

Dear ICANN,

Wilmar International Ltd. Comments re: Draft Specification 13

Referring to the Proposal for a Specification 13 to the ICANN Registry Agreement to Contractually Reflect Certain Limited Aspects of “.BRAND” New gTLDs, please find below the comments submitted on behalf of Wilmar International Limited (“Wilmar”), the applicant for .WILMAR (application ID 1-972-95481).

1. Wilmar is of the opinion that any redelegation of a .BRAND TLD after two years following the termination of the Registry Agreement should not be at ICANN’s discretion, but needs to take place in consultation with the initial applicant / brand owner;
2. As regards the wording of Section 5.1:
 - a. Wilmar does not see the added value of the trademark being registered in the Trademark Clearinghouse, as it is not the Trademark Clearinghouse’s task or mission to take part in determining whether or not an applicant is operating a .BRAND-TLD or not. The Trademark Clearinghouse’s task is to support rights protection mechanisms in second level registrations – no more, no less;
 - b. Consequently, the current wording of this Section implies that .BRAND applicants must keep their corresponding trademarks registered with the Trademark Clearinghouse throughout the entire term of the Registry Agreement in order to remain eligible for invoking the provisions of Specification 13. This seems an overly onerous requirement;
 - c. Wilmar also does not see the value of having its trademarks registered with the Trademark Clearinghouse *and* providing ICANN with an accurate and complete copy of the trademark registrations. Wilmar agrees with the latter requirement, but not with the former;
 - d. In any case, at least part of the wording of this Section is superfluous, since a trademark can only be registered in the Trademark Clearinghouse if it meets the eligibility requirements that have been defined for the Trademark Clearinghouse.

Therefore, Wilmar proposes to reword this Section as follows:

“a. meets the eligibility requirements to be registered with the Trademark Clearinghouse”.

Hence, it is suggested to omit the obligation to actually be registered or remain registered with the Trademark Clearinghouse.

Furthermore, in light of the requirements laid down in Section 5 of Specification 13, Wilmar does not see a reason why they should be obliged to use the Trademark Clearinghouse in its capacity of a registry.

Since, according to Section 5.1 (ii) of the draft Specification 13, any and all domain names in the .BRAND gTLD must be registered in the name of Registry Operator, its Affiliates or Trademark Licensees and that the corresponding DNS records are to be controlled, the requirement to use the Trademark Clearinghouse in start-up rights protection mechanisms is superfluous and should therefore be abandoned.

Respectfully submitted,

Bart Lieben