New gTLDs and Overarching Issues

- Four key concerns were identified based on public comments in November, 2008; regarding:
  - Trademark Protection
  - Possible amplification of malicious conduct on the Internet
  - Questions regarding new gTLD demand (including issues of cost)
  - Security and stability impacts of an expanded number of gTLDs
Approach

- ICANN has approached each issue individually, but recognizing that all must be addressed before launching the new gTLD process
- There has been and will continue to be extensive public comment on these issues
- Generally process will be to update the Draft Applicant Guidebook based on new recommendations

Trademark Protection
Background

- New gTLD Policy states:
  - “strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.”

- An independent economist’s report:
  - “while [new gTLD] entry generally promotes consumer welfare, proper account also must be taken for property rights that protect firms’ investments in establishing a reputation and brand name.”

Context of Existing Protections

- UDRP processes
  - Global arbitration process for handling domain name disputes

- Independent processes designed and run by existing generic and country code registries

- Actions mandated and enforced by ICANN contract

- “Sunrise” periods used for ccTLD (e.g., .eu) and gTLD (e.g., .asia) launches

- Protections already envisioned for new gTLD process (objection, string similarity, others)
**Issues Raised**

- Cost and administrative burden to rights owners of many new gTLDs
- Potential increase in cybersquatting, consumer confusion
- Scalability of existing dispute processes (UDRP) to a larger name space
- Preventing bad actor registry operators
- Others

**Solution Approach**

- Implementation Recommendation Team (IRT) formed from experts in the community
- Other organizations (for example, WIPO, Demand Media, more) provided solution suggestions as well
- The IRT developed Preliminary and Final Reports recommending specific approaches to address some intellectual property concerns
- Already been extensive feedback in live forums and online regarding this report
Summarized recommendations (1 of 2)

- The IP community working with ICANN suggested:
  1. There should be a simple, low-cost way to provide all new registries with trademark information (IP Clearinghouse)
  2. All registries should offer a baseline level of protection during start-up phases (IP Claims, Standard Sunrise)
  3. There should be a rapid, low-cost way of handling the clearest cases of rights infringement (URS)

Summarized recommendations (2 of 2)

- The IP community working with ICANN suggested:
  4. There should be a list of globally protected marks that would have special treatment in the new gTLD (GPML) process
  5. All registries should offer Whois information (thick Whois)
  6. There should be a robust mechanism for sanctions against new gTLD businesses that are “bad actors” (post-delegation dispute)
  7. ICANN’s criteria for considering similarity of two strings should be expanded
Way Forward

- Currently receiving public comment on intellectual property recommendations
  - Encourage your review/comment in this session and online
- Recommendations and comments will result in changes to the next version of the Draft Applicant Guidebook

Malicious Conduct
Issues Raised

- Will instances of malicious conduct multiply with the introduction of new gTLDs?
- What are the manner / modalities of malicious conduct that might arise?
- How can instances of malicious conduct be mitigated (in volume and effect)
  - Through the process of introducing new TLDs
  - Through contract or other restrictions

Participating Groups

The following groups or representatives of these groups have participated in the development of issues and solutions in this area:

- APWG (Anti-phishing working groups)
- BITS (A division of The Financial Services Roundtable)
- MyCERT (Computer Emergency Response Team, Malaysia)
- FIRST (Forum of Incident Response and Security Teams)
- RISG (The Registry Internet Safety Group)
How is “Malicious Conduct” Defined?

