 2009**
- **By attending a free European Consultation Day in London on Wednesday 15 July 2009.**

The Council of MARQUES hopes that as many members as possible will send in comments or attend the Consultation day. Nick Wood, Council Member of MARQUES and a Member of the IRT said, "It is essential that the trademark community speaks up. The IRT has proposed a set of fair, technically feasible and affordable solutions which will cut the cost of policing trademarks in the new gTLDs. However, the Board of ICANN has heard many voices raised against the recommendations. It is vital that the message gets through that consumers must be protected from the fraud and confusion that results when trademarks are infringed in the domain name system. ICANN has invited the IP community to get involved, so whether you are for or against the idea of new gTLDs, now is the time to show your support for the concept of rights protection in the domain name system".

What the IRT is recommending

The final recommendations of the IRT include:

1. **An IP Clearinghouse** or centralised database of verified IPR to be operated by a neutral provider so that rights owners do not have to pay time and time again for the validation of data by registry after registry;
2. A **Globally Protected Marks List** of "supernova" trademarks that cannot be registered without scrutiny.
3. A set of minimum protections to be employed by all new gTLD registries including standardised **Sunrise Eligibility Requirements (SERs)** and a **Sunrise Dispute Resolution Policy (SDRP)**.
4. A **Pre-Launch IP Claims Service** that will notify applicants for a registration that a current validated right exists on the term. This measure is designed as an alternative RPM for registries that do not wish to run a Sunrise.

5. A requirement for all applicants to **describe in detail the RPM** they will be offering at point of application for a new gTLD.
6. A **Uniform Rapid Suspension** system (URS) to work upstream of the UDRP, providing “a low-cost and rapid means for taking down infringing domain name registrations, yet preserving a registrant’s right to a hearing and/or appeal”. This could see one or a hundred domain names with the same registrant frozen by a complainant within *a 14 day time frame for a flat fee of \$200*.
7. A variation on a proposal made by WIPO to **limit the possibility of systemic abuses by “bad actor” Registry Operators** requiring them to submit to mandatory administrative proceedings where a third-party such as a rights owner has filed a complaint with ICANN.
8. An obligation on all new gTLD operators to provide registry-level WHOIS information (**Thick Whois**, as offered by the .info and .biz registries).
9. A revision to the **String Confusion** review that ICANN will undertake of all applications to include a “consideration of the aural and commercial impression (meaning) created by the string”. This is proposed so that, for example, an application for .HOTEL is not blocked by .TEL.

The IRT has also requested that ICANN investigates two further issues:

- The development of universal standards to control proxy domain name services
- Whether applicants should be allowed to apply for more than one character string in an application –e.g. ASCII & Kanji, Arabic or Cyrillic

What you can do next

To read a full copy of the IRT report, which includes flow charts on the URS, go to:

<http://www.icann.org/en/topics/new-gtlds/irt-final-report-trademark-protection-29may09-en.pdf>.

To file a comment, simply send an email by close of business on 6 July 2009 to: irt-final-report@icann.org. We suggest you put the name of your organisation in the subject line. eg “ John Doe Comments in Support of RPM in the new gTLDs”. You will receive a message acknowledging your submission that you must respond to.

To see what other people are saying, go to forum.icann.org/lists/irt-final-report. This is where your comments will be published. If you are not sure what to say, you might send in a simple message on behalf of your organisation or in a personal capacity such as, “If new gTLDs are introduced, we urge ICANN to introduce rights protection mechanisms of the type suggested by the IRT. Trademark owners and the consumers that depend on them need effective tools to combat infringement. We strongly support (name of recommendation....)”.

To attend the free London Consultation Day, see full details and reserve your place now by going to:

<http://www.registration123.com/ICANN/GTLD/>

ENDS: 30 June 2009