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January 15, 2013

VIA EMAIL ONLY (tmch-strawman@icann.org)

Mr. Fadi Chehade President and CEO ICANN 12025 Waterfront Drive Suite 300 Los Angeles, CA 90094-2536

Re: Comments on Rights Protection Mechanisms and the "Strawman" Solution

Dear Mr. Chehade:

Verizon appreciates the opportunity to submit comments to ICANN on the need for additional Rights Protection Mechanisms ("RPMs") and to comment on the proposed "Strawman Solution." Verizon was pleased to participate in person in the recent meetings with other stakeholder representatives to discuss the Trademark Clearinghouse and the need for additional important RPMs. We are especially appreciative of ICANN's recognition of the need for adequate and effective RPMs to address the increasing threats of consumer fraud, cybersquatting and other abuses that will inevitably occur after the rollout of the new gTLDs.

Verizon supports many of the specific ideas in the Strawman proposal, which will be discussed in greater detail below. We note, however, that the Strawman solutions are modest at best and as currently drafted do not go far enough to prevent and deter cybersquatting, fraud and abuse across the new gTLDs. The two key priority remedies, as outlined in the Consensus Position of the BC and IPC were (1) implementing 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; and (2) completing the URS as a low cost alternative and improving its usefulness. On the overarching issue of whether any particular remedy should be characterized by ICANN as "implementation" or "policy," we observe that these terms can be used, depending on whether stakeholders like or dislike a particular proposal, as a procedural foil to delay improvements or thwart constructive changes from taking place inside the ICANN process. The bottom line is that even if any solutions are ultimately deemed "policy," they must be placed on an expedited working group track that addresses the concerns fully before the rollout of any new gTLDs. In the past, ICANN has shown itself adept at making sure that other important fixes were made quickly to its own processes. One example is ICANN's recent decision, without a PDP, to switch to the "Prioritization Draw" as implementation for the new gTLD rollout. Other examples include the original rights protection mechanisms, such as the Sunrise period and original Trademark Claims processes, both of which originated with the

ICANN Board. Since ICANN's Applicant Guidebook allows for (and in fact anticipates) substantive changes that may indeed occur, the additional solutions discussed herein are reasonable changes that should be made before the rollout of any new gTLDs.

We note at the outset that one of our key priorities, which was also listed as a key priority by the IPC and BC Working Group, was amending the URS. We understand that the URS will be addressed by ICANN on a separate track than the Strawman proposal and that vendors have bid on implementing it as a low cost solution. This is an excellent first step and we intend to comment further when we learn more. We would note for now that it is important that the URS be structured as an effective remedy that can actually address cybersquatting without imposing unintended consequences on the parties who choose to use it. In the past, Verizon advocated amending the URS to (1) include a transfer remedy that will provide brand owners with the ability to avoid perpetual monitoring obligations and reduce the risk of a domain name later falling into the hands of another cybersquatter; (2) lower the standard of proof from onerous clear and convincing evidence to a more reasonable preponderance of the evidence as in the UDRP; (3) removing any requirement that a URS provider make any substantive determination about how a trademark owner is "using" its mark; and (4) implement a real "loser pays model" that applies regardless of how many domain names one registers in bad faith. The IPC and BC Working Group proposed many similar changes to the URS, including (1) a permanent suspension remedy and (2) a loser pays model. The working group also envisioned that the separate and ongoing extended claims notice be acknowledged by the registrant. Such acknowledgement could be used in the URS as proof of clear and convincing evidence of bad faith. Verizon supports all of these changes. As we have noted in the past, without such changes, many brand owners will not be able to use the URS and will be left with the UDRP or possible ACPA suit – expensive remedies that do not scale to combat the number of infringements from cybersquatters, registrars and registries located throughout the world.

