



July 21, 2010

To the Internet Corporation for Assigned Names and Numbers:

We appreciate the opportunity to provide comments to the Internet Corporation for Assigned Names and Numbers (ICANN) on the generic top-level domains (gTLD) Draft Applicant Guidebook, Version 4 (DAGv4) on behalf of the members of the American Apparel & Footwear Association (AAFA). Thank you for your time and attention to these important comments.

As you may know, AAFA represents some of the largest and most well-known apparel and footwear brands in the world. Moreover, this industry has and continues to be a consistent target for counterfeiters around the globe, who often seek out registrations and use of domain names that incorporate our members' valuable brand assets. Whether the registration is used to operate a website marketing counterfeit goods as legitimate merchandise, this industry always faces an uphill battle against those who seek to utilize and tarnish AAFA members' brand names and reputations for illicit profit.

For example, in 2009, the U.S. Customs and Border Protection (CBP) reported seizing an estimated \$142 million dollars in counterfeit footwear, apparel and other fashion goods, many of which were being actively sold online. It is with this in mind that AAFA members have expressed strong concerns with ICANN's proposal to allow for the expansion of gTLDs as proposed in the DAGv4. Without the requisite mechanisms to protect brand owners in the application process, as well as post delegation, we are concerned that the new gTLD program could provide a vehicle for these rampant abuses of our member's valuable marks to increase exponentially.

Counterfeit issues arising from internet commerce have already posed new problems for this industry. Cybersquatters and others are already taking liberties by registering domain names in bad faith, thus comprising consumers' ability to trust the security and stability of the Internet. This lack of a secure and stable environment could lead to the rampant sale of counterfeit goods to AAFA members' customers, who are left struggling to determine the authenticity of the items they are purchasing. The possible introduction of hundreds of new gTLDs tremendously increases the opportunity to exploit our members' valuable brands - adding to our already widespread concerns that the introduction of more gTLDs could continue to infringe our members' marks.

The AAFA respectfully requests that ICANN reevaluate the current protections put in place for both the application process, as well as rights protection mechanisms aimed at

post-delegation, to ensure that brand owners legitimate concerns and rights are properly protected and assured in the new gTLD space. For example, a situation that would allow a counterfeiter to purchase and own a gTLD that creates confusion with one of our members registered trademarks will continue to compromise their brand integrity and cause continued harm to the apparel and footwear industry.

Moreover, should these companies seek to be proactive in protecting their brand names through the registration of new gTLDs, they must do so at great cost that for many brands will be unmanageable, especially considering the application fee, possible extended evaluation fees, dispute resolution costs and ongoing funds required to maintain and operate the registry. In addition, we are concerned about the high, and yet undefined, costs associated with the current mechanisms to enforce brand abuse in this new space, both during the application process and for the registration of second level domains post-delegation. These high costs could prevent some brand owners from adequately protecting their brand, because they simply do not have the budget to go through the expensive mechanisms currently proposed.

The apparel and footwear industry is concerned that the proposed high costs associated with registering a new gTLD will not deter the often well-funded and highly organized counterfeiting operations that are prevalent online. Thus as cost alone is unlikely an impediment to these bad actors, stronger brand protection mechanisms are therefore critical. We recognize that ICANN has included several rights protection mechanisms in DAGv4 to protect trademarks. However, the industry believes that these mechanisms still need to be stronger, less costly and more efficient. Further, the overwhelming burden still falls substantially on the brand owner to stop infringement, and the proposed processes to do so remain overly cumbersome, expensive and time intensive for the brand owner.

AAFA and its member companies strongly encourage ICANN to revise its current proposals to provide effective mechanisms to protect trademarks on the internet. Brand owners in all industries are concerned with minimizing opportunities for bad actors in the new gTLD space. This is particularly true for the apparel and footwear industry that is so dependent on the strength of our reputations and brand names.

I thank you again for taking the time to review these important concerns regarding the DAGv4.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive, flowing style.

Kevin M. Burke
President and CEO
American Apparel & Footwear Association