

## WIRED NEWS:

### XXX DOMAINS MAY BE HARD SELL

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New.net announced Monday that it was offering 20 new top-level domains (TLDs) including dot-xxx, which could be intriguing for adult sites. But Domain Name Systems has been selling dot-xxx domains for several months.

New.net began selling domains using TLDs that are not approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the international agency charged with overseeing TLDs. The company began distributing software that enables Web browsers to access the new TLDs.

[Domain Name Systems](#) has been offering dot-xxx and dot-sex registrations since ICANN rejected those two proposed TLDs last November.

DNS didn't like the notion of paying ICANN \$50,000 just to be considered for a TLD when there were no set terms on how or why these things were to be decided, so it backed off on submitting an application for the TLDs. "When it became evident they picked some rather ludicrous names as new extensions, our position was we were glad we waited them out," said Gord Jeske, CEO of DNS.

DNS serves the adult community already, although Jeske declined to identify which adult sites it works with. He said the industry wants its own domains.

"We're finding the adult industry is trying to move to self-regulation," he said. "I think they would be open to something that would head off government intervention. When ICANN dropped the ball, we said fine, we have the technology anyway. We decided to put together a registry for the dot-sex and dot-xxx domains."

Dot-sex domains have no restrictions on their content and can be accessed by anyone. Dot-xxx domains can only be accessed via DNS' Adult Verification Service (AVS), called [AVSLIVE](#). Like other verification services such as [Adult Check](#), AVSLIVE requires signing up via a credit card with proof of age, which acts as a barrier to entry for minors.

DNS said it has more restrictions on the dot-xxx domains, including content requirements and restrictions on banner ads and pop-up ads, since revenue from the AVSLIVE registrations will be shared with dot-xxx companies.

Accessing dot-sex and dot-xxx is done by adding new domain name servers to the user's browser, something that advanced users can do manually by following instructions on the Domain Name Systems site, or by running a small client, similar to software offered by New.net.

Jeske hopes things don't get litigious with New.net. "I think it would be more beneficial for them to offer it through us in some sort of marketing agreement than trying to go head-to-head with us," he said. "They would be much more successful if they are going to do that by working with us than working against us because we already have the systems in place."

Stacey King, an intellectual property lawyer at Howrey Simon Arnold & White, said disputes between two companies trying to register the same domain name would have to be settled via trademark, if it's possible.

"Things will have to go back to traditional trademark principles. Do they have a registered trademark or common law rights to a name? Have they used it in commerce? They may have greater rights than someone who doesn't have a federal registration," she said.

If there is no trademark or history of doing business under a name, then things could get nasty, since there are no laws governing ownership of top-level domains. "It may come down to first-come, first-served unless these two companies want to fight it out in the courts who has a right to the top-level domain," King said.

David Hernand, CEO of New.net, said he is unfamiliar with DNS' service. "We are aware of several other companies that have tried to do somewhat similar things to us in the past."

But, Hernand added, "we would be interested in talking about partnerships with anyone. We want to be as inclusive as possible. Our mission is to create a naming system that makes it easier for users to find something they are looking for. If there are others who want to help in this crusade, that's great," said Hernand.

Neither company has tried to trademark the dot-xxx TLD.