



Intellectual Property Advisory: Now Your Business or Organization Can Own Naming Rights on the Internet

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ICANN, the organization responsible for coordinating various aspects of the internet, has approved the biggest expansion of the internet's global addressing system (generic domain space) since the inception of the internet. Starting in 2009, businesses and organizations will be able to create and own their own top-level domains. Until now, such groups had to select from a limited number of generic top-level domains ("gTLDs") such as the *.com*, *.net*, *.biz* suffixes. Businesses and organizations will now be able to turn their own brand names, industries or product categories into "vanity" generic domains avoiding the use of *.com*, *.net*, etc. gTLDs.

gTLDs Provide Marketing Opportunities and Brand Defense Challenges

The expansion of generic domains allows for considerable innovation in the internet's addressing system, which is now limited to 21 gTLDs. Under the ICANN proposal, applicants can propose almost any gTLD, so suffixes such as *.sports*, *.yourbrandname* or *.chicago* will be possible. Registration of such generic domains presents opportunities to register gTLDs matching brand names or product categories permitting access to web pages via domain names such as *yourbrandname.sports*, *drink.yourbrandname* or *visit.chicago*. For the first time, these new gTLDs may also contain non-Latin characters.

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Any established public or private-sector corporation, organization, or institution can apply for a new gTLD during a pre-set application period that is expected to open in the second quarter of next year. Brand owners will be faced with a decision whether to apply for new gTLDs as a marketing tool or as a defensive measure to avoid cybersquatters. If there are other entities that may have rights in the same brand name, product category or geographic location, consideration may be given to filing a joint application for the new gTLD (e.g., Portland, Maine and Portland, Oregon may wish to jointly apply for *.portland*). Companies that do not wish to take advantage of the upcoming application period for new gTLDs may wish to develop a defensive strategy that includes monitoring newly filed gTLD applications and the impact of such gTLDs.

New Application Process Includes Fees and Objection Period

This new application process is not for those who wish to “dabble” in internet marketing. Applicants will be required to provide specific information regarding their capability to operate and maintain the new gTLD, including their ability to operate a registry. The application fee is estimated to run about \$185,000 in order to cover ICANN’s cost of implementing the new gTLDs. Preliminary estimates of the costs of registering and setting up a new gTLD, and providing consumer education, run from several hundred thousand dollars to higher amounts. As this process requires a significant investment, applicants likely will want to engage in careful study and cost benefit analysis before proceeding.

Applications will be subject to public comments and an objection period. The objection period is an important opportunity for brand owners to protect their interest in their brand name. Thus, brand owners will want to monitor newly applied-for TLDs and lodge objections to domains that may violate their legal rights.

To assist potential applicants, ICANN has published a Draft Applicant Guidebook, available at <http://www.icann.org/en/topics/new-gtlds/draft-rfp-24oct08-en.pdf>. Brand owners are encouraged to review the Guidebook and submit comments.

For further information, please see ICANN's New gTLD Program webpage at:
<http://www.icann.org/en/topics/new-gtld-program.htm>.

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