

January 15, 2013

By Email to “tmch-strawman@icann.org”

ICANN

12025 Waterfront Drive, Suite 300

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

National Retail Federation submits these comments to ICANN to support the Limited Preventative Registrations (LPRs) and the Trademark Clearinghouse “Strawman Solution.” We appreciate the efforts that led to the “Strawman Solution,” and the inclusion of the LPRs is another important mechanism necessary to address the risks that consumers and retailers face with the introduction of the new gTLDs.

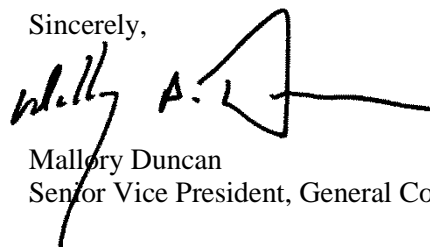
The new gTLDs present a serious challenge to retailers as they attempt to protect their intellectual property and their customers from the increased access bad actors will have to secondary domains in the new gTLD system. NRF supports the inclusion of additional rights protection mechanisms across all open, generic applications for trademark owners including both the “Strawman Solution” and LPRs. With an effective LPR mechanism addressing the critical problem of defensive registrations across multiple new gTLD registries, we hope to be able to register these domains for what we expect to be a fair price using a manageable procedure.

As the world’s largest retail trade association and the voice of retail worldwide, NRF’s global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the United States and more than 45 countries abroad. In the U.S., NRF represents an industry that includes more than 3.6 million establishments and which directly and indirectly accounts for 42 million jobs – one in four U.S. jobs. The total U.S. GDP impact of retail is \$2.5 trillion annually, and retail is a daily barometer of the health of the nation’s economy.

Defensive registrations are a huge burden on retailers in the current Internet environment, and this burden will only increase as the number of operational gTLDs is increased from 22 to nearly 1000. In order to protect their trusted relationship with their customers, retailers today could be forced to acquire unwanted defensive registrations solely to keep domain names out of the hands of those who would abuse them.

Retailers are frustrated by the number of defensive registrations they must pay for and maintain in the current system to protect their brands from bad actors. This burden will only increase with the rollout of new gTLDs. Local and national retail brands alike are evaluating how to proceed in this new landscape to protect their brands and help their customers reach their genuine website(s). A concept such as the LPRs should be included in the “Strawman Solution,” and while the final details of any proposal will be evaluated on its merits, the LPR process as outlined, if properly implemented, offers the potential to make these defensive registration challenges more manageable for retailers and their customers.

Sincerely,



Mallory Duncan
Senior Vice President, General Counsel