

Intellectual Property and Technology Law Update

11/25/2013

New Generic Top-Level Domain Names (“gTLDs”) Opening for Business

The first set of new generic top-level domain names (“gTLDs”) are opening for business this month. A gTLD is the part of a domain name that comes after the “dot” (“.”). Currently, there are 22 gTLDs including .com, .org and .net. Very soon there could be up to 1,400 new names or “strings,” such as .clothing, .ventures, .bike, and brand names such as .hitachi.

On October 23, 2013, the Internet Corporation for Assigned Names and Numbers (“ICANN”) delegated the first new gTLDs from the numerous applications it received in 2012. The following gTLDs will open for business on November 26, 2013, with the launch of their “Sunrise Period.” The Sunrise Period is the pre-registration period before domain names can be registered within the particular gTLD by the general public.

gTLD	Sunrise Period Opens	Sunrise Period Closes	General Availability Opens
.VENTURES	November 26, 2013	January 24, 2014	January 29, 2014
.SINGLES	November 26, 2013	January 24, 2014	January 29, 2014
.HOLDINGS	November 26, 2013	January 24, 2014	January 29, 2014
.GURU	November 26, 2013	January 24, 2014	January 29, 2014
.CLOTHING	November 26, 2013	January 24, 2014	January 29, 2014
.BIKE	November 26, 2013	January 24, 2014	January 29, 2014
.PLUMBING	November 26, 2013	January 24, 2014	January 29, 2014

New launches and Sunrise Periods will continue to be announced on a rolling basis.

Trademark owners who have registered their trademarks with the Trademark Clearinghouse for its “Sunrise Services” may register domain names consisting of those registered trademarks during the Sunrise Periods listed above.

The Trademark Clearinghouse is the exclusive host of a centralized database of trademark records that all new gTLD registries will be required to use as a protection mechanism to support their pre-launch or initial launch period rights. Trademark owners or their agents can register trademarks that meet specific requirements with the Clearinghouse, and thus become eligible for priority registration during the Sunrise Period for each new gTLD, rather than awaiting general

availability. This means that before an unauthorized third party can register, for example, YOURTRADEMARK.CLOTHING, you as the trademark owner will have priority to pre-register that domain name — not just in the .clothing gTLD but also in all other new gTLDs.

Along with these new gTLDs comes the risk of cybersquatting and trademark infringement by unauthorized third parties. To manage these risks, operators of the new gTLDs are responsible for implementing protection mechanisms to assist trademark owners in protecting and policing their trademarks against infringement by domain name registrants. For example, Donuts, a registry that has applied for more than 300 of the new gTLDs, including *all* of the gTLDs listed above, is offering a “Rights Protection Mechanism” program for blocking across all of its gTLDs. For a fee, which will be set by individual domain registrars, trademark owners can choose to have their marks blocked across all of the new gTLDs that Donuts eventually launches. There are, of course, exceptions and overrides to the block. For instance, the block will not prevent others from registering a domain name that contains or is identical to your trademark if they have recorded that mark with the Clearinghouse.

Trademark owners thus have various options/mechanisms to attempt to prevent infringement, although none have yet been tested in this new Internet landscape. A trademark owner can 1) proceed with registration with the Clearinghouse; 2) can register its trademark as a domain name in particular gTLDs if there are gTLDs that are of particular interest or concern; and, 3) can take advantage of rights protection mechanisms offered by specific registrations, such as the blocking offered by Donuts. As of this month, the first new gTLDs are open for business and trademark owners must keep apprised of the launch dates for each new gTLD, as well as the mechanisms built into the new gTLD program to protect their trademark rights.

For more information, please contact the Intellectual Property and Technology Practice Group at Lane Powell: IPGroup@lanepowell.com

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