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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 proposed "final version" of the "gTLD Applicant Guidebook," released on November 12, 2010.

Our previous letters submitted to ICANN in response to the initial gTLDs proposal, prior draft guidebooks, and the IRT and STI Reports, conveyed Adobe's concern that the issue of trademark protection has not been adequately addressed by ICANN. Regrettably, we find that despite the publication of a proposed "final" Applicant Guidebook (the "Final Guidebook") this crucial issue remains unresolved. We are also extremely disappointed that ICANN has apparently refused to even consider addressing or resolving this issue, despite the concerns expressed by Adobe and other brand owners in multiple letters to ICANN.

As described below, the proposed rights protection mechanisms (RPMs) contained in the Final Guidebook are significantly weaker and more limited than those initially proposed by the Implementation Recommendation Team (IRT). Moreover, Adobe contends that these proposed RPMs are both flawed and insufficient, falling far short of what is necessary to deal with the potential trademark abuse and consumer confusion that will almost certainly result from a vast expansion of new gTLDs.

First, the proposed Trademark Clearinghouse remains more of a database than a true rights protection mechanism, and retains the severe limitation of only considering "identical matches" to trademarks. The Uniform Rapid Suspension System (URS) still only temporarily suspends a domain with no option provided for a permanent transfer. In addition, the Globally Protected Marks List (GPML), a proposal contained in the IRT Report which would provide the strongest protection for trademark owners, is completely excluded from the Final Guidebook.

Moreover, Adobe contends that the Final Guidebook, as currently constituted, does not provide sufficient means of trademark protection and that this issue must be

comprehensively and effectively addressed by ICANN before moving forward. As it is apparent that much work still remains to be done in this area, we would urge ICANN to depart from their proposed timetable and take the time necessary to address not only the issue of trademark protection but other overarching issues that remain unresolved.

Specifically, Adobe remains concerned that ICANN has still failed to produce an economic study evaluating the potential costs of the proposed new gTLDs against the potential benefits. The U.S. Department of Commerce called for such an economic analysis of the proposal in December 2008, and ICANN has yet to produce such an analysis. Adobe joins with the U.S. Department of Commerce Assistant Secretary, Lawrence Strickling, in reiterating this call for ICANN to perform the necessary economic studies and to “answer the threshold question whether the benefits of expansion outweigh the costs.” Given the current world economic climate, and the almost universal position of brand owners that such gTLDs are unnecessary, ICANN should be required to produce a complete and accurate study of the need for new gTLDs before moving irreversibly down the path to new gTLD adoption.

With the overarching issues of trademark protection and the economic costs and benefits remaining unresolved, we contend it is premature to finalize the Guidebook and to proceed with the launch of the new gTLD proposal along the timeline as currently constituted.

Adobe thanks you for your time and attention to this matter. We look forward to working with ICANN 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,

A handwritten signature in blue ink, appearing to read "Daniel C. Poliak", with a long horizontal flourish extending to the right.

Daniel C. Poliak  
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