



December 2, 2013

Mr. Fadi Chehadé
President and CEO
The Internet Corporation for Assigned Names and Numbers
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536

Dear Mr. Chehadé:

On behalf of the Intellectual Property Owners Association (IPO), we are writing to voice the concerns of brand owners regarding ICANN's New gTLD Registry Agreement (Registry Agreement) approved by the New gTLD Program Committee of the ICANN Board of Directors on July 2, 2013.

IPO is a trade association, based in the United States, representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. IPO's membership includes more than 200 companies, and approximately 12,000 individuals who are involved in the association either through their companies or law firms, or as IPO individual members. Our members hold trademarks around the world. As such, IPO has a significant interest in the new gTLD introduction generally and, more specifically, the rules, requirements, and processes for safeguarding brand owners during the launch of each new gTLD registry and beyond.

IPO has often stated that intellectual property rights and consumer protections are cornerstones of an efficient and profitable Internet, and must remain a fundamental consideration as the new generic top level domains become delegated. While attention to the intellectual property issues raised in registration of second level domains has been addressed by ICANN, no attention has been given to the same issues that will arise from registry reservation of second level domain names.

We are particularly concerned that the rights provided to new Registry Operators in Specification 5 of the Registry Agreement will adversely affect trademark rights holders. Under Section 3.2 of Specification 5, Registry Operators may activate in the DNS up to 100 names "necessary for the operation or the promotion of the TLD." It is then at the Registry Operator's discretion whether or not any of those domain names may later be released for registration to another person or entity. Additionally, under Section 3.3 of Specification 5, Registry Operators may withhold from registration or allocate to themselves any number of names at all domain levels. While these names may not be activated in the DNS by the Registry Operator, such as Section 3.2 allows, the Registry Operator may release a reserved name to another person or entity at its sole discretion.

This ability for Registry Operators to reserve names, whether or not the names are actually activated in the DNS under Section 3.2, will adversely affect trademark rights

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holders, as such reservations would invite the abuse of protected marks. For instance, Registry Operators may reserve the marks of protected brands to leverage premium sales. Further, Registry Operators may use this ability to release names to market competitors of the brand owners.

Given this potential for abuse, the IPO urges ICANN to expand the use of the Trademark Clearinghouse and dispute resolution policies to name reservations and releases by Registry Operators, in the same way that these policies apply to registration of second level domains.

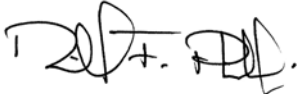
Specifically, we suggest the following procedures:

First, when a Registry Operator seeks to reserve, allocate to itself or release a domain name, the proposed name should be cross-checked by ICANN against the Trademark Clearinghouse database. The Registry Operator seeking to reserve, self-allocate or release the name should be notified if such name has been registered as a trademark. If the Registry Operator nevertheless proceeds to reserve, self-allocate or release the names at issue, trademark owners should be notified when their registered mark has been so reserved, self-allocated or released to a third-party.

Second, should a Registry Operator proceed to reserve, self-allocate or release a domain name identical or confusingly similar to a brand owner's mark, a dispute resolution procedure should be available to the mark owner. This procedure should be similar to the Uniform Domain-Name Dispute Resolution Policy (UDRP) and utilize the same three-pronged analysis. However, the UDRP test might be modified for name reservation disputes in two respects: First, if a Registry Operator's top level domain is reasonably related to the dictionary meaning of the second level name that the Registry Operator seeks to reserve, self-allocate or release, relief to complainant may be denied. This showing of relatedness would satisfy Respondent's burden with respect to the "Rights and Legitimate Interests" prong of the three-part UDRP analysis. Second, the sole remedy for this proceeding should be the removal of the domain name at issue from reserved status. We would be happy to work with ICANN to create the details of such a proposed notification and dispute resolution policy.

On behalf of the IPO, we solicit your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Phillips', written over a horizontal line.

Richard Phillips
President