

December 24, 2013

Internet Corporation of Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, California
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Dear ICANN,

Please accept these comments from Authentic Web Inc. with respect to Specification 13 proposal, dated Dec 6th.

- *whether it is appropriate to classify certain TLDs as “.Brand TLDs”;*

It is absolutely appropriate to have a specific classification of certain TLDs as .Brand TLDs.

- One of the greatest benefits of the name space expansion and the public interest is to allow major and aspiring brands the ability to own and innovate engagement on a proprietary TLD registry structure.
- Innovation in the name space expansion will be dependent upon .Brand TLDs. These entities have the marketing power, reach and the incentive to create experiences that are ***new, better and different***, driven by their universal motivation to improve the value of the services they deliver to customers directly and through partners and channels.
- A .Brand TLD offers brands many new capabilities including; control, authenticity, security among others, many of which will relate to technologies yet to be invented, upon which brands will develop innovative use cases to support their business goals, if and only if they are provided a reasonable and predictable ICANN policy and operational framework.
- The emergence of closed .Brand registries will foster a period of technological advancement where entrepreneurs, service providers and brands themselves will conceive of and deploy advanced technologies building upon the unique attributes of a .Brand registry.
- The expansion of the name space from 22 generics today to several hundred and perhaps thousands more in subsequent rounds places a significant risk, management and cost burden on established brands. Brands will be forced to defensively register SLDs to protect their marks and

market positions without gaining reciprocal investment benefits. By allowing brands their own, authentic and authoritative closed space, ICANN provides brands the ability to anchor and invest in a proprietary digital ecosystem where they can create market value and resulting returns on investment. The .Brand TLD is required by brands to serve as their authentic online anchor in an expanded name space and will serve to defend against nefarious players who seek to profit by posing as brand actors and duping the public. By this, our view is that ICANN has an obligation to allow .Brand TLDs since it is ICANN's expansion program that is adding significant costs, risks and management challenges in doing business. The .Brand TLD will be the best defense and the best opportunity for brands in an expanded name space.

- The public interest will be well served. As individuals and organizations purchase and subscribe to services at a web property that is a .Brand, they will trust and know they are dealing with the authentic and authoritative brand entity. Over time, as more major and aspiring brands adopt a .Brand registry, the opportunity for nefarious actors to take advantage of public internet users through phishing, piracy or other fraudulent activities to scam will necessarily diminish. This will be a welcomed benefit of the name space expansion, assuming .Brand TLD policy and operating frameworks are established that motivate and allow brands to adopt and innovate.

For all these reasons, it is our view that it is not only appropriate for ICANN to permit .Brand TLDs, it is essential to the success and continuing evolution of the domain name space and a fair adjustment for brands who have invested millions of dollars building brand equity in their respective markets.

- *whether the definition of “.Brand TLD” is sufficiently narrow to capture only what is commonly recognized as a corporate brand;*

The practical difference of a .Brand TLD is that names are not sold to the public. Where a legacy definition of a TLD is that TLD registry operators sell to the public and registrants accept certain terms and conditions, a .Brand TLD as proposed is not sold to the public. Names remain in the ownership of the brand entity, its subsidiaries or affiliates as described. In essence, the registry operator and the registrant are the same or the registrant is an entity owned or controlled by the registry operator who may use directly or be granted the rights to use .Brand SLD names. Our view is that the definition is sufficiently narrow as it addresses this core difference.

We also suggest it is important for ICANN to set conditions that allow brand registry operators the flexibility to launch innovative programs with as few restrictions as possible, while at the same time ensure .Brand registry operators comply and operate with diligence and care to ensure the stability and security of the internet. We believe this to be symbiotic. Brand registry operators will maintain the highest level of ethics, stability and security as it is in their best interest to be trusted and reliable to their target audiences. ICANN should not seek to foresee all possible circumstances where a narrower definition may be appropriate, rather have ability to strengthen the definition should circumstances materialize that may warrant such adjustments.

- *whether there may be unintended consequences associated with the implementation of draft Specification 13;*

We all know that there are always unintended consequences of any policy action. In this context, where actors operating outside the spirit of a definition intend to seek advantage of a definition to exact a different goal, unintended by such definition, ICANN will require a mechanism to address. An example may be that an entity registers a trademark in advance simply to own a particular name space category. While such actions may comply with the definition established in any specification today, such actors may, but not necessarily, be subverting the intent or spirit of the definition.

The registry agreement should address negative unintended or unforeseen behaviours only in that the agreement should provide ICANN a mechanism to address behaviours where those behaviours are not in the spirit of the definitions and/or where actions of a proposed applicant causes harm in some manner to the security and stability of the internet.

Such a mechanism should not, at this time, seek to foresee all possible unintended consequence scenarios, but provide a framework to address situations where actors seek to take advantage of a definition to pursue a closed .Brand TLD when they are in fact not an established brand. That said, there will be circumstances where a new brand is established and should well be awarded a registry. The mechanism should have the flexibility to rule consistent with the charter and mandate of ICANN as the steward of the internet name space and provide a level playing field for new entrants.

In conclusion, trying to predict and lay ground rules today to address all future consequences is in our opinion a fruitless effort that will simply delay and dissuade adoption of and innovation in the name space.

- *whether it is appropriate to permit a Registry Operator for a .Brand TLD to limit its registrar use to one or more preferred ICANN accredited registrar(s); and*

The open market access provision is a legacy artifact of open generic TLDs. While it maintains a critical function for open TLDs that exist today and shall exist in the future, in the case of .Brand there is no basis for its imposition. .Brand SLDs are not being sold to the public. Therefore there is no market for the .Brand TLD other than for the brand's own ownership. In the .Brand TLD world, the brand is investing in and operating its own asset. How that brand chooses to select vendors and partners to build the new asset class should remain at the sole discretion of the brand registry operator.

- *whether a two year "cooling off" period prior to re-delegation of the .Brand TLD upon expiration or termination of the Registry Agreement is appropriate (subject to the limitations provided in the draft Specification).*

While this may be appropriate, it is unclear what the implications of such a requirement might be. Similar to the unintended consequences question, the future is unknown and the correct policy approaches are not entirely definable at this time. ICANN may be better served to establish a mechanism that gives ICANN the ability to address future circumstances when those circumstances become more apparent.

Thank you for your intake and consideration of these comments.

All the best,

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