



**Comments of Intellectual Property Constituency (IPC) on
Proposed Revised ICANN Process for Handling Requests for Removal of Cross-Ownership
Restrictions for Existing gTLDs
June 6, 2012**

The Intellectual Property Constituency (“IPC”) is a constituency of the GNSO and represents the full range of trademark and other intellectual property interests relating to the DNS. IPC members are international, regional and national intellectual property organizations from around the world, corporate entities with intellectual property interests (often as owners of intellectual property), and individuals with an interest in intellectual property matters. The IPC is pleased to provide its comments on the proposed revised process for existing gTLD registry operators to transition to the new form of Registry Agreement (“Proposed New Registry gTLD Agreement”) or to request an amendment to their Registry Agreement to remove the cross-ownership restrictions.

Introduction

As a preliminary matter, we appreciate that, as requested in public comments last year, ICANN has initiated a new public comment period now that the Proposed New gTLD Registry Agreement has been finalized. And because little of substance has changed with respect to the proposed process, the same concerns apply.

Comments

We believe that it will be in the public interest for existing gTLD operators to transition to the Proposed New gTLD Registry Agreement. The Proposed New gTLD Registry Agreement, while imperfect, represents an improvement over current registry agreements in terms of ICANN’s efforts to fulfill the transparency and accountability requirements of the Affirmation of Commitments. Additionally, the rights protection mechanisms contained in the Proposed New gTLD Registry Agreement, while not sufficient, represent an attempt by the ICANN community to protect consumers from confusion by addressing the systematic brand abuse currently driving inappropriate monetization of the Domain Name System.

If, however, ICANN decides instead to allow existing gTLD registry operators to amend their Registry Agreement to remove the cross-ownership restrictions, it is imperative that removal of cross-ownership restrictions be contingent on additional amendments. Amended Registry

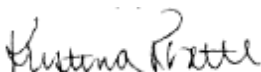
Agreements should conform as closely as possible to the Proposed New gTLD Registry Agreement and at a minimum, further amendments must include:

- (i) the Registry Code of Conduct (as finalized in the Proposed New gTLD Registry Agreement);
- (ii) thick Whois (to the extent not already applicable); and
- (iii) the text of Section 2.8 of the New gTLD Registry Agreement (concerning rights protection mechanisms) and paragraphs 1 and 2 of the Specification 7 referenced therein. With regard to this last amendment, compliance with the PDDRP, RDDRP, and URS should apply to, and consent to them should be required in the registration agreements for, all new second-level registrations and all second-level registrations renewed on or after the effective date of the amendment of the existing gTLD registry amendment.

Allowing registries to remove the cross ownership prohibition without the additional safeguards provided through these amendments would be reckless and contrary to the public interest.

Requiring these additional amendments is consistent with the stated goals of both a requesting Registry Operator (Neustar) and the ICANN Board in the rationale for its Resolution 2011.04.21.13, namely “to ensure that [operators of both new and existing gTLDs are] able to compete on a level playing field.” Without these additional amendments, the playing field will not be level. To the contrary, existing gTLD operators would have the competitive advantage of being freed from cross-ownership restrictions without the obligation to comply with additional responsibilities of new gTLD registry operators.

Respectfully submitted,



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