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ICANN Introduces New Generic Top-Level Domain Names

The Internet Corporation for Assigned Names and Numbers (ICANN), the non-profit corporation responsible for managing the assignment of domain names and IP addresses, voted on June 26, 2008 to allow more generic top-level domain names in addition to the 21 currently approved names such as “.com” and “.org,” and the geographic names such as “.us”.

This controversial new policy will allow individuals to register common words as new top-level domains. For example, one will be able to register “.sports” as a top-level domain name, presumably to host sports-related websites. According to ICANN, the application fee for a new generic top-level domain name has not yet been officially set, but is likely to be in the range of \$50,000 to \$500,000. The target timeframe for implementation is currently Q2 2009.

The domain-name expansion substantially increases the burden for brand owners in policing and protecting their trademarks on the Internet and likely will foster consumer confusion. An increase in the number of top-level domains will create more opportunities for cyber-squatting and other abusive domain name practices that have become all too common.

Cyber-squatters typically register and use a domain name in order to profit from the goodwill of a trademark or brand belonging to someone else. Often they offer to sell the domain for a substantial sum to the owner of a trademark contained in the domain name controlled by the cyber-squatter.

Once ICANN's new policy is implemented, companies and their counsel will need to evaluate whether they should register their trademarked brand name as a top-level domain name. For example, a company owning the trademark “ABC” may want to also register a new generic top-level domain name “.ABC” to prevent others from doing so.

ICANN's introduction of additional top-level domain names also is likely to result in an increase in the number of domain-name arbitrations and related litigation. The volume of domain-name arbitrations has been steadily increasing over the past few years. The National Arbitration Forum (NAF) in Minneapolis and the World Intellectual Property Organization (WIPO) both reported rising domain-name arbitrations last year. NAF reported resolving 1,805 disputes in 2007 -- or 9% more than the 1,658 disputes it handled in 2006. WIPO reported 2,156 cases filed in 2007 -- up 18% from 1,824 disputes in 2006.

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If you have any questions, please contact **Julian Zegelman** at jlz@hogefenton.com, 408.947.2405 direct.

For more information,
please contact:

Julian Zegelman
Associate, IP Group



Stephanie O. Sparks
Co-Chair, IP Group