

Changes Coming for Domain Names: Are You Ready to "Dot" Your Brands?

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The domain name system is now poised to change dramatically based on a highly controversial proposal for new generic top level domains (gTLDs) approved initially in 2008 by the International Corporation for Assigned Names and Numbers (ICANN), the not-for-profit organization responsible for coordinating the Internet addressing system. Currently, the domain name system is limited to 21 "generic" gTLDs (.com, .org, .net, .info, .biz, etc.). Under the new proposal, organizations located anywhere in the world would be able to apply to operate a gTLD that corresponds just about to any word or phrase, including an organization's name or brand.

Thus, instead of purchasing "yourbrand.com," Your Brand Corporation could purchase ".yourbrand." If Your Brand Corporation was, for example, a clothing company, it might map its divisions to corresponding second level domains: hats.yourbrand or shirts.yourbrand; or, it might choose to permit some of its trusted vendors to use the .yourbrand domain: yarnco.vendor.yourbrand, etc. Likewise, trade associations or other communities of interest might find that a new gTLD offers them new opportunities to map a domain to their organizational structure, activities and missions.

Interested parties should know, however, that the new gTLDs come with a high initial application fee (\$185,000), and the application process is very involved and requires extensive knowledge of the domain name system, security and domain name registry operations. Although a number of outsourced registry service providers have emerged and can offer a great deal of assistance in providing the services, ongoing maintenance of a gTLD may still be resource-intensive and costly for interested parties.

All businesses need to be aware of the initiative because, if nothing else, it places new burdens on companies to police their brands through the ocean of hundreds, if not thousands, of new channels. The potential for infringement on a massive scale (through domain squatting and other devices) has

been a major topic throughout the heated debate over the new gTLDs, and the extent of protections to be afforded to trademark holders continued to be a topic of discussion at ICANN's recent meeting in San Francisco. Brand owners are well advised to become familiar with the Application Guidebook and processes as related to protecting their brands—even if they are not inclined to obtain a new gTLD for themselves. The current Draft Application Guidebook is posted [here](#). It is expected that an updated draft of the Guidebook will be posted on April 15, followed by another round of comments, and that the final form will be posted at the end of May. Although the launch date for the new gTLDs is uncertain, some are projecting that the first round of applications will occur sometime in the fourth quarter of 2011. A final announcement is expected at ICANN's June meeting in Singapore.

Brand owners need to marshal a gTLD team from relevant stakeholder departments, including (1) **marketing/advertising** (understanding the business case for a gTLD), (2) **technical/security** (understanding the technical commitments associated with running a gTLD registry and outsourcing opportunities), (3) **financial** (understanding the representations and warranties necessary to meet threshold financial sufficiency requirements) and (4) **legal** (understanding the application process, the contractual undertakings with ICANN and relevant providers, the intellectual property risks and rewards, and the new rights protections mechanisms associated with the new gTLD initiative).

Reed Smith is closely monitoring these changes to the domain name system and if you have any questions, please contact one of our gTLD Team leaders.

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