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## 50 Day Window to Protect Marks From "Adult" Top-Level Domains

Recently we alerted you to the formation of a new .xxx top-level domain (TLD) for the adult industry and how trademark owners could take steps to prevent the registration of .xxx domain names that include their registered marks.

ICM Registry, the group that will operate the new .xxx TLD, has announced its final launch plans and has clarified some procedures for trademark owners outside the adult industry. The "Sunrise Period" will be open from **September 7, 2011 to October 28, 2011**. During the Sunrise Period, registered trademark owners may apply to reserve the names of their registered marks as a second-level domain to ensure their marks are not registered as part of a .xxx TLD by others. In our prior alert, we recommended that clients pre-register their marks through their current domain registry or at [domains.icmregistry.com](http://domains.icmregistry.com). If you have done this, you should receive a notice of the Sunrise Period from ICM.

If you fail to register your marks defensively during the Sunrise Period, a third party will be able to register and post adult content on a .xxx site that includes your marks as part of the domain name when .xxx TLDs become available to non-trademark owners later this year.

If, at the end of the Sunrise Period, there are no conflicting applications for the second-level domain you are trying to block, then the domain will be blocked and removed from the pool of domain names available for .xxx registration. The fees to block a .xxx TLD domain name have not been set, but it is anticipated that it will be a one-time fee of about \$300 per mark blocked.

If, during the Sunrise Period, one party applies to block a mark as a second-level .xxx domain and another party applies to register the same mark for use as a second-level .xxx domain, both parties will be notified. Under the rules established by the ICM Registry, the party attempting to register the mark for use as a second-level domain will be given priority. The procedure that will be used to resolve such disputes has not been finalized.

We highly recommend that trademark owners who are not in the adult industry defensively register their marks with the ICM Registry during the **September 7, 2011 to October 28, 2011** Sunrise Period. As a trademark owner you should be able to apply to block .xxx registration through your current domain registry as soon as the Sunrise Period opens. We remind you that this short Sunrise Period may be your only chance to ensure that your marks are not used in combination with a .xxx TLD.

If you have questions about any of the issues raised in this alert, contact [Carole Barrett](mailto:Carole.Barrett@iln.com) at 415.677.6290, [Lisa Wang](mailto:Lisa.Wang@iln.com) at 415.677.6447 or your usual Howard Rice attorney.