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VIA FEDEX

Internet Corporation for Assigned Names and Numbers
Rod Beckstrom, CEO
Peter Dengate Thrush, Chairman
4676 Admiralty Way, Suite 330
Marina del Rey, CA, USA
90292-6601

Re: Proposed top-level domain policies

Dear ICANN:

This law firm represents Publix Super Markets, Inc., and Publix Asset Management Company (collectively "Publix"). Founded in 1930, Publix Super Markets, Inc., is the largest and fastest-growing employee-owned supermarket chain in the United States. Publix is also the owner of numerous U.S. trademark registrations, including more than 40 registrations for its well-known PUBLIX® word mark and related marks. See, e.g., Reg. Nos. 1,339,762, 1,370,458, & 1,391,014. The purpose of this letter is to comment upon plans for a new top-level domain ("tld") program. Specifically, we are very concerned that ICANN's recently published Draft Applicant Guidebook, Version 3 ("Version 3"), contains inadequate protection for consumers, intellectual property owners, and the public at large. If this proposal is implemented as written, consumers will be misled, trademark rights will be abused, and unnecessary litigation will ensue. Therefore, we urge ICANN to adopt the more stringent protections of a Globally Protected Marks List, a Uniform Rapid Suspension System, and a Trademark Clearinghouse. Such additional protections would do a great deal to avoid the confusion and abuse that Version 3 threatens to allow.

I. ICANN should reconsider its rejection of the Globally Protected Marks List.

The ICANN Implementation Recommendation Team proposed the creation of a Globally Protected Marks List (“GPML”). Registration of domain names identical to names on the list would be prohibited. Unfortunately, the GPML is not mentioned in Version 3.

The proposed GPML is a worthy concept that we hope ICANN will reconsider. Absent such a list, would-be infringers will be able to create confusing domains and will be thwarted only if trademark owners closely monitor each and every application for a top-level domain. This is an unreasonable burden to place upon trademark owners. Registries and registrars, however, could easily consult the GPML before creating new domains and employ screening software to evaluate the proposed domains. Therefore, we urge ICANN to adopt the GPML proposal.

II. ICANN should adopt the Uniform Rapid Suspension System.

For similar reasons, we urge ICANN to adopt the proposed Uniform Rapid Suspension (“URS”) System. The Internet is in desperate need of a low-cost, rapid means of thwarting obviously infringing domains. As the Implementation Response Team has explained:

Many brand owners face thousands of infringing websites per year. Often these web sites monetize off the value and goodwill of a brand, distribute counterfeit goods, malware and other malicious software, phishing attempts, and adult content. Cease and desist letters often go unanswered and brand owners are forced to spend large amounts of money drafting and filing UDRP complaints. In those obvious cases – as noted above – registrants often either fail to respond or simply agree to transfer the domain name after initiation of a UDRP. The end result is that brand owners spend large amounts of money to build up portfolios of domain names they do not want, simply to prevent fraud on their consumers and misuse of their brands.

See Implementation Response Team Report page 24. This language very much tracks Publix’s experience. We are regularly involved in UDRP cases in which considerable fees and costs are incurred to capture obviously infringing domains. We urge ICANN to adopt the URS system as one way to reduce this burden on trademark owners.

III. ICANN should adopt the Trademark Clearinghouse proposal.

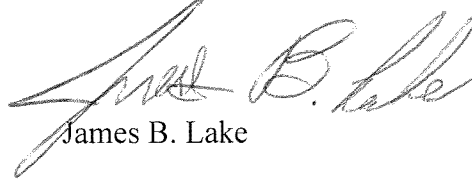
Finally, we urge ICANN to implement the proposed Trademark Clearinghouse. As you know, the Implementation Recommendation Team suggested creating a clearinghouse to administer the GPML, to verify that trademark ownership claims are valid, to facilitate pre-launch dispute resolution, and to provide watch notices to trademark owners. All of these functions would provide useful ways to protect consumers from misleading domains and to protect trademark owners from infringement. Moreover, by making a Trademark Clearinghouse available to registries and registrars prior to registration, ICANN could allow all parties –

registrants, registrars, registries, and trademark owners – to avoid the expense of the UDRP and URS processes in many cases. Therefore, we urge the creation of the proposed clearinghouse.

Thank you for considering the points in this letter. We appreciate ICANN's willingness to take steps to protect consumers and trademark owners.

Very truly yours,

THOMAS, LOCICERO & BRALOW PL

A handwritten signature in black ink, appearing to read "James B. Lake". The signature is fluid and cursive, with the first name "James" being the most prominent.

James B. Lake

cc: U.S. Sen. Bill Nelson
U.S. Sen. George LeMieux
John Attaway, General Counsel, Publix Super Markets, Inc.
Mark Irby, President, Publix Asset Management Company