The other key priority, the Limited Preventative Registration ("LPR") Solution, remains a top priority. The LPR and URS reforms were listed as the top two priorities for a reason. The LPR is the only remedy on the front end that can protect trademark owners' exact mark "crown jewels" in a low cost manner across the new gTLDs. Similarly, on the back end, the URS was the only new remedy that could address widespread cybersquatting, fraud and abuse in a low cost and efficient manner. It is important to note that without the LPR, trademark owners are left with the extortive and unmanageable costs of registering defensively across more than 1000 new gTLDs. ICANN has always stated that the underlying reason for introducing new gTLDs was to promote choice and innovation. Registries who are banking on driving defensive registrations during the highly profitable Sunrise period are not engaging in the kind of pro-competitive, innovative behavior that ICANN envisioned as its policy justification for such a wide-scale expansion. No trademark owner or consumer should be forced to buy resolving domain names they neither need nor want.

By way of background, Verizon historically advocated for a "Do Not Register" list at the top and second levels. ICM Registry already offers a variation of this remedy today at the second level. Some new gTLD applicants indicate that they intend to offer this kind of solution to brand owners as a profitable "product," especially given that a registry will be paid for the act of not registering a

domain name. Verizon proposed a small one-time fee to opt out from having one's trademark included across all the gTLDs and suggested the list of trademarks would be maintained by the Trademark Clearinghouse. We had also proposed, in the case of disputes, an administrative process (loser pays model) similar to the UDRP, where a party could challenge a particular name on the list.

The proposal for the LPR, however, represents a much narrower mechanism than the solution Verizon originally proposed. We believe, however, that the LPR is a reasonable compromise and one that at least provides some form of protection for exact matches of important trademarks. The LPR is further limited in that it only applies to trademarks that are entered in the Trademark Clearinghouse and those that already meet the existing Sunrise requirements. The LPR only kicks in after the initial Sunrise period ends, meaning that the remedy does not prevent other applicants with the same or similar trademarks from registering during the Sunrise period. The resulting non-resolving registration only lasts for a period of 5 years. The remedy was specifically crafted to exclude any name subject to a finding of reverse domain name hijacking. Although the LPR represents only a partial solution (it will not, for example, prevent cybersquatting on the tens of thousands of variations and misspellings of trademarked names), it provides at least one small but important assurance to the community that key brands will be protected in a reasonable and low cost manner.

It makes little sense to oppose the LPR when the current first come, first served registration system makes domain names readily available to anyone with no protections and at a higher cost. We understand that certain registries and registrars are concerned about the LPR cutting into their profit model of recurring revenue for ongoing registrations (vs. the more reasonable charge for a nonrecurring registration), but the financial need to gouge trademark owners does not drive innovation or protect consumers. Nor should ICANN permit blatant attempts to profit from consumer confusion when the LPR offers a reasonable way to eliminate that confusion and still provides some reasonable compensation to registrars and registries. The bottom line is that Internet users will only be further confused in the expanded domain name ecosystem by millions of defensively registered domain names which resolve to webpages that contain no content or are simply duplicates of existing gTLD spaces. Regardless of the process used to adopt the LPR, we urge ICANN to implement this critical solution before the rollout of any new gTLDs.

Turning back to the Strawman Proposal, we are deeply appreciative of the time and effort that went into the talks leading to these ideas. The proposal to add a 30 day extension to the Sunrise period is a minor change but makes sense. From a brand owner's perspective, it simply represents 30 more days to figure out whether to use corporate dollars to register defensively across multiple new gTLDs. As stated earlier, the ultimate goal is to provide remedies that do not require brand owners to register defensively. Ideally, the driver behind a decision whether to register in a new gTLD should be innovation, not whether to register defensively in a short window of time.

Likewise, the decision to extend Trademark Claims service from 60-90 days is a minor improvement and should not be an area for controversy. Verizon, however, strongly supports the original Consensus Position of the BC and IPC, which had proposed extending the Claims Notices

for an indefinite period. The decision to extend the initial trademark claims by 30 days means that this remedy now lasts only 90 days when cybersquatting, fraud and abuse continue indefinitely. The notices sent during this 90 period might deter some, but we see the need for improvement in the current wording to ensure the notice is both informational and can deter bad actors. We note, however, that deterring bad actors begins with improving existing registrar sales practices. ICANN –accredited registrars currently employ misleading uses of "domain name spinners" to offer the public names for sale (some are shown as "on sale"), including variations of trademarked names. Registrars often suggest to consumers variations on trademarks that are readily "available" and tout reasons as to why such variations should be registered without warning consumers of the potential trademark infringement risks associated with their suggestions. Registrars should warn potential registrants who search for a new domain name using a domain name spinner search tool that the name they are searching may be similar to a third party's trademark and have them acknowledge when registering a domain name that they are not violating the trademark rights of third parties. Examples of the misleading uses of domain name spinners from various registrar websites are attached.

