



**Association of
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Sent via electronic mail (tm-clear-15feb10@icann.org)

Dear ICANN:

Thank you for the opportunity to provide comments to the Internet Corporation for Assigned Names and Numbers ("ICANN") on the *Trademark Clearinghouse* proposal. I am the Chief Legal Officer of the Association of American Medical Colleges (AAMC), a non-profit organization.

The AAMC represents all 131 accredited U.S. and 17 accredited Canadian medical schools; approximately 400 major teaching hospitals and health systems, including 68 Department of Veterans Affairs medical centers; and nearly 90 academic and scientific societies. Through these institutions and organizations, the AAMC represents 125,000 faculty members, 75,000 medical students, and 106,000 resident physicians. Through its many programs and services, the AAMC strengthens the world's most advanced medical care by supporting the entire spectrum of education, research, and patient care activities conducted by our member institutions. The AAMC and our members are dedicated to the communities we serve and steadfast in our desire to earn and keep the public's trust for the role we play in improving the nation's health.

The AAMC owns and maintains 30 registered word marks representing our programs and services. Our member organizations represent many hundreds of additional registered word marks. We, and our members, actively protect these marks as they convey our good names and reputations.

We greatly appreciate the Generic Names Supporting Organization (GNSO) and the Special Trademark Review Team (STI) for their important work regarding the Trademark Clearinghouse. The current proposal for the Trademark Clearinghouse, while improved than previous, is redundant to many of the systems trademark owners currently have in place to protect our brands in the ever expanding domain name space.

As proposed, the Trademark Clearinghouse appears to do the following:

1. Allows trademark owners to register their word marks with the Clearinghouse.
2. Notifies potential domain name registrants, solely in cases of the domain name being identical to a Clearinghouse registered word mark, of existing trademark rights.
3. Requires domain name registrants to warrant: (i) the registrant has received notification that the trademark is included in the Clearinghouse; (ii) the registrant has received and understood the notice; and (iii) to the best of the registrant's knowledge, the registration and use of the requested domain name will not infringe on the trademark rights that are the subject of the notice.
4. Notifies trademark owners of registered domain names that are identical to a word mark registered with the Clearinghouse.

For the following reasons, the proposed Trademark Clearinghouse does not appear to offer a novel service to trademark owners:

1. Many trademark owners, AAMC included, already purchase domain name watch services for their registered trademarks;
2. Many domain name watch services offer trademark owners the ability to send auto-generated letters to domain name registrants incorporating its mark(s) in the domain name. These letters typically include a notification regarding the trademark owner's rights in and to the word mark. Additionally, domain name watch services include not only domain name registrations identical to a trademark owner's mark(s) but also variants (typos, plurals, etc.).
3. Even though the Clearinghouse would require registrants of domain names identical to a Clearinghouse registered word mark to warrant that it will not infringe on the trademark rights that are the subject of the notice, there appears to be no serious consequences to the registrant for breaching the warranty nor do trademark owners achieve a benefit from the warranty having been made that is likely to be commensurate to the cost of supporting the system.
4. Again, a domain name watch service could notify trademark owners of domain name registrations identical to a mark AND variants.

The New gTLD program dramatically expands the domain name space. Trademark owners, AAMC included, are greatly concerned that we, regardless of the services purchased, will not be able to keep up and protect our brands from infringement.

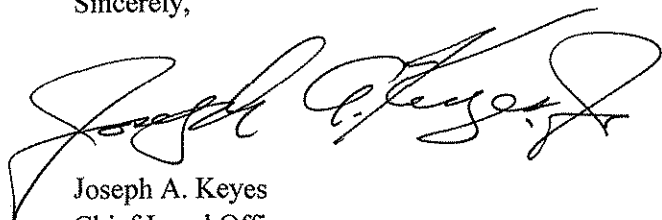
The AAMC puts forth the following recommendations to ICANN for improving the proposed Trademark Clearinghouse:

- The proposal is unclear as to whether or not use of the Clearinghouse would be mandatory for all domain name registration or just for registrations occurring during a sunrise or pre-launch registration phase. We implore ICANN to make use of the Clearinghouse mandatory for all domain name registrations regardless of date of registration or domain name extension.
- Expand the scope of the Clearinghouse beyond an "Identical Match", a domain name consisting of the complete and identical textual elements of the trademark, to include plurals and "marks contained".
- Penalize those registrants who are found to be in breach of the warranty. A decision in favor of the trademark owner by Uniform Domain-Name Dispute-Resolution Policy (UDRP) or the proposed Uniform Rapid Suspension System (URS), or similar, should be considered a finding of breach of warranty by the registrant. The penalty could be a fine (reimbursement to the trademark owner of the UDRP, URS, or like filing fees) payable within 30 days or in lieu of a fine suspension of domain name registration privileges of 180 days.

In order for trademark owners to justify the expenditure of resources (time and money) the Trademark Clearinghouse must provide a tangible benefit that is not currently offered in the marketplace.

The AAMC respects ICANN's continued commitment to keeping the Internet secure, stable and interoperable as well as its continued evolution. We would also like to thank ICANN's willingness to work with trademark owners throughout. We believe that a continued working relationship between ICANN and trademark owners will result in a stronger, more productive evolution. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph A. Keyes". The signature is fluid and cursive, with a large initial "J" and a stylized "K".

Joseph A. Keyes
Chief Legal Officer