



NEW WEB DOMAIN SUFFIXES: AN EVEN BIGGER INTERNET UNIVERSE

The biggest change for the online world in years is now underway!

The Internet universe is about to get a whole lot bigger since ICANN (the Internet Corporation for Assigned Names and Numbers) is now accepting applications for new top level domains. This update gives you a quick summary of the domain name system, lets you know what the big changes are, and offers tips on what you should be aware of and steps you can take in the short-term to protect your brand and trademarks.

What is a domain name?

A domain name is an address on the internet which allows you to find specific websites. For example, if you type in www.facebook.com, you will go to the Facebook website.

Or, if you prefer a more technical explanation: websites are located on computer servers. Each website in a server is designated by an Internet Protocol (IP) address, which is a series of numbers (e.g. 78.125.0.209). An IP address allows one digital device (e.g. a computer) to communicate with another via the Internet. Since a numbered IP address is hard to remember and anyway does not personally identify a website, the Domain Name System (DNS) was invented. It acts as a "phonebook" for the Internet by translating host names (e.g. www.facebook.com) into IP addresses.

If you have any questions regarding the matters in this legal update, please contact the following attorneys or call your regular Meitar contact.

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What is a top level domain? And what is a sub-level domain?

A domain name is made up of a series of parts (called "labels") which are separated by dots. For example, www.twitter.com has three labels, each separated by a dot: "www", "twitter" and "com". The label on the far-right (the "com") is the top level domain (TLD). The hierarchy of domains descends from right to left, and each lower level is a "sub-domain" of the domain to its right. So, "twitter" is a sub-domain of "com".

Why are there different top level domains?

ICANN was established as a not-for-profit organization, with headquarters in California, in 1998. It controls the DNS, having taken it over from the US Government. It does so by overseeing the distribution of unique IP addresses and domain names and ensures that each domain name maps to the correct IP address.

ICANN has organized the TLD space into categories:

1. Country code top-level domains. These are two letter domains for countries and territories. For example, "IL" is the country code for Israel. Since 2009, countries and territories have been able to apply for "internationalized country code TLDs" in their local language (or non-ASCII scripts like Arabic or Chinese).
2. Generic top-level domains. There are two categories of generic top-level domains (gTLDs):
 - o Unrestricted top level domains. An unrestricted domain is one that allows anyone to register a name within that TLD. There are no specific requirements or prerequisites for obtaining a name within an unrestricted TLD other than providing registration information and paying a fee. Examples of unrestricted TLDs are: ".com", ".org", ".net", and ".info".
 - o Sponsored top level domains. Sponsored TLDs are targeted at specific groups or constituencies. Each sponsored TLD is operated by a sponsor that imposes conditions on obtaining domain names within the TLD. Sponsored TLDs include: ".int" for international organizations and ".edu" for certain educational institutions.

3. Infrastructure top-level domain. This group consists of only one domain name: ".arpa" (Address and Routing Parameter Area). It is used for Internet infrastructure purposes.

What's new?

On 12 January 2012, ICANN opened a registration and application process for new gTLDs. The registration period closes on 29 March 2012 and the application submission period closes on 12 April 2012.

Companies, organizations, and individuals can now buy specific words that will replace ".com", ".net" and other current gTLD suffixes. In other words, you can now purchase a URL which will end in any word that you like, for example: ".movies".

The number of gTLDs (there are currently 22) is therefore about to increase substantially. This is big news since a serious expansion of the Internet is now underway. Some analysts estimate that there will be up to 1,500 applications for gTLDs.

One other development to keep in mind is that gTLDs can now be in any language (not just English).

Why is this happening?

ICANN says that the new gTLDs have been in the forefront of its agenda since its creation. It hopes that the new gTLD program will foster diversity, encourage competition, and enhance the utility of the DNS. Scott Pinzon, the ICANN Director of Marketing and Outreach, believes that: "new gTLDs represent a platform for innovation. No one can predict what smart people will do with them. Lots of new business models will be invented."

What is the application process?

There is a US\$185,000 application fee (ICANN is offering a financial aid program for developing nations which reduces the fee to US\$47,000). An amount of US\$5,000 must be paid upon the submission of an application. The fees may not be refunded if an application is unsuccessful.

Each applicant must show that it has a legitimate claim to the name it wishes to buy and must also submit an extensive business plan, financial statements and technical documentation about how it intends to operate and manage its gTLD. The application process is expected to take approximately one year. By the way, the application process is not entirely simple: the "gTLD application guidebook" alone is 349 pages!

If you need assistance on the registration and application process, feel free to contact us.

What happens if you buy a gTLD?

Each gTLD owner will be required to run a registry business for its gTLD, and will therefore become a registry operator which is responsible for the technical operation of the gTLD. It will need to establish the rules (which must be ICANN compliant) and pricing for the names registered within its gTLD. For example, just as Verisign manages the domain names registered in the ".com" gTLD, each new gTLD owner will be responsible for managing the domain names registered within its gTLD.

Who can, and will, buy a gTLD?

Anyone that wants a gTLD can submit an application for one. Large brand owners (such as Google, Facebook, Microsoft, CNN, etc) may purchase a gTLD with their name. Organizations, like the United Nations, and cities may also jump on board. It is likely that entrepreneurs and businesses will purchase catchy phrases like ".hotels" or ".poker" and sell domain names within that gTLD.

Will companies buy gTLDs?

The new gTLDs will affect almost everyone, including companies. Some companies see the expansion as an excellent marketing opportunity because they can acquire their own gTLD and exercise greater control over their online presence. For example, The Coca-Cola Company may acquire ".coke", or ".cocacola".

What are the things to beware of?

Opponents of the expansion warn about: consumer confusion, making the DNS more complicated, an increase in cyber-squatting, and commercial fraud. Trademark issues are also likely to emerge, for example: who gets to register ".madonna"? Would it be the pop-star Madonna, or the Madonna Hotel?

Are the cyber-squatting fears genuine?

We think that cyber-squatting "to the right of the gTLD" is less likely since the application process is onerous (cyber-squatters are, in theory at least, supposed to be weeded out) and expensive.

Some analysts say that cyber-squatting "to the left of the gTLD" is also unlikely since most of these gTLDs will be purchased by brand owners who want to have complete control of the domain names within their gTLD (for example, if Facebook buys ".facebook", it is unlikely to sell names within that gTLD to cyber-squatters). However, other analysts are concerned that abuse may occur where a "non-brand" organization acquires a gTLD and then sells domain names under it.

What should you do in the short term?

You should keep an eye on any gTLDs applications that include or resemble your trademark or name. This is possible since ICANN will publish a list of the received applications once the submission period closes.

If you are concerned about an application, then you can oppose it (there is a fee) through one of ICANN's dispute resolution service providers. We are available to provide additional information on this.

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