



Client Alert

June 18, 2012

Number of gTLD Applications Nearly Quadruples Expectations 7 Month Objection Period Opens

We have a **list**, now what? On June 13th, 2012, the Internet Corporation for Assigned Names and Numbers ("ICANN"), the organization that oversees Internet addresses, revealed that it had received 1,930 applications for new generic top level domains ("gTLDs").

You may remember the uproar in 2008 when ICANN first announced that it was going to significantly expand the number of gTLDs. We all learned the lingo – that a TLD or "top level domain" is the group of letters after the "dot" in any domain name, such as .com, .org, .net, and .cn and that TLDs are "generic" if they are not sponsored by an industry (like the .edu, .mil