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

ICANN

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

Adobe Systems Incorporated ("Adobe") is providing comments to ICANN regarding Limited Preventative Registrations (LPRs) and the Trademark Clearinghouse "Strawman" proposal. While we appreciate the efforts by ICANN that led to the Strawman proposal, we believe they are insufficient to address the dangers that consumers and brand owners face due to dangerously inadequate rights protections mechanisms (RPMs) for new gTLDs.

Specifically, the most critical element for the proposed RPM solutions - the LPRs proposal - has not been included in the "Strawman" option. We are writing in support of 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.**

Adobe, like most companies that do business worldwide on the Internet, devotes significant resources to combating Internet-based fraud and abuse to protect its brand and reputation, as well as its customers and potential customers. As part of these efforts, brand owners like Adobe today are forced to acquire unwanted "defensive registrations" solely to keep domain names out of the hands of those who would abuse them. Defensive registrations are a huge burden on brand owners in the current Internet environment, which involves only 22 gTLDs. These defensive registrations do not serve any practical business purpose and do not benefit Adobe customers, and the costs associated with their registration and upkeep are prohibitive. The only winners in the defensive registration environment are the domain name registrars and registries who profit from the income associated with these registrations and related upkeep.

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 – an increase of 6000% . It will be almost impossible for brand owners to keep up with this onslaught – or to pay for all the defensive registrations we will need to acquire across these new gTLDs to protect consumers and our investments. Spending in this area will need to increase exponentially to keep pace; no company, large or small, can afford such an increase. On the other hand, if we do not make these expenditures, the number of domains using our trademarks

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potentially to trick, trap and rip off consumers will skyrocket – harming consumers as well as our reputation and goodwill. 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. The LPR, however, provides a cost-effective mechanism for protecting brand owner rights. With LPRs, Adobe and other companies 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, brand owners and registrars/registries.

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

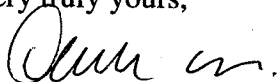
Further, procedural arguments must not be permitted to minimize the problems merely to protect registry and registrar interests; instead, ICANN, and in particular the GNSO, should be a steward of the Internet and realize that LPRs protect the entire Internet community by providing credibility and balance. 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 brand owners without the LPRs. While some of the proposed changes may be desirable, only LPRs are essential and will provide the needed protection for brand owners 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 brand owners 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.

Very truly yours,



Daniel C. Poliak  
Associate General Counsel and Assistant Secretary