



May 31, 2012

Cantor Colburn Client Alert:

ICANN Announces “Reveal Day” for Applications for New Global Top-Level Domains (gTLDs)

As previously advised in our May 3, 2012 Client Alert, on April 12, 2012, the Internet Corporation for Assigned Names and Numbers (“ICANN”) suspended the application system for new generic top-level domains (“gTLDs”) due to a glitch in the system that allowed users to view other users’ file names and user names. The application system re-opened on May 22, 2012 and closes on May 30, 2012.

ICANN has just announced that it is targeting Wednesday, June 13, 2012, for disclosure of the applied-for domain names (“Reveal Day”).

At the time ICANN took the system offline, there were approximately 1,275 registered application system users and 2,091 applications for new gTLDs. Applicants for an additional 214 potential applications were registered, but ICANN had not yet reconciled payment. During its investigation, ICANN identified about 455 instances in which applicants may have been able to view file names and associated user names of other applicants. ICANN claims it has no evidence that users were able to see any application file content or that application data was lost or corrupted.

In a May 29, 2012 statement, ICANN targeted the following upcoming dates:

June 8, 2012	Application batching process begins
June 13, 2012	Announcement of applied-for domain names (“Reveal Day”)
	Application public comment period begins Formal objection period begins
June 28, 2012	Application batching process ends
July 11, 2012	Application batching results announced
July 12, 2012	Initial evaluations of applications begin
August 12, 2012	Public comment period ends

ICANN will use a batching system to sort and review applications in groups of 500. In order to accommodate this system, a secondary timestamp process will be employed to establish the batches. The secondary timestamp process will require applicants to obtain a timestamp through a designated process. Batching priority will not be given to applications based on the date/time at which the application was originally submitted. The timestamp process is explained in detail here: <http://newgtlds.icann.org/en/applicants/tas/batching/basics>.



Companies and individuals will have approximately seven months after the June 13, 2012 Reveal Day to object to applications for gTLDs that infringe their trademark or other legal rights. The four possible grounds of objection are as follows:

- Legal rights - the gTLD infringes the legal rights of an owner of a registered or unregistered trademark;
- String confusion - the gTLD is confusingly similar to an existing gTLD or an applied-for gTLD in the same round of applications;
- Community objection - there is substantial opposition to the new gTLD from a significant portion of the community to which the gTLD may be targeted (e.g., .restaurant); and
- Limited public interest objection - the gTLD is contrary to generally accepted legal norms of morality.

The public comment period allows companies and individuals to bring relevant information and issues about filed applications to the attention of the application evaluators. Application comments are relevant to determining whether applications meet established criteria, while formal objections concern matters outside of the evaluation. Public comments will not be considered as formal objections.

We are available to:

- Review the list of applied-for gTLDs published by ICANN to determine if any of them infringes your trademark rights or falls within one of the applicable objections above;
- Provide advice on the best course of action in the event that a gTLD of interest has been applied for;
- Prepare and file objections to applied-for gTLDs; and
- Prepare and submit public comments.

ICANN has also adopted the following protection measures to be implemented once the gTLD application process has been completed:

- A “Trademark Clearinghouse” to serve as a central repository for information on authenticated trademark rights that will be valid across all new gTLDs;
- “Sunrise Periods,” supported by the Trademark Clearinghouse, that allow eligible trademark owners an opportunity to register domain names in each new gTLD before they become available to the general public;



- A “Trademark Claims” service, supported by the Trademark Clearinghouse, used during the first 60 days of a new gTLD launch that will provide notice to potential domain name registrants of existing trademark rights;
- A “Uniform Rapid Suspension Procedure” that allows trademark owners to quickly suspend the operation of infringing domain names; and
- A “Trademark Post-Delegation Dispute Resolution Procedure,” which is similar to a Uniform Dispute Resolution Policy (“UDRP”) proceeding.

For Further Information and Assistance

The attorneys in the Trademark & Copyright Department at Cantor Colburn LLP stand ready to answer any questions you may have about the new gTLDs and provide specific advice and guidance on the objection process following the publication of the list of applied-for gTLDs. Please do not hesitate to contact us if you would like us to review the published list of gTLD applications for possible conflicts with your trademark rights, or if we can be of any further assistance.

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Please note that each situation has its own unique circumstances and ramifications. This Client Alert is for informational purposes only and is not legal advice.