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mma

Re. New gTLDs – the STI Report

We refer to our previous letters regarding the Draft Applicant Guidebook and the IRT Report. In all our previous letters we have raised serious concerns regarding the release of an unlimited number of new gTLDs and it seems that none of our concerns have been dealt with by ICANN so far and the STI report makes it clear that apparently, ICANN might not deal with the concerns of trademark owners.

The IRT Report did provide some protection for trademark owners but as the Report was a compromise between trademark interests and registry/registrars interests the protection for trademark owners was still insufficient. The protection provided in the IRT Report has been weakened in the STI Report to such an extent that there doesn't seem to be much protection left for trademark owners.

The Trademark Clearinghouse is no longer a rights protection mechanism but just a database. Such a database does not solve the overarching trademark issues that were intended to be addressed. Instead the Trademark Clearinghouse promotes the need for defensive registrations. It thus seems to go directly against the premises of the work on the overarching issues, namely to lessen the burden of trademark owners who do not want more defensive registrations. Furthermore, the Clearinghouse is pre-launch and needs also to be post-launch. Moreover, the "matching" in the STI report is limited to exact matches which is clearly insufficient as most cyber-squatting is not an exact match.

The proposal for the Trademark Clearinghouse does not lessen the burden on trademark owners – on the contrary.

The Uniform Rapid Suspension (URS) proposed in the STI Report is also much weaker than the URS proposed in the IRT Report. It doesn't seem to be more rapid or cheaper than the ordinary UDRP and the domain name is only blocked for a short period of time with the possibility of perpetuating the cyber-squatting. Again, the trademark owners' burden is not lessened. There is no loser-pays mechanism and the burden of proof is on the trademark owner to prove that the registrant has no legitimate interest in the domain name.

The Globally Protected Marks List is not part of the STI Report which is very disappointing as it might have been the rights protection mechanism that could have provided some relief for trademark owners of such marks.

ICANN seems to ignore that cyber-squatting and all kinds of fraud on the internet is increasing in number and the STI Report does not help make the internet a safer place for consumers – on the contrary.



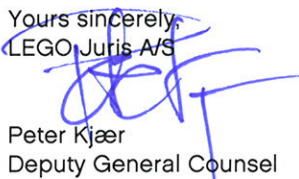
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In our opinion, ICANN has not yet solved the overarching trademark issue and the STI report is not the right path to take in order to solve this issue. We urge ICANN to solve the trademark issue before any new gTLDs are released.

On behalf of the following companies:

Bestseller A/S
Carlsberg Breweries A/S
Rockwool International A/S
Vestas Wind Systems A/S
H. Lundbeck A/S
Coloplast A/S
Novozymes A/S
Novo Nordisk A/S
Danfoss A/S
VKR Holding A/S
Danisco A/S
Scandinavian Tobacco Group A/S
GEORG JENSEN A/S

Yours sincerely,
LEGO Juris A/S


Peter Kjær
Deputy General Counsel