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Inter IKEA Systems B.V. comment on closed generic gTLDs

Dear Sirs,

My name is Martin Broden and I work as a corporate lawyer for Inter IKEA Systems B.V., the owner and franchisor of the IKEA Retail System including the IKEA trademarks and the IKEA domain names. We have been following closely ICANN's plans for the launch of new gTLDs.

We are deeply concerned with the current form of ICANN's regulatory framework which would grant individual companies the exclusive rights to gTLDs consisting of descriptive terms, thereby denying other parties the ability to register sub-domains under those descriptive term and granting individual companies a monopoly over critical internet navigational pathways.

We see several reasons why ICANN's proposal with respect to closed generic gTLDs ought to be brought back to the drawing board.

Preventing others from registering under descriptive gTLDs means restriction of competition to the detriment of consumers. The current proposal is contrary to ICANN's intention with the launch of new gTLDs, namely to broaden the domain name space and to spur competition for the benefit of all.

The high costs of securing a gTLD means that only those with sufficient assets will be able to register a gTLD, whilst those without sufficient funds cannot register a gTLD and are forever excluded from registering a sub-domain under a desirable gTLD. This effectively bars a large number of SMEs and individuals from taking advantage of the benefits of the new gTLD regime. ICANN's approach of allowing the highest bidder to ring fence a desirable descriptive term is undemocratic and anticompetitive. In effect, ICANN's approach is analogous to a government body building a new highway to enable efficient transport and then granting one company a monopoly to use that highway.

If ICANN's predictions about the effectiveness and popularity of gTLDs come true, then this restrictive arrangement effectively excludes many brand owners from exploiting these more effective new navigational pathways. For example, in our business (the retail home furnishing business) our inability to register under sub-domains under gTLDs consisting of interesting descriptive terms would significantly hamper our ability to take advantage of the new gTLD regime and make us less competitive.

One of the alleged benefits of having a gTLD is to secure search engine optimisation. However, where a single entity holds a registration for a descriptive term is undesirable. For example, when a user enters a descriptive term into a search engine the descriptive gTLD will likely appear at the top of the search ranking. This gives the gTLD holder a substantial competitive advantage over competitors who are unable to use the gTLD and who cannot achieve a similar ranking by using other domains containing the descriptive term.

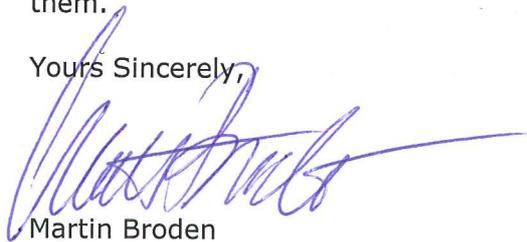
The impact of ICANN's policy on consumers is likely to be detrimental. Consumers do not typically associate a descriptive term with a particular brand. Users visiting a web site at a gTLD consisting of a descriptive term would typically expect to be presented with products or services from a number of different brands. However, if the current proposal goes forward, the consumer will be presented with a single brand offering and is accordingly more likely to purchase goods or services emanating from the holder of the descriptive gTLD.

As regards those situations where a gTLD corresponds to a trademark, we accept that the rights holder may have exclusive rights to use the descriptive gTLD for the goods and services for which they have trademark protection. However, we do not believe that a descriptive gTLD holder should be able to extend their rights beyond the scope of their trademark protection. Recognized principles of trademark law should be applied also in relation to gTLDs and trademarks must not be used to create a monopoly which is not afforded by the underlying trademark right in order to exclude interested users from benefitting from the gTLD.

We hope that you will reconsider this part of the proposal so that the new gTLDs can be launched. We see a danger in that if the current proposal is allowed, then due to contractual and financial circumstances, it would be impossible to "turn back the clock" when the negative consequences to competition become obvious.

What about applicants that have filed for generic gTLDs thinking that these could be restricted to certain groups? We believe that the only right thing is that these applicants are given an opportunity by ICANN to have the application fees refunded, or that the TLDs are run unrestricted so that everyone can benefit from them.

Yours Sincerely,



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