



January 26, 2010

Big Room Inc.
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Dear ICANN and the Internet Community,

Re: ICANN Pre-Registration Model for New gTLDs

Big Room has considered ICANN's proposed Expressions of Interest (EOI)/Pre-Registrations model and has the following comments. We welcome feedback from ICANN and the Internet community.

We believe that an Expression of Interest process will be most successful if it:

- Provides useful, meaningful, accurate data to ICANN on applicants and strings
- Collects data which can aid in the resolution of over-arching issues
- Is recognized as functionally equivalent to the opening of the application round
- Does not impede or distract from continued work on over-arching issues which are not dependent on the EOI process

Big Room encourages ICANN and the Internet community to work diligently to resolve the outstanding concerns of the intellectual property community where they have been articulated. We recognize that there are risks to trademark owners in the EOI model as currently structured. One potential way forward could be requiring applicants to submit an independent legal opinion on the trademark infringement risks of their string(s) on globally recognized marks.

Certainly many globally recognised marks that could appear in the EOI would be, by their very nature, instantly recognizable to most. These pre-registrations could be flagged for further analysis and the trademark owners could be notified if they were not the same as the EOI applicant. Perhaps the Uniform Domain-Name Dispute-Resolution Policy (UDRP), a well-established method of resolving trademark issues at the second level, could be useful here.

Indeed, the EOI, if executed with such a trademark-flagging process, could enable globally protected marks owners to more easily protect their marks by bringing speculators out into the open before they file an entire application. Furthermore, it may be effective in deterring them in the first place, if they knew they would be immediately flagged and send into a queue that may result in a UDRP.



We also encourage ICANN to identify and minimise any negative impacts of EOI transfers on the concurrent new gTLD policy process and on the data collection goals of the EOI itself, in addition to security and stability. We see two principal and manageable risks here:

- First, transfers will create a resale market for EOIs that could in turn make coming to consensus on new gTLD policy more complex.
- Second, corrosion in the accuracy of ICANN collected data as a result of transfers that could erode the value of the EOI round

If ICANN allows transfers, it will need to carefully consider how it can keep market-influencing information about the new gTLD process secure and manage a bottom-up policy process in a timely fashion concurrently with the creation of this market.

Secondly, in order to prevent data corrosion, EOI applicants should have to agree to keep information they submit as part of the EOI up to date and be flagged for review if they do not.

Big Room believes that press coverage over the past year has shown that one of the best ways to raise global awareness about the potential of new gTLDs is through the outreach efforts of the prospective applicants themselves. Regardless, we would welcome the opportunity to comment on an elaborated outreach strategy. Given that four months of poorly executed outreach would be less useful than two months done well, the timeline is of less importance than the nature of the outreach planned.

Finally, we would like to congratulate the ICANN Board and Executive on their decision to move ahead with the ICANN Nairobi meeting. Less than 10% of Africa is currently connected to the Internet. It is and will continue to be a critical growth region for ICANN and other leading Internet organisations.

Thank you for the opportunity to comment,

Big Room Inc.