

January 15, 2013

Mr. Stephen Crocker
Chairman
ICANN
4676 Admiralty Way, Suite 330
Marina Del Ray, CA 90292

Via email: tmch-strawman@icann.org

**Re: Request for Public Comment on the Trademark Clearinghouse
“Strawman Solution” and Limited Preventative Registration Proposal**

Dear Chairman Crocker:

The American Intellectual Property Law Association (AIPLA) wishes to express its continued concerns with ICANN’s program to introduce new generic top level domains (gTLDs) and to respond specifically to the Request for Public Comment on the Trademark Clearinghouse (TMCH) "Strawman Solution" and Limited Preventative Registration (LPR) proposal.

AIPLA is a national bar association with approximately 14,000 members who are primarily lawyers in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

Our concerns center on the impact of new gTLDs on intellectual property owners and users, that is, consumers and the general public. We believe the new procedures remain flawed, untested and are unlikely to meet the needs of consumers and businesses to avoid the consumer fraud and unwarranted expense likely to result from a dramatic expansion of new gTLDs.

We recognize the efforts of the ICANN community to address concerns of this nature with mandatory rights protection mechanisms, including the Trademark Clearinghouse. We also support the recent implementation meetings which are the subject of the pending request for comment, and the implementation recommendations of the Intellectual Property Constituency (IPC) and the Business Constituency (BC), including the following recommendations relating to the TMCH:

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1. Extend Sunrise Launch Period from 30 to 60 days with a standardized process.
2. Extend the TMCH and Claims Notices for an indefinite period; ensure the process is easy to use, secure, and stable.
3. Implement a mechanism for trademark owners to prevent second-level registration of their marks (exact matches, plus character strings previously determined to have been abusively registered or used) across all registries, upon payment of a reasonable fee, with appropriate safeguards for registrants with a legitimate right or interest.
4. Expand Trademark Claims service to cover at least strings previously found to have been abusively registered or used.

The Strawman Solution, which is based on some of these recommendations and additional input from other ICANN stakeholders, is a positive step toward improving the implementation of the Trademark Clearinghouse. Key features of the Solution are likely to reduce the incidence of cybersquatting and online deception of Internet users. This would be a positive improvement to the new gTLD program.

We also support the LPR proposal as an additional implementation enhancement that is likely to reduce cybersquatting and online deception without adversely impacting the interest of legitimate domain name users. This proposal is a modest and workable approach to the concept of a "do not sell" list, which we previously have supported. We recommend, however, that the LPR process be available at cost during any sunrise registration period and apply across all gTLDs going forward as well as during general registration.

AIPLA appreciates the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey I.D. Lewis". The signature is written in a cursive, flowing style.

Jeffrey I.D. Lewis
President
American Intellectual Property Law Association