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April 1, 2010

Internet Corporation for Assigned Names and Numbers (ICANN)  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

**Re: Revised Proposal for Trademark Clearinghouse – February 2010**

Dear Sir/Madam:

Adobe Systems Incorporated (“Adobe”) respectfully submits the following comments regarding the Revised Proposal for a Trademark Clearinghouse (“TM Clearinghouse”), published on February 15, 2010.

Originally conceived in the Implementation Recommendation Team’s Final Report on Trademark Protection (“IRT Report”) as an IP Clearinghouse, which included the component of a Globally Protected Marks List, the TM Clearinghouse was subsequently reviewed and revised by the Special Trademark Issues Review Team (“STI”). Regrettably, Adobe believes that this most recent revised proposal still does not provide the protections needed for brand owners facing the implementation of new gTLDs.

Under the current proposal, the Trademark Clearinghouse is to be utilized only during pre-launch periods in connection with Sunrise and/or Trademark Claims Services, limiting both its use and effectiveness. Moreover, the TM Clearinghouse will be limited in scope to only considering “identical matches” to trademarks, providing only narrow protection for brand owners. In addition to offering no protection or monitoring beyond sunrise periods, the revised TM Clearinghouse still excludes common law rights other than those rights that have been “court-validated.”

The onus is placed on brand owners to provide trademark data to the Clearinghouse and validate it annually, subject to sanction for any errors or inaccuracies. Adobe believes it should be the responsibility of the TM Clearinghouse to compile and maintain an accurate database utilizing information available from existing public sources. Adobe also believes that costs associated with a TM Clearinghouse should be shared among all parties, including ICANN and applicants for the new gTLDs, as opposed to the “parties utilizing the services.”

The TM Clearinghouse as currently conceived will not reduce the considerable financial and administrative burden on brand owners to engage in expensive enforcement actions and file defensive registrations to protect their trademarks. In addition to the potential

high annual cost required by the TM Clearinghouse, there will also be fees due to the registries and registrars during sunrise periods.

Adobe acknowledges the efforts put forth by ICANN on further developing these proposed trademark protections and we appreciate these revised proposals being made available for comment and discussion. However, we feel strongly that these proposals as currently constituted fall far short of successfully resolving the overarching issue of trademark protection. Rather than building on and strengthening the rights protection mechanisms put forth in the IRT Report, with the STI Report and these revised proposals, ICANN continues to offer only modified and limited trademark protections.

Adobe continues to believe that trademark protection is an issue of primary importance that must be fully and satisfactorily addressed before the new gTLD launch can proceed. We contend that there is still much work that needs to be done by ICANN to address the concerns of trademark owners regarding the new gTLD proposal.

Please feel free to contact the undersigned if you have any questions about this submission.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel C. Poliak".

Daniel C. Poliak  
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