

9 January 2014

Richemont DNS Comments on the draft Specification 13 (“Specification 13”)

Richemont DNS (“**Richemont**”) welcomes ICANN’s announcement for a proposed Specification 13 that will allow the Registry Agreement to deal with the requirements of brands that are planning to operate their own specific “.Brand TLDs”. Richemont also supports the efforts of the Brand Registry Group in developing the terms of Specification 13.

In addition to the above, Richemont would like to propose the following clarifications to the text of the proposed Specification 13.

1. Use of the word “void” in Specification 13

In the second paragraph of the introductory section of Specification 13, the word “void” is used to cover a situation where the TLD is effectively no longer “.Brand TLD”. Richemont is not comfortable with this approach as in certain legal jurisdictions outside of the US the use of the word “void” in a contractual arrangement would mean that Specification 13 may be treated by the parties as to never have been in existence. This is obviously not the intention of Specification 13. We would therefore propose the following changes to the second paragraph:

- *If at any time ICANN determines, in its reasonable discretion, that the TLD no longer qualifies as a .Brand TLD, then ICANN will provide Registry Operator with written notice of its determination, and Registry Operator will have 30 calendar days following the date of delivery of such notice to either (i) meet the requirements of the .Brand TLD definition to ICANN’s reasonable satisfaction, in which case the provisions of this Specification 13 shall continue to apply, or (ii) comply with the provisions of the Agreement as no longer modified by this Specification 13, in which case the provisions of this Specification 13 shall thereafter ~~be void~~ **no longer have effect from such date**, unless Registry Operator initiates the dispute resolution proceedings set forth in Article 5 of this Agreement during such 30 calendar day period disputing ICANN’s determination. During the pendency of such dispute resolution proceedings, there will be no change in the status of the TLD as a .Brand TLD in accordance with this Specification 13 so long as Registry Operator otherwise continues to operate the TLD in compliance with the requirements of the definition of a .Brand TLD and this Specification 13, other than with respect to the disputed issue. Registry Operator must promptly notify ICANN in writing of any change to the TLD that could potentially disqualify it as a .Brand TLD.*

2. “.Brand TLDs” and “Trademark Licensee” Definition

Richemont has a concern that the “.Brand TLDs” and “Trademark Licensee” definition does not seek to cover its .JLC application, which is a globally-recognized acronym for its famous *JAEGER-LECOULTRE* registered trademark.

Richemont would therefore recommend the following changes to the text of paragraph 5 of Specification 13:

- 5.1(i): the TLD string is identical to, or is a recognized abbreviation or acronym of, the textual elements protectable under applicable law, of a registered trademark valid under applicable law, which registered trademark:
- 5.2: "Trademark Licensee" means any corporation, partnership, limited liability company or similar legal entity (and not a person) that has a written trademark license agreement with a Registry Operator or its Affiliate, for use of the registered trademark owned by the Registry Operator or its Affiliate, and the TLD string operated by that Registry Operator is identical to, or is a recognized abbreviation or acronym of, the textual elements of ~~which correspond exactly to the .Brand TLD operated by that Registry Operatorsuch~~ registered trademark, where such license is:

Richemont DNS Inc.
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