We do not agree with the idea of a bifurcated claims process that sends an effective notice for the first 90 days and ends with an ineffective notice sent 6-12 months thereafter. After 90 days, the Claims 2 proposal shifts all costs to the trademark owner. The bottom line is that the trademark owner must pay to send a weaker, more generic type of notice to registrants. Supposedly, the purpose of this Claims 2 notice is to address innocent infringers. We disagree with the premise. In our experience, the large majority of those who register variations and misspellings of Verizon trademarks are cybersquatters. We find no data to show that the bad faith cybersquatters register only during the first 90 days and then innocent infringers register domain names after that time. As mentioned above, the best way to deter innocent registrants is via improvements to the registrars' initial website sales practices.

Verizon could support a Claims 2 period and even agree to pay a reasonable, revenue neutral fee for such a service, but only with several important changes. The wording of the Claims 2 notice should be the full claims notice, including the same Trademark Clearinghouse data that triggers a Claims 1 notice during the first 90 days. The Claims 2 notice should also include the acknowledgement required for potential registrants. Without an effectively worded notice or acknowledgement by the registrant, the value of paying for thousands of generic and weakly worded notices across hundreds of new gTLDs for multiple variations of trademarks makes little sense. The weaker notice will not be enough to deter bad conduct, and in any case, none of notices sent during the first 90 days or during the Claims 2 period actually prevent anyone from registering a domain name. We question why the Claims 2 period artificially ends after 6-12 months, when cybersquatting, fraud and abuse continue indefinitely. If there is a cost for a Claims 2 notice, it should be revenue neutral. Registrars and registries should not be able to monetize the Claims notices as yet another "service." Consistent with these comments, Verizon could support the "enhanced" Trademark Claims Service, which permits recording up to 50 domains that have previously been abusively used or registered. Cybersquatters by definition register variations of trademarks intentionally, targeting specifically those variations that drive the most traffic. Verizon sees little problem identifying and proving a large number of our trademark variations that courts

or URDP panels have shown were registered in bad faith. We note, however, that trademark owners should not bear the expense and burden of paying for an ineffective and generic Claims 2 notice, for any trademarks, much less 50 variations. The Enhanced Claims service only becomes an effective remedy for the trademark community if the wording of the information sent and the acknowledgement requirement are the same for Claims 1 and Claims 2 notices.

Finally, we are concerned that some ICANN-accredited registrars have already begun to offer misleading services to the public, advertising that registrants can "pre-register" domain names in the new TLDs. Such pre-registration services are, at a minimum, premature and demonstrate how registrars are eager to sell extensions that have not been vetted or approved through the ICANN process, only further adding to customer confusion.

We hope these comments will be viewed as constructive and helpful. Please know that we are deeply appreciative of ICANN's continuing good faith efforts to address these important concerns. Our prior stakeholder meeting in LA was a good start, but we suggest that further discussions are still required to iron out workable and practical solutions before new gTLDs are introduced.

Thank you again for the opportunity to provide these comments. Please feel free to contact me with questions or to discuss any of the comments in further detail.

Sincerely,

rech B. Jeubel Sarah B Deutsch

Sarah B. Deutsch

Vice President & Deputy General Counsel

Exhibit A

Login

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New Domains. New Opportunities.					

