



Asociación Interamericana de la Propiedad Intelectual
Interamerican Association of Intellectual Property
Associação Interamericana de Propriedade Intelectual

January 27, 2010.

Dear Sirs,

The Information Technology (IT) Committee of the Interamerican Association of Intellectual Property (ASIFI) presents hereby its comments on the Draft Expressions of Interest (EOI)/Pre-Registrations Model for new generic top level domains (new gTLDs) of ICANN.

INTRODUCTION:

The IT Committee of ASIFI is particularly concerned with the treatment given to intellectual property protection in the project of launching the new gTLDs. We are aware of the creation of systems such as the Trademark Clearinghouse and the Uniform Rapid Suspension System (URS), which may be accepted provided that they really tackle the harmful effects that may occur to trademark owners and constitute a low cost tool.

INITIAL POSITION:

The trademark community has expressed its opinion several times regarding the new gTLDs, as it considers that they may easily be a source of problems such as:

1. New opportunities for cybersquatting
2. Cost increase in the maintenance of trademark portfolios
3. Increase in the complexity for the protection of marks on the internet
4. Growing need for protection of domain name registration and satellite

The ASIFI Committee agrees with these concerns.



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ARGUMENTS AND CONCLUSIONS:

Notwithstanding the above, and taking into account ICANN's initiative of authorizing the pre-registration of new gTLDs, we consider that the EOI/Pre-Registrations Model represents a more time consuming and expensive model than a real benefit to the system. This circumstance brings an additional burden to the final application process, without providing a real guarantee of benefits to the applicants or the Internet community.

This Committee suggests that the following questions and comments be considered in the pre-registration stage:

- a) What are all types of substantive changes that can be made to the Applicant Guidebook due to the fact that it is not currently finalized?
- b) What are all the circumstances in which either the entire amount or a portion of the \$ 55,000 EOI deposit would be refundable?
- c) What is the likelihood that the EOI program will move forward as it seems tenable at this point based on contrasting views of the effectiveness of the program?
- d) Further consideration is warranted as to how an applicant's rights are affected if it decides to participate in the EOI program but a competitor with an interest in the TLD claims that they were unaware of the EOI program, and therefore, failed to apply.
- e) Are there any procedures in place to allow a participant to shield or mask their participation and string information from public view during the pre-registration period?
- f) A system that maintains domain names for a period of time before the definitive registration, can be considered as a way to increase the possibility of domain name hijacking, especially if we take into account the simplicity that these proceedings until the real entitled party receives a sales offer.



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g) The creation of a Trademark Clearinghouse must have clear strategic goals such as the scope of the database system and the agreement with ICANN, whereby the same assumes real responsibility over the system.

h) We understand that the EOI/Pre-registration Model represents a waste of time and resources, more so than a real benefit to the system. Thus, the opening at this stage, when is not yet fully discussed, can undermine the stability of the project, especially considering that the EOI final document is not yet ready. There is a need to clarify all pending issues, therefore we expect to see these issues addressed in Draft Applicant Guidebook, version 4.

i) This Committee has a great interest in the implementation of the new gTLDs and has always considered ICANN an organization with a strong awareness in listening to the opinion of all sectors involved and affected by the rapid development of the Internet. However, the opening of the pre-registration of new gTLDs set for February 2010 can be considered as premature and of little responsibility, as the process lacks a wide dissemination and understanding of the available defense tools that would be implemented for the protection of trademark rights.

j) Without appropriate awareness, the opening of the new gTLDs may become the main source of conflicts between trademark owners around the world and the Internet, bringing fragility to the intellectual property system worldwide.

k) In conclusion, the Committee considers that it is not necessary to rush into the opening of new gTLDs to justify the economic demand for new gTLDs. The kind of strings requested or any other information required by ICANN should be reevaluated, since they should be obtainable without having to pay \$55,000 in the United States.

Sincerely,

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