

6 May 2009

By email

Internet Corporation for Assigned Names and Numbers (ICANN)

Dear Sir / Madam

IRT Final Report on Trademark Protection

We have read and reviewed the Final Report on Trademark Protection in New gTLDs.

We appreciate the candid open letter from the IRT and congratulate the IRT on completing a very difficult task.

As a threshold issue, we believe there is serious doubt as to whether there is a genuine commercial need for new gTLDs. The introduction of new gTLDs will force trade mark owners to incur significant resources, even if the recommendations from the IRT are accepted.

Conversely, from another perspective there are compelling reasons that the high entry cost of the new gTLDs reduces the effectiveness of the internet as a level playing field. In all the circumstances, we consider that further analysis is warranted.

Notwithstanding this threshold issue, if new gTLDs are to be released, we generally support the IRT's proposals. We only wish to make a few comments.

The Globally Protected Marks List (GPML)

The IRT report indicates that ICANN will gather data for the purpose of settling the criteria for the GPML. Even if the criteria are less than the original threshold, we suspect that the requirement for registration across all five ICANN Regions will significantly limit qualification as a GPM.

If this data has not already been collected, we think it would be useful to know the proportion of UDRP proceedings to date that relate to "GPM type" marks and that which relate to marks / names which would not qualify for the GPML.



1 Place Patent Attorneys + Solicitors

Suite 404, 107 Walker Street
North Sydney NSW 2060
PO Box A2039, Sydney South NSW 1235
AUSTRALIA

t 02 8206 7717

f 02 9929 4051

e info@1p.com.au

w www.1p.com.au

abn 76 695 851 905

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It may be that the mischief which is sought to be addressed principally relates to non GPM marks. We respectfully suggest that this should be a factor in assessing the practical impact of the GPML and what protection should be afforded to non-GPMs.

Finally, we understand the rationale for the requirement that an application for consideration as a GPML must relate to trade marks filed on or before 1 November 2008. However, it would be helpful to know how new (that is, post 1 November 2008) trade mark portfolios (whether truly global or not) will be dealt with.

Thank you.

Yours faithfully

1 Place Patent Attorneys and Solicitors

Lance Scott

Principal Solicitor + Trade Mark Attorney

Email: lance.scott@1p.com.au