



By Email to "tmch-strawman@icann.org"

Internet Corporation for Assigned Names and Numbers (ICANN)
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094-2536
USA

Brussels, January 14, 2013.

Dear Mr Chehadé,

Re: Comments Regarding Limited Preventative Registrations and the Trademark Clearinghouse "Strawman" Solution

The World Federation of Advertisers (WFA) and its 50 national associations⁽¹⁾ are providing comments to ICANN regarding Limited Preventative Registrations (LPRs) and the Trademark Clearinghouse "Strawman" proposal. This letter is also co-signed by : the European Association of Communications Agencies (EACA), the European Publishers Council (EPC), the Federation of European Direct and Interactive Marketing (FEDMA), and the Internet Advertising Bureau Europe (IAB Europe).

We appreciate the efforts that led to the Strawman proposal, but they are insufficient to address the dangers that consumers and brandowners face due to dangerously inadequate rights protections mechanisms (RPMs) for new gTLDs.

Unfortunately, the most critical element (the Limited Preventative Registrations proposal) for the proposed RPM solutions has not been included in the "Strawman" option. We are writing to strongly support the comments filed by the Association of National Advertisers stating that LPRs are essential and must be adopted by ICANN as part of any adequate RPM solution. The reason for this is simple: **an effective LPR mechanism is the only current or proposed RPM that in any way will resolve the critical problem of defensive registrations in the new Top Level Domain (gTLD) framework.**

Defensive registrations are a huge burden on brandowners in the current Internet environment, which involves only 22 gTLDs. In order to protect consumers and their reputations, brandowners today are forced to acquire unwanted "defensive registrations" solely to keep domain names out of the hands of those who would abuse them. Even in the current limited domain environment, there are brandowners with tens of thousands of domain names in their domain portfolios – most of which are defensive registrations. The costs involved with these defensive registrations go straight to the bottom line, resulting in higher prices to consumers, less innovation, less money available for employee wages and bonuses, and/or decreased earnings. The only winners in the defensive registration environment are the domain name registrars and registries.

As new gTLDs are introduced, the defensive registration problem will quickly become unmanageable, as ICANN intends to increase from 22 gTLDs to nearly 1000 gTLDs – a 6000% increase! It will literally be impossible for brandowners to keep up with this onslaught – or to pay for all the defensive registrations they will need to acquire across these new gTLDs to protect consumers and their investments. Businesses will need to increase spending by nearly *50 times* in order to keep pace; no company, large or small, can afford such an increase. On the other hand, if they do not make these expenditures, the number of domains using their trademarks potentially to trick, trap and rip off consumers will skyrocket – harming consumers as well as the reputation and goodwill of the brandowner. In addition, the procedural challenges to confront these potential harms are daunting, as some estimate that as many as 20 new domains will be introduced each week.

ICANN so far has suggested no feasible way to deal with this enormous challenge. Consequently, the LPR approach must be adopted, as it provides an avenue to acquire domain name registrations necessary for consumer protection purposes, but which are not needed for communications purposes.

With LPRs, brandowners will be able to register these domains for what we expect to be a fair price using a manageable procedure. In our view, LPRs strike a fair balance between the needs of consumers, brandowners and registrars/registries.

Without LPRs, brandowners are left with a terrible choice: either they must expend huge sums to pursue defensive registrations across nearly 1000 new gTLDs, or risk exposing their customers and other Internet users to fraud and abuse, all the while threatening the health of their brands. This cannot be ICANN's intention.

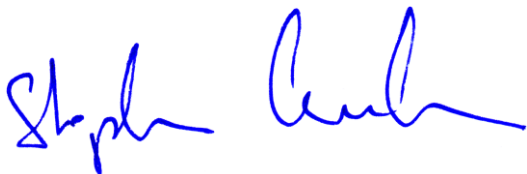
Further, procedural arguments must not be permitted to minimize the problems merely to protect registry and registrar interests; instead ICANN, and in particular the GNSO, should be a steward of the Internet and realize that LPRs protect the entire Internet community by providing credibility and balance. In the long run, this will benefit all Internet stakeholders.

Of course, the LPR is a limited protective measure that is intended to operate best in a strong array of ICANN protections. For consumer and brand protection to operate effectively on the web, we need: (1) the LPR, (2) a reliable and accurate WHOIS database, (3) a strong Uniform Rapid Suspension (URS) system with a lower burden of proof and a domain transfer right, and (4) an empowered ICANN compliance department that will diligently pursue wrongdoers. We understand that the other items in this list are being addressed in separate proceedings, but it is important to recognize that the LPR will operate best if it is supported by other reforms that will protect consumers and improve brand policing on the web.

We do not believe that the Strawman proposal as it stands provides truly meaningful protections to brandowners. While some of the proposed changes may be desirable, only LPRs are essential and will provide the needed protection for brandowners and consumers. Critically, none of the Strawman proposals stop cybersquatters, and none of these proposals operate in the long-term. Only LPRs provide long-term solutions that stop problems before they can occur.

