

INTERNET

THE "DOT-BRAND" EXPLOSION: WHAT YOU NEED TO DO NOW (Or: How To Make Sure Your Name Or Trademark Doesn't Become A "Sucks" Web Site)

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Earlier this year the company that manages the global internet address system (the Internet Corporation for Assigned Names and Numbers, or ICANN) accepted the first round of applications for new "generic top level domains," or gTLDs – the part of an address that goes to the right of the dot. Most businesses register domain names that use the familiar ".com" suffix or one of a handful of other available options such as ".org" or ".biz." The new program makes it possible to register a business name, a trademark – indeed, virtually any word in any language – as a TLD in its own right. Depending on whose crystal ball you consult, this Dot-Brand initiative could revolutionize the way the internet works, or hopelessly complicate it, or both.

The initial application window recently closed. The list of applications offered a few surprises, a number of omens for the future – and **some important action items for brand owners who did not apply for a gTLD this time around.**

- One surprise was the sheer number of applications. Originally, ICANN was anticipating 500 or so. In the end there were almost 2,000 (at \$185,000 apiece!) The unexpected volume slowed down the application process, and will surely slow the review and approval process even more.
- Many of the applications were for famous brand names (.chevy, .nikon, .walmart) and several were for geographic locations (.paris, .nyc, .amsterdam). The most interesting ones were for generic terms like .art, .tech, and .store, which will be of interest to a great many people. **Lots of brand owners in the auto industry, for example, may want to be part of the ".cars" domain.**
- Not surprisingly, many of these generic domains are the subject of multiple applications: thirteen for .app; seven each for .mail and .news; nine for .shop. There will be a lengthy dispute-resolution process, probably culminating in an old-fashioned auction to the highest bidder, to see who ultimately gains control of these domains.

A recent survey of attorneys responsible for protecting trademarks found that while 91 percent were aware of the new gTLD program, only 36 percent had read the Applicant Guidebook, which explains how the process work. That Guidebook, and the initial application list, suggests **some important steps you should take now to protect your brand:**

1. **Make sure no one has applied for a domain that incorporates one of your trademarks.** A formal objection period for addressing such issues is now open and will run until January 2013.

2. **Identify "generic" domains of interest, and investigate the applicants and their business plans.** If you're in the financial services sector, for example, you'll want to know who's behind the applications for .bank, .broker, .finance, .fund, .insurance, .investments, .lifeinsurance, .loans, .money, .mutualfunds, and others. A 60-day comment period, open to anyone, runs through August 12; if there is something ICANN ought to know about one or more of the applicants or proposed domains, now is the time to tell them.
3. **Start planning for defensive domain-name registrations in appropriate generic and geographic domains.** Depending on the business you're in, you may want to make sure you are the first to register your company name and key trademarks within appropriate domain names – before someone else does. The "someone else" could be a competitor, or just an old-fashioned cyber-squatter of the sort brand owners have been dealing with in the .com sphere for years. **And don't forget about domains like ".sucks," where having someone else register your brand could be embarrassing.**

The best defense is a good offense. Starting in October 2012, for a small fee you will be able to list your brand names in ICANN's Trademark Clearinghouse; anyone that tries to register your brand as a domain name will be advised of your rights.

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