



Internet Corporation for Assigned
Names and Numbers
(ICANN)
4676 Admiralty Way, Suite 330
Marina del rey, CA 90292-6601
USA
Att.: Dr. Paul Twomey

2009-04-06
mma

Re. New gTLDs - .brand

We refer to our letter of December 4, 2008 and our comments to the first version of the Draft Applicant Guidebook. We have reviewed the second version of the Draft Applicant Guidebook and unfortunately, the second version has not lessened our grave concerns regarding the release of new gTLDs. All our comments in our letter of December 4, 2008 are thus still valid as we do not see any suggested solutions to the issues raised in our letter in the second version of the Draft Applicant Guidebook.

We have noted that the feedback to the first version of the Draft Applicant Guidebook contained a substantial number of comments similar to ours. We would like to give our express endorsement for some of these comments:

We strongly support the suggestion of AT&T in letter of December 15, 2008 regarding the creation of a list of reserved names for both top and second level domains and agree that such a list could be based on the extent of active use of the trademark, registration in multiple gTLDs or ccTLDs, existence of a verifiable web site and evidence for defensive actions against infringers, cf. also letter from USTelecom of December 15, 2008. Microsoft has a similar suggestion in its letter of December 15, 2008, cf. also letter from U.S. Chamber of Commerce of December 15, 2008.

We also support the suggestion in AT&T's letter that any costs and fees associated with an infringement should shift from the brand owner to the infringer, cf. also letter from Corporation Service Company of December 15, 2008 and letter from ITT Corporation of same date.

We believe that such a list of reserved names for both top and second level and the possibility of rewarding costs will reduce the material negative effects of new gTLDs for brand owners without giving rise to problems for law abiding registrants. In this regard, standard terms and conditions are of course necessary across all new gTLDs.

The second version of the Draft Applicant Guidebook has, however, made us aware of another issue, namely the actual .brands, meaning gTLDs owned by a brand owner and only used for this brand owner's specific purpose. Is such a gTLD, for instance .LEGO, considered a community based gTLD or an open gTLD? How is an open gTLD defined? Brand owners should be able to have "closed" gTLDs where access to second level domains are only given to for instance registrants from the brand owner's own group of companies or to partners.




We still believe that there are major outstanding issues still unresolved in connection with the implementation of new gTLDs, also in relation to security and stability issues, and it is our hope that further consultations of all relevant parties and forums will provide solutions to all of these issues before any new gTLD is implemented. We are, as always, more than willing to discuss all of our concerns with you and elaborate on them.

On behalf of the following companies:

Vestas Wind Systems A/S
Arla Food a/s
Coloplast A/S
Unimerco Group A/S
H. Lundbeck A/S
Danfoss A/S
Carlsberg Breweries A/S
Bang & Olufsen a/s
Georg Jensen A/S
Grundfos A/S
Rockwool International A/S
Leo Pharma A/S
Bestseller A/S

Yours sincerely,
LEGO Juris A/S


Peter Kjær
Deputy General Counsel