

## **Gap Inc. Comments on Defensive Applications for New gTLDs February 28, 2012**

Gap Inc. appreciates the opportunity to submit our comments in response to ICANN's February 6, 2012 request for comment on the need for defensive applications for new gTLDs. We are concerned with the impact the new gTLD initiative will have on our company.

The gTLD expansion forces us to spend significant amounts of time and resources to protect trademarked brand names we already own. The range of costs to apply for and operate new gTLDs for a multi-brand company like Gap Inc. is in the millions of dollars. These costs will be substantially higher if another party objects, putting us in an expensive bidding war for brand names we already own and in which we have invested hundreds of millions of dollars to develop brand recognition and goodwill.

We are also concerned about the impact that the gTLD expansion will have on our ability to protect our brands from misappropriation and misuse. We already expend large sums in global enforcement costs every year to fight counterfeits, phishing, and other infringements of our trademarks. The expansion of the universe of gTLDs will only increase the scope of our enforcement challenge.

ICANN cites the availability of dispute resolution processes to protect legal rights holders as making "defensive" gTLD applications unnecessary. Those processes, however, will not help in situations involving domain string confusion objections or competing legal claims from rights holders in different countries or industries. In those situations, only companies that have applied for the gTLD will be able to assert their rights or compete for rights to the gTLD at auction. Thus, applying to operate a gTLD registry is indeed necessary for a company seeking to protect the enormous value and goodwill in its brand.

For these reasons, Gap Inc. urges ICANN to consider adopting a process whereby brand owners could choose to register their trademarks and exclude them from adoption as gTLDs. Our proposal would allow companies to pay a nominal administrative fee to register their trademarked names for defensive purposes only. This type of registration would enable companies to protect their valuable brands in a fair and cost-effective way and base their decision on whether or not to apply to run a ".brand" registry on business versus defensive reasons.

We urge ICANN to consider these suggestions and thank you for the opportunity to provide comment.