

January 26, 2010

Registrar Stakeholder Group Position on Special Trademark Issues Report

BACKGROUND

In December 2009, the Registrar Stakeholder Group (“RSG”) was asked to provide comments regarding the Special Trademark Issues Report on Trademark Protection in New gTLDs (“STI Report”). This Position Paper captures the overall sentiment expressed by the RSG Members who provided feedback about this matter. Due to time constraints, however, no formal vote regarding this Position Paper was taken.

RSG POSITION

The RSG commends the STI Working Team for its efforts publishing the STI Report under limited time constraints. The RSG generally supports the STI Report recommendations. Furthermore, the RSG specifically supports two recommendations from the STI Report.

1. Trademark Clearinghouse Should Only Be Required Pre-launch.

The Trademark Clearinghouse should be required to operate only pre-launch and not post-launch to avoid a chilling effect on registrations. The RSG further suggests that a registry should be able to voluntarily choose to employ the Trademark Clearinghouse post-launch, but this decision should be made at the discretion of the registry and not mandated.

2. Domain Name Transfer Should Not Be Allowed Under The URS.

Complainants utilizing the Uniform Rapid Suspension System (“URS”) should not have the option to receive a transfer of the domain name like successful complainants can obtain under the Uniform Domain Name Dispute Resolution Policy (“UDRP”). The URS is intended to be a quick and cost effective way for a successful complainant to takedown an infringing domain name. The URS is not designed to acquire a transfer of the domain name. By contrast, an action under the UDRP is the appropriate mechanism for acquiring a transfer of an infringing domain name. If transfer of a domain name was an available remedy under the URS then there would be no reason to have both the URS and UDRP.

Also related to this recommendation, the RSG supports the option of adding one year to the domain name registration at the request of a successful URS complainant if the complainant pays commercial rates. This option should be a one-time extension to prohibit complainants from keeping the domain name suspended indefinitely.

Finally, the RSG supports permitting the WHOIS record to be updated after a successful URS proceeding so that the original registrant's contact information is removed and the registrant WHOIS record reflects "SUSPENDED" status.

CONCLUSION

The opinions expressed by the RSG in this Position Paper should not be interpreted to reflect the individual opinion of any particular RSG Member.