We strongly urge the GNSO specifically and ICANN generally to heed the concerns of brandowners and adopt LPRs. Without them, the damage to consumers and businesses will be tremendous – all to the benefit of cybersquatters and other bad actors who will take advantage of the new gTLD environment. ICANN, including the GNSO, must do the right thing and protect all of us from such a future.

Sincerely yours,



Stephan Loerke
WFA Managing Director

1 Argentina, Australia, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Russia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, United Arab Emirates, United Kingdom, United States of America, Uruguay and Venezuela.



WFA national associations:

Argentina

Luis Mario Castro
President
Camara Argentina de Anunciantes

Belgium

Chris Van Roey
Chief Executive Officer
Union Belge des Annonceurs

Bulgaria

Rossen Missov
Executive Director
Bulgarian Association of Advertisers

Chile

Mario Davis
President
Asociación Nacional de Avisadores Chile

Colombia

Carlos Delgado Pereira
President
Asociacion Nacional de Anunciantes de Colombia

Czech Republic

Jan Levora
Executive Director
Czech Association for Branded Products

Finland

Ritva Hanski-Pitkäkoski
Managing Director
Mainostajien Liitto

Germany

Joachim Schütz
Chief Executive Officer
Organisation Werbungtreibende im Markenverband

Guatemala

María Ofelia Elías Gil
Executive Director
Advertisers Association of Guatemala

India

Hara Harakrishnan
Secretary General
Indian Society of Advertisers

Australia

Alina Bain
Acting Chief Executive Officer
Australian Association of National Advertisers

Brazil

Rafael Sampaio
Executive Vice President
Associação Brasileira de Anunciantes

Canada

Ronald Lund
President and Chief Executive Officer
Association of Canadian Advertisers

China

Hou Yunchun
President
China Association of National Advertisers

Cyprus

George Evripiotis
President
Cyprus Advertisers Association

Denmark

Otto Christiansen
Director General
Dansk Annoncoerforening

France

Gérard Noël
Vice President & Director General
Union des Annonceurs

Greece

Gregory Antoniadis
Chairman
Hellenic Advertisers Association

Hungary

Zoltan Fekete
Secretary General
Hungarian Branded Goods Association

Indonesia

Sancoyo Antarikso
Secretary General
Indonesia Advertisers Association

**Ireland**

Ed McDonald
Chief Executive
Association of Advertisers in Ireland

Italy

Giovanna Maggioni
Director General
Utenti Pubblicità Associati

Malaysia

Jacob Matthews
Director
Malaysian Advertisers Association

Netherlands

Helen Faasse
Director
Bond van Adverteerders

Nigeria

Kola Oyeyemi
President
Advertisers Association of Nigeria

Pakistan

Qamar Abbas Rawalpindiwalla
Executive Director
Pakistan Advertisers Society

Paraguay

Carlos Biedermann
President
Camara de Anunciantes del Paraguay

Philippines

Digna Santos
Executive Director
Philippine Association of National Advertisers

Russia

Fyodor Borisov
Chief Executive Officer
Russian Association of Advertisers

Slovakia

Dusan Plesko
Director
Slovak Association for Branded Products

Israel

Talma Biro
Chief Executive Officer
The Israel Marketing Association

Japan

Tatsuo Fujikawa
Senior Executive Director
Japan Advertisers Association

Morocco

Sophia Jalal
President
Groupement des Annonceurs du Maroc

New Zealand

Lindsay Mouat
Chief Executive Director
Association of New Zealand Advertisers

Norway

Jan Morten
Managing Director
Norwegian Association of Advertisers

Panama

Roberto E. Diaz
Executive Director
Asociación Nacional de Anunciantes Panama

Peru

Rodolfo León
Executive Director
Asociación Nacional de Anunciantes Peru

Portugal

Manuela Botelho
General Secretary
Associação Portuguesa de Anunciantes

Singapore

Lily Tay
Executive Director
Singapore Advertisers Association

Slovenia

Barbara Krajnc
Director General
Slovenian Advertising Chamber

**South Africa**

Lovemore Mushayanyama
Executive Director
The Marketing Association of South Africa

Sweden

Anders Ericsson
Managing Director
Sveriges Annonsörer

Turkey

Didem Kayadelen
Managing Director
Advertisers Association of Turkey

United Kingdom

Mike Hughes
Director General
Incorporated Society of British Advertisers

Uruguay

Nelson Barreto
President
Camara de Anunciantes de Uruguay

Spain

Juan Ramon Plana
Director General
Asociación Española de Anunciantes

Switzerland

Roger Harlacher
President
Association of Swiss Advertisers

United Arab Emirates

Fadi Ghosn
Chairman
Advertisers Business Group

United States of America

Robert Liodice
President & Chief Executive Officer
Association of National Advertisers

Uruguay

Nelson Barreto
President
Camara de Anunciantes de Uruguay