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15/1/2013

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

On behalf of the American Apparel & Footwear Association (AAFA), the national association representing apparel and footwear companies and their suppliers, we appreciate this opportunity to provide comments to ICANN regarding the Trademark Clearinghouse “Strawman” proposal. Over the last several months, we have been encouraged by ICANN’s recent efforts to understand the challenges brandowners face under an expanded gTLD regime. We are grateful for the work that went into the Strawman proposal, but fear that they may not effectively address the dangers that consumers and brandowners may still encounter as a result of inadequate rights protections mechanisms (RPMs) in the new gTLD system.

Defensive registrations already pose a large financial burden on brandowners in the current regime that has only 22 gTLDs. In order to protect consumers and their reputations, brandowners today must expend money to purchase unwanted web addresses to keep domain names out of the hands of those who would abuse them. The costs involved with these defensive registrations go straight to our members’ 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. We believe that ICANN should include Limited Preventative Registrations (LPRs) as an RPM solution in the “Strawman” option. Under the LPR system, a trademark holder can obtain a 5-year inactive registration, which would not resolve to any active page, but merely to a registry-controlled landing page with a simple legend such as “Domain Registered Pursuant to Limited Preventative Registration.” Legitimate right holders with the same trademark are not pre-emptively excluded from registering any string. LPRs are critical to affirmatively offer a low-cost solution to the critical problem of defensive registrations in the new Top Level Domain (gTLD) framework.

This rapid increase in registrations will make enforcement of cybersquatters impossible for brandowners and the costs associated with defense registration will be unmanageable. As the number of counterfeit domains using our members’ trademarks skyrockets, counterfeiters will have free reign to fool consumers into buying fake and potentially unsafe products.

We are pleased with the addition of a thirty-day notice requirement in advance of each new gTLD sunrise period to facilitate brand owner awareness of new gTLDs. We further appreciate the requirement of all new gTLD operators to publish the dates and eligibility requirements of their sunrise periods. We note the extension of the trademark claims service duration, but believe that the claims service should run indefinitely to ensure that cybersquatters are not rewarded for avoiding getting caught after expiration of a 60- or 90-day clock.

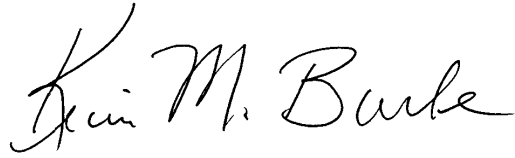
We thank you for this opportunity to submit comments and look forward to working with you to ensure an Internet ecosystem that enable freedom and choice,

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while simultaneously protecting consumers from access to potentially harmful products. Should you have any questions, please do not hesitate to contact me or Michael McDonald at AAFA at (703) 797-9052 or mmcdonald@wewear.org.

Respectfully,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive style with a large, stylized initial "K".

Kevin M. Burke

President and CEO