Search result

Please select the domain names you wish to pre-register:

Domain Name		Availability	Price	Shopping cart
verizon.today	(+) Add to Wait List	NOT AVAILABLE	\$0.00	Domain Name Click results to select
verizon.web	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.shop	(+) Add to Wait List	NOT AVAILABLE	\$0.00	Instant Search
verizon.site	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.hotel	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.music	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.nyc	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.film		AVAILABLE	\$0.00	
verizon.eco		AVAILABLE	\$0.00	
verizon.berlin	(+) Add to Wait List	NOT AVAILABLE	\$0.00	
verizon.sport		AVAILABLE	\$0.00	
Check more New gTLD	s (90+)		select all	

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Generic Top Level Domains

.asia .biz .co .com .info .mobi .name .net .org .xxx

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Country Code Top-Level Domains

.ac .ag .am .at .be .bz .ca .cc .ch .cm .co.uk .cx .de .eu .fm .fr .gd .gl .gy .hn .im .io .la .lc .li .me .mg .mn .ms .mx .nl .pm .re .sc .sg .sh .tc .tf .tv .tw .us .vc .vg .wf .ws .yt

New Generic Top-Level Domains

City New gTLDs

.amsterdam .bcn .berlin .boston .brussels .gent .hamburg .koeln .london .madrid .melbourne .moscow .miami .nagoya .nyc .okinawa .osaka .paris .quebec .roma .ryukyu .stockholm .sydney .tokyo .vegas .wien .yokohama

Geographic & Cultural New gTLDs

.africa .arab .bayern .bzh .cymru .kiwi .nrw .saarland .scot .vlaanderen .wales

Generic & Functional New gTLDs

.archi .adult .app .bar .bio .bike .blog .book .business .buy .car .chat .city .cloud .cool .date .deal .design .digital .earth .eco .eus .free .gay .green .hiv .holiday .horse .film .gmbh .hotel .immo .irish .live .lol .love .luxe .law .media .med .mobile .money .mls .music .news .ngo .one .online .party .phone .pics .pizza .play .poker .porn .radio .reise .rip .rocks .rugby .sale .secure .sex .shop .shopping .site .ski .surf .sport .store .sucks .taxi .team .today .tour .versicherung .video .vin .vip .voting .web .wiki .wine

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United Domains, Inc is part of United Internet Group with well-known brands such as 1&1, fasthost, GMX and Sedo.com, employing over 4,500 people in North America and Europe.



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New Top Level Domains (new gTLDs)

Today there are just a few generic top-level domains, for example: .com, .net, .org and .info. But ICANN is planning to open the door to potentially hundreds of generic new extensions such as .eco, .nyc, or .shop. We are now accepting preregistrations for new top-level domains / new domain extensions.

United Domains

We have over ten years of expertise in domain name registration, offering over 170 top-level domains worldwide. The United Domains Group includes United Domains Inc. (Cambridge, MA) and the ICANN accredited registrar united-domains AG (Starnberg, Germany).

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Premium Domains You May Want

Why should I register these?

	Domain	Price
Add	ERRS.com	\$28,000.00
Add	VeGe.co	\$600.00
Add	ErrW.com	\$3,988.00
Add	VeOh.org	\$645.00
Show more	like this	

Country/Region Specific Domains That May Interest You

Why should I register these?

	Domain	Price
Add	VERRIZZON.COM.AU	\$14.99/yr

Show all opt	ions	
Add	VERRIZZON. MX	\$49.99/yr
Add	VERRIZZON.ORG.AU	\$9.99/yr
Add	VERRIZZON. NET.AU	\$14.99/yr

Pricing

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	Domain		First Year Price	Privacy Available
Add	.COM	The most popular domain! Do you have yours?	\$14.99* \$9.99*	Yes
Add	. <u>co</u>	Global, credible and recognizable!	\$29.99 \$9.99	Yes
Add	.INFO	Put your information on the Web.	\$11.99*FREE with .COM or .CO^^^	Yes
Add	.NET	The perfect complement to a .COM.	\$14.99*\$9.99 *	Yes
Add	.ORG	Perfect for your non-profit.	\$16.98* \$6.99*	Yes
Add	.ME	A domain that's all about YOU.	\$19.98 \$9.99	Yes
Add	.MOBI	Give customers on-the-go access to your site.	\$17.98* \$9.99*	Yes
Add	.US	Get your hands on the all-American domain.	\$19.98 \$3.99	No
Add	.BIZ	A domain that means business.	\$14.99* \$5.99*	Yes
Add	.CA	The domain for Canada.	\$12.99	No
Add	.cc	There's only one domain for the Cocos Islandscc.	\$19.98	Yes
Add	. <u>TV</u>	A popular domain for multimedia websites.	\$39.99	Yes
Add	.xxx	For all of your adult needs	\$99.99*	Yes
Add	.WS	An all-purpose website domain.	\$14.99	Yes
Add	.ASIA	Reach the growing Asian market.	\$19.98* \$5.00*	No