- Considering malicious conduct as criminal activity
  - e.g. phishing to conduct financial fraud/identity theft, spread of malware/establishing botnets
- Distinct from trademark protection
  - Different processes for determination of what at issue and to authorize response
  - Certain remediation steps may address both issues – strengthen mechanisms for ensuring registrars and registrants can be contacted
  - Generally, time urgency of a trademark protection issue and malicious conduct are quite different

Understanding Key Issues

- Addressing control of new gTLDs where security may be a high concern (e.g. financial)
  - Understand appropriate standards for registrar/registrants in these TLDs & registry-level security/continuity practice
- Ensuring effective practices in all new gTLD operation
  - For example, implement DNSSEC; prohibit wildcarding; remove glue records
- Ensuring ability to react to malicious conduct
  - WHOIS requirements and enhanced compliance
  - Registrar-level requirements such as abuse point of contact
  - Include approach as part of application/evaluation
Way Forward

- Work with Banking/Finance on security-specific TLD concerns and mitigation approaches
- Develop appropriate mitigation processes and explanatory memoranda for AGBv3

Root Zone Scaling
**Issues Raised**

- What are the possible combined effects on root zone performance of the (near) coincident introduction of:
  - IPv6
  - DNSSEC
  - IDNs
  - New gTLDs

- Are there any impacts on the new gTLD process?

**Solution Approach**

- Joint study by ICANN technical bodies (RSSAC/SSAC); they have commissioned a team of experts

- Model-based analysis of root zone scaling issues
  - Compile a description of the complete root server system
    - Provisioning side (update) and query side (lookup)
    - Technical infrastructure and operational procedures
  - Model the relationships among different parts of the system
    - How does changing something in one part affect each other part?
    - Goal is quantitative model (as timeframe of study allows)

- Factual/analytical tool for resolving concerns about root server system security and stability as the root grows
Way Forward

- Draft report available in August/September
- New gTLD process will need to consider any advice from this report, and how to best handle it
Domain Name Markets: Economic Studies

Issues Raised

- Some economic concerns focused on growth in expense:
  - Trademark infringements (costs for defensive second-level registrations, protection of trademarks at top-level)
  - Potential growth in malicious conduct
  - Potential for user confusion

- Should there be price caps for registration services?

- What are the effects of the switching costs involved in moving from one TLD to another?

- What is the effect of the market structure and pricing on new TLD entrants?
Economic Studies of the gTLD Marketplace

- Preliminary Report of Dennis Carlton Regarding the Impact of New gTLDs on Consumer Welfare (March 2009)
- Preliminary Analysis of Dennis Carlton Regarding Price Caps for New gTLD Internet Registries (March 2009)
- Report Of Dennis Carlton Regarding ICANN’s Proposed Mechanism for Introducing New GTLDs (May 2009)
- Comments on Michael Kende’s Assessment of Preliminary Reports on Competition and Pricing (May 2009)

Going Forward

- In all events, work to mitigate costs or negative effects before the TLD process is launched:
  - Implement appropriate rights protection mechanisms
  - Consider and implement measures to mitigate and reduce malicious conduct
- Continue conversation with community on utility of more economic studies
- Establish metrics, renew analysis regularly
Summary and Next Steps

Overarching Issues - Next Steps

- Trademark Protection and Malicious Conduct:
  - Complete consultations, include set of rights protection mechanisms into Applicant Guidebook

- Root Zone Scaling:
  - Complete study; publish draft for review and comment by September

- Market Impact:
  - Review and summarize work to date
  - Potentially hold additional discussions regarding effects of TLD introduction on the marketplace
Overarching Issues Resolution Path

Q2/09
- IRT Formation
- Papers on potential user abuse issues
- Reports on Competition and Pricing
- SSAC/RSSAC Study

Mexico ICANN Meeting

Q3/09
- Asia/Pacific Consultation June 24, Sydney
- North America Consultation July 13, NYC
- Europe Consultation July 15, London

Sydney ICANN Meeting

Q4/09
- AG8v3 Publication for Public Comments
- Final AGP Publication

Seoul ICANN Meeting

Q1/10
- Tentative New gTLD Launch

TBD ICANN Meeting

Overarching Issues
- Trademark Protection
- Malicious Conduct
- Demand/Economic Impact
- Security & Stability: Root Zone Scaling

North America Consultation July 13, NYC
Asia/Pacific Outreach July 24, Hong Kong
Middle East Outreach August 4, Abu Dhabi

Thank you
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