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Dotcom Gets Company: New Top Level Domains

[Judith M. Schwimmer](#)

In a move that has attracted surprisingly little media attention, the governing body of the Internet recently announced a plan to greatly expand the Internet space with the introduction of new generic Top Level Domains. Internet industry insiders hold varying opinions as to how significantly this development will impact Internet users, with some suggesting that few changes will be seen and others predicting a complete reformation of the Internet as we know it, dubbing the changed landscape, "Web 3.0."

A "Top Level Domain" is the most general piece of an Internet Address – the large host for the many domains which reside within it. For example, by typing the web address www.Amazon.com into a browser window, a user directs his Internet browser to the general location – the Top Level Domain ".com," and to the specific location – the domain name "Amazon." There are two categories of Top Level Domains: generic Top Level Domains ("gTLDs"), such as .com, .org, .info, and .biz, and country code Top Level Domains ("ccTLDs"), such as .us (United States) and .fr (France). The letters following the dot in a Top Level Domain are also known as a "string." These names are all controlled by a single non-profit corporation, ICANN.

Currently, the most popular gTLD is .com. Brand owners who want to establish a web presence for their company try to find an available and relevant domain within the .com gTLD. Under ICANN's new system, however, individuals and companies can create and manage their own new gTLDs, enabling them to both build their own websites located on their gTLD and allow third parties to register domains on their string.

This explosion of domains opens vast opportunities for brand

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owners. For instance, large consumer business potentially could turn their brands into gTLDs, creating, for example, “.starbucks” or “.levis.” These brand owners could then use their brand strings to help educate consumers, assuring them that only purchases made from their .brand website are guaranteed to be authentic, or that only emails received from a .brand address are legitimate. It also means that so-called “generic” TLDs could be registered and controlled by far-sighted companies who take advantage of this opportunity to control potentially popular categories of consumer goods or services. For example, Amazon.com, Inc. could establish the TLD .books – and under ICANN’s rules, it would be Amazon’s decision whether to restrict third party domain registrations or to allow a competitor into its space, such as a registration for BarnesandNoble.books.

The new gTLDs present questions for brand owners in relation to brand protection and enforcement. Brand owners will face decisions regarding their domain management practices in order to protect their trademarks against cybersquatters and other infringers. It will be the responsibility of each gTLD owner to establish a system for brand owners to protect brand-related domains within the TLD, but brand owners will have to choose how to address brand protection amidst the many different systems devised by the owners.

Brand owners’ behavior will be influenced by how popular these new gTLDs become. It is unknown whether and to what extent consumers will learn to recognize new “.brand” TLDs or particular generic .names. Brand owners could face very high defensive registration costs if they decide to register a large number of new domains spread over the various gTLDs. If they forego these defensive registrations to save money in the short term, they could face the potentially higher cost of recovering infringing domains down the line.

Individual users’ behavior will also change. Currently, Internet users are often so confident that the website they seek resides on .com that they engage in “direct navigation,” meaning that they guess at the address of a website and enter their guess into their browser window. With countless new dot destinations, direct navigation will become much less reliable, encouraging Internet users to branch beyond their current web habits and learn how to navigate in the new expanded string system.

The predicted decrease of direct navigation will be a boon to the already healthy Internet advertising industry. With a high number of possible TLD locations for their desired website, Internet consumers will utilize search engines more frequently

in order to find a particular site. This behavior means that Internet advertising and keywords could become even more important than they are today, behooving brand owners to invest more in the purchase of advertising keywords.

Certain strict rules governing who can register and operate a new gTLD may help to limit the Internet landrush chaos in the short term. Among other restrictions, applicants face a high barrier to entry – the application fee for new gTLDs is predicted to be set at anywhere from \$100,000 to \$1,000,000 per application. Applicants will also have to demonstrate the technological, structural, and financial capability to manage their TLD – including their plan for controlling third party registrations of domain names within their TLD, cooperation with domain name registrars to allow for these registrations, and Rights Protection Mechanisms to handle disputes between trademark owners over domains registered within their TLD.

Despite the plethora of unanswered questions, one thing is certain – change is coming. ICANN anticipates accepting the first round of new gTLD applications in early to mid 2009. Trademark owners quickly will have to choose whether they will lead the pack in obtaining and controlling TLDs, or wait and see how the chips fall – with the danger that their competitors may profit from their caution.

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