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	is subject to express	terms of use. By using this s	site, you signify that you agree to Legal Privacy main name registrar for .COM, N	/ Policy		revised November 9, 2012.

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	Domain	Price
Add	Verizon-Wire-Les-Ss.com	\$14.99*
Add	VerizonBusinessWireLesSs.com	\$14.99* \$9.99*
Add	VerizonMobileWireLesSs.com	\$14.99* \$9.99*
Add	VerizonCloudWireLesSs.com	\$14.99* \$9.99*
Add	VerizonLineLesSs.com	\$14.99 * <mark>\$9.99</mark> *
Add	VerizonLinkLesSs.com	\$14.99* \$9.99*
Add	VerizonConnectionLesSs.com	\$14.99* \$9.99*
Add	VerizonCableLesSs.com	\$14.99* \$9.99*
Add	Verizon-Line-Les-Ss.com	\$14.99 * \$9.99*
Add	Verizon-Link-Les-Ss.com	\$14.99 * <mark>\$9.99</mark> *
Add	Verizon-Cable-Les-Ss.com	<mark>\$14.99*</mark> \$9.99*

Premium Domains You May Want

Why should I register these?

	Domain	Price
Add	SSSSolutions.com	\$382.00
Add	VoipWireLesSs.com	\$100.00
Add	SssHome.com	\$4,488.00
Add	LesCables.com	\$1,095.00
Show more	like this	

Country/Region Specific Domains That May Interest You

Why should I register these?

	Domain	Price
Add	VERIZONWIRELESSS.COM.AU	\$14.99/yr
Add	VERIZONWIRELESSS.NET.AU	\$14.99/yr
Add	VERIZONWIRELESSS.ORG.AU	\$9.99/yr
Add	VERIZONWIRELESSS. MX	\$49.99/yr
Show all opt	tions	·

Pricing

	Domain		First Year Price	Privacy Available
Backorder	.COM	The most popular domain! Do you have yours?	\$20.98	Yes
Add	.co	Global, credible and recognizable!	\$ <u>29.99</u> \$9.99	Yes
Add	.INFO	Put your information on the Web.	\$11.99*FREE with .COM or .CO^^^	Yes
Backorder	.NET	The perfect complement to a .COM.	\$20.98	Yes
Add	.ORG	Perfect for your non-profit.	\$16.98* \$6.99*	Yes
Add	.ME	A domain that's all about YOU.	\$19.98 \$9.99	Yes
Add	.MOBI	Give customers on-the-go access to your site.	\$17.98* \$9.99*	Yes
Add	.US	Get your hands on the all-American domain.	\$ 19.98 \$3.99	No
Add	.BIZ	A domain that means business.	\$14.00* \$5.99*	Yes
Add	.CA	The domain for Canada.	\$ 12.99 \$10.99	No
Add	.cc	There's only one domain for the Cocos Islandscc.	\$19.98	Yes
Add	. <u>TV</u>	A popular domain for multimedia websites.	\$39.99	Yes
Add	.xxx	For all of your adult needs	\$99.99*	Yes
Add	.WS	An all-purpose website domain.	\$14.99	Yes
Add	.ASIA	Reach the growing Asian market.	\$19.98* \$5.00*	No

*,***,†,††,+,++,^^,^^^ Click here for product disclaimers and legal policies

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Create Account	Go Daddy Gear	Affiliates	User Groups	Marketing Opportunities	Android Application	Go Daddy Canada
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eNom - domain name, web site hosting, email, registration

