

Protect Your Call Signs and Other Marks in the .xxx Domain

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ICANN (the Internet Corporation for Assigned Names and Numbers) has approved the use of .xxx as a domain (like .com) for the adult entertainment industry. In September, broadcasters and others with **registered marks** will have an opportunity to reserve their marks defensively in the .xxx domain.

While adult-oriented website operators may be interested in reserving spots in the .xxx top level domain (TLD), broadcasters may be just as eager to prevent their call signs and other marks from being used in that TLD where they may be associated with adult content. The ICM Registry, which will operate the .xxx domain, will allow those who own **registered trademarks** to reserve .xxx domain names to prevent others from using their marks in that domain.

Beginning September 7, 2011, there will be a **30-day “Sunrise” period** during which adult-oriented website operators will be able to register their marks and domain names in the .xxx TLD. **Simultaneously, non-adult-oriented trademark owners can file to block use of their call signs and other marks** in that domain, so long as those marks are **nationally registered in the United States or any other country**. Registered marks could include call signs, slogans or company names. For example, Google could secure a domain reservation for google.xxx to prevent an adult-oriented company from actively using that domain name. In registering defensively, broadcasters would not gain use of the .xxx website, but rather would go a long way toward ensuring that no one else can use it for an adult-oriented website. Broadcasters will **not be able to prevent use of unregistered marks or call signs**, misspellings of registered marks, or mere domain names during the Sunrise period.

It will be extremely beneficial for broadcasters and others to **reserve their registered marks** during the Sunrise period if they do not want to see those marks used as domain names in the .xxx TLD for an adult-oriented website. This is especially true since the next registration period, the so-called **“Landrush” period** beginning Oct. 24, 2011, will allow adult-oriented services to apply for any .xxx domain names unclaimed during the Sunrise period. During the Landrush period, there will be **no simultaneous opportunity** for broadcasters or others to defensively block use of their call signs or other marks in the .xxx TLD.

Owners of unregistered marks or call signs, as well as those who simply miss the Sunrise period will still be able to take advantage of various dispute resolution measures such as the Uniform Domain Name Dispute Resolution Policy (UDRP) to recover domain names registered in the .xxx domain. Owning a prior registered or common law mark could well be grounds for recovery of a similar .xxx domain name in a UDRP proceeding, but UDRP proceedings can be expensive to prosecute. By contrast, **the simple reservation of registered marks during the Sunrise period** beginning in September—the cost of which is estimated at between \$200 and \$500 per domain name—could avoid needless cost and effort later on.

Additional details can be found in our [Client Advisory](#) on this subject.

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