

Akerman Practice Update

INTELLECTUAL PROPERTY

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Preventing Your Trademark from Becoming a New .XXX Adult Entertainment Domain Name

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The Internet Corporation for Assigned Names and Numbers (ICANN) has approved a plan to change the Internet's Domain Name System by dramatically increasing the number of internet domain name endings, called generic top-level domains (gTLDs). While businesses may still register domain names ending in the popular .com, .org and .net TLDs, soon they will be able to register their own gTLDs as well (i.e. a .yourbrandname gTLD).

One newly created gTLD is of particular interest to trademark and domain name owners. After over ten years of negotiations, ICANN has granted the adult entertainment industry permission to use the .xxx top level domain. This new .xxx gTLD will be operated by ICM Registry.

Many companies outside the adult entertainment industry are concerned about unauthorized use of their company names, trademarks or domain names with the new .xxx gTLD. To address these concerns, ICM Registry has established a process called "Sunrise B"; a period during which registered trademark owners or domain name owners can prevent the registration of their names with the .xxx gTLD.

The Sunrise B period is set to begin on September 7, 2011 and will run for fifty days, concluding on October 28, 2011. Brand owners can submit defensive Sunrise B applications to their own domain name registrars, who will in turn send



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them to ICM Registry for processing. While the costs can vary among registrars, it is generally a one-time fee of \$200 - \$300. When the Sunrise B application is validated, the trademark will be removed from the pool of domain names available for registration in future phases of ICM Registry operation. People trying to access a defensively registered .xxx site will simply land on a standard informational page indicating that the domain name is reserved through ICM Registry’s rights protection program.

Full details of the Sunrise B period can be found on ICM Registry’s website, located at <http://www.icmregistry.com/sunrise-b.php>. Failing to register your trademark or domain name during the Sunrise B period will leave it open to a .xxx domain name registration by a third party. To protect against an affiliation between your brand name and the adult entertainment industry, Akerman can assist you in the defensive registration of your trademark by filling out the requisite paperwork.

For more information please contact a member of our Intellectual Property practice.

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