

Leudelange on December 12, 2014

Comments on the .MADRID Application for an Approved Launch Program

eBrand Services S.A. would like to comment on the submission made by the Comunidad de Madrid for an application for an Approved Launch Program (“ALP”) pursuant to section 4.5.2 of the Trademark Clearinghouse Right Protection Mechanism Requirements .

According to this application, the Registry for .Madrid is intending to conduct this ALP in parallel with the only Sunrise period which was defined and approved by the community over the - numerous - years that have lead to the launch of the new gTLD program.

eBrand Services, just like many others professionals of the industry has spent a fair amount of both financial and human resources in educating its clients in using and investing in the Rights Protection Mechanism.

Modifying the rules applying to the whole new gTLD program at this late stage and after more than 400+ TLDs have launched would be unfair to every actor ranging from TLD applicants, registrars, TMCH agents and more especially to registrants.

Indeed, each one of those have based their domain name strategy and consequently, their budget, on the grounds that the Right Protection Mechanism Requirements and the Sunrise period defined with the community input would apply to every gTLD launched under the ICANN program.

According to the ALP application this “Local Sunrise” period would not only be conducted in parallel to the right protection mechanism approved by the community but would also prevail on applications made by prospective registrants who abided by the new gTLD program terms.

To this the only justification of the applicant relies on the fact that the TMCH is lacking awareness in the Madrid geographical area. On this we would like to comment that the company acting as validation agent for the TMCH and TMCH agents such as eBrand Services have done their uttermost to create awareness amongst rights owners regarding the TMCH existence and functioning. eBrand Services representatives even presented its services and the functioning of the Rights Protection Mechanisms during the keynote which took place in the Chamber of Commerce of Madrid on February 15, 2013¹ !

¹ <http://www.camaramadrid.es/asp/agenda/acto.asp?id=2427>

In any case, if such allegation would be true, we would like to remind the .Madrid Registry that it is free to postpone the launch of its TLD until it believes that awareness amongst right owners is sufficient.

The applicant seems to also imply that the fees applicable to the TMCH services should not be borne by local brand owners only interested in registration under the .Madrid TLD. However it fails to mention what the fees for this local agent validation service will be...

Should the .Madrid Registry be willing to limit the registration of domain names under its TLD to right owners meeting certain criteria it may do so without seeking an exemption to rules it was perfectly aware of and accepted when applying for the delegation of the .Madrid TLD.

Such possibility has been thoroughly detailed by INTA and MARQUES in their public comments to the .Paris Public Administration Approved Launch Program.

Lastly, while the .Madrid Registry is attempting to address the fact that the requested ALP is blatantly in breach of both the Applicant Guidebook and the TMCH Requirements, the only justification they seem able to give is some sort of futile philosophical interpretation of the spirit of Specification 7. At no time do they justify why such breach should be overlooked.

In light of the above it is clear to us that the applicant for this ALP is aware that it is incompatible with the TMCH Requirements and that such application can only be refused.

For these reasons, we trust that granting what can only be qualified as a “special-privilege” would seriously undermine the faith registrants have in the new gTLD program and harm abiding brand owners.

Sincerely,

Lutz Berneke
CEO