



Adobe Systems Incorporated
801 North 34th Street
Seattle, WA 98103-8882
Phone 206 675.7000

November 20, 2009

Internet Corporation for Assigned Names and Numbers (ICANN)
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601

Re: **ICANN's Proposed New gTLDs**

Dear Sir/Madam:

Adobe Systems Incorporated ("Adobe") respectfully submits the following comments regarding ICANN's generic Top Level Domains proposal, specifically with regard to the updated "New gTLD Applicant Guidebook Version 3 (V3)", released on October 4, 2009.

We refer to our letters of December 12, 2008, and April 10, 2009, submitted to ICANN during the previous public comment periods, which conveyed Adobe's concern that sufficient means of trademark protection were not adequately and effectively addressed in the initial gTLDs proposal or the prior guidebooks. We find that after reviewing the 3rd Version of the Draft Applicant Guidebook (the "New Guidebook"), as well as the accompanying implementation recommendations on intellectual property protections, that this critical issue remains unresolved.

Of the recommendations put forth by the Implementation Recommendation Team (IRT) in their final report, only the requirement for a "thick" Whois database and a proposed Trademark Post-Delegation Dispute Resolution Procedure (PDDRP) are included in the New Guidebook. We understand that ICANN will seek the consensus of the Generic Names Supporting Organization (GNSO) on the proposed Trademark Clearinghouse and Uniform Rapid Suspension process (URS). However, it is unclear at this stage whether either proposal will be adopted. Specific trademark protections are still to be decided upon by ICANN's Board, leaving this overarching issue undefined.

Regrettably, the Globally Protected Marks List (GPML) — which would provide the strongest protection for trademark owners — is not included in either the Guidebook or the implementation recommendations and it appears it will not be included in further considerations. While Adobe considered the IRT Report an important step, it appears that with the New Guidebook and the implementation recommendations, ICANN is focusing on scaling back rather than expanding trademark protection for brand owners. The protections as currently proposed would not do nearly enough to alleviate the considerable burden on trademark owners seeking to prevent registration of new gTLDs that infringe on their marks.

While Adobe welcomes ICANN's additional consideration of trademark protection issues, we are concerned that ICANN is choosing only to implement incremental steps rather than robust IP protections. Adobe continues to believe that the issue of trademark protection must be comprehensively addressed before any new gTLDs are launched. Though ICANN is continuing in its efforts toward developing effective rights protection mechanisms, Adobe maintains there is much work that still needs to be done to address the concerns of trademark owners.

In addition, Adobe remains concerned that ICANN has still failed to produce either an economic feasibility study or any other independent documentation justifying the proposed implementation of the new gTLDs as well as their proposed costs. ICANN's current justification for the proposal appears to run contrary to the interests of most brand owners, who are justifiably concerned about expense, security and enforcement issues. ICANN's continued failure to address this gating issue remains a major concern for Adobe and other brand owners.

We look forward to working with ICANN and the GNSO to further identify solutions that would better address the concerns of Adobe and other trademark owners. Please feel free to contact the undersigned if you have any questions about this submission.

Sincerely,



Daniel C. Poliak
Associate General Counsel
Adobe Systems Incorporated
801 N. 34th Street
Seattle, WA 98103
Phone: 206-675-7000