

Comment on the draft model for Expression of Interest and Pre-Registration for new gTLDs – Inter IKEA Systems B.V.

Inter IKEA Systems B.V. (IISBV) is the owner of the IKEA trademark and domain names. For our company, like for other right holders, predictability of the legal environment is tantamount for the planning of our business.

IISBV has yet to see any real benefits of the introduction of new gTLD's and is concerned about the possibilities of unlawful activities on the Internet that a system with unlimited gTLDs may bring. It is crucial for the protection and integrity of the IKEA Brand, that cybersquatting and other unauthorized claim and use of the IKEA trademark can be protected against. IISBV can thus not stay passive but have to guard its rights in response to any changes in the current internet domain name system. As a general comment, therefore, it is in IISBV's opinion of the utmost importance that all the outstanding issues in the New gTLD Program are resolved and the Applicant Guidebook is finalized before the rules of any EOI process is finally decided upon. Strong and robust rights protection mechanisms to prevent trademark abuse are sine qua non prior to deciding upon any further steps in the process of implementing new gTLDs.

If later decided, the set up of the EOI must be clear and leave no room for ambiguities. The legal and financial risks of going ahead with the EOI without sufficient predictability for both participants and non-participants are just too great. It is then better to postpone the launch of any new system rather than implementing it hap hazard.

If decided upon, the following points of an EOI are of importance:

- To mitigate the risks of undue costs for defensive registrations under a new gTLD system, IISBV supports the inclusion of a Trademark Clearinghouse in the Applicant Guidebook to effectively help prevent and deter abusive domain name registrations. Moreover, IISBV supports the implementation of a Uniform Rapid Suspension System which would provide effective means to deal with abusive domain name registrations. Both such rights protection mechanisms should be fully established and adopted before any further step is taken to open for pre-registration.

- In order to create transparency in an EOI process and equal opportunities for right holders, a comprehensive communication campaign must precede the opening of pre-registration. This is especially important in case pre-registration would be made mandatory in order to participate in the first round of applications for new gTLDs.
- The criteria and procedure for the evaluation of string contention must be set before any pre-registration process is commenced. This is especially important in the event the identity of applicants and their strings are made public during the pre-registration phase.
- The rules regarding the deposit of fees for entering pre-registration must be unambiguously clear. The suggestion to disallow refunds based on changes to Applicant Guidebook subsequent to the EOI does not meet with IISBV's approval. As discussed above, there must be no changes to the Applicant Guidebook subsequent to the launch of the pre-registration phase. Clear criteria must be set that define what changes to the Applicant Guidebook, if absolutely necessary, that will justify the refund of deposits. The entire process must be founded on principles of fairness and legality.
- The proposal to make the identity of applicants and their strings public information is not challenged as such. Again, however, the Applicant Guidebook must be decided and adopted to avoid undue pressure from stakeholders to influence the resolution of any remaining outstanding issues.

Martin Broden

Senior Legal Counsel
Inter IKEA Holding Services S.A.

Waterloo, Belgium 27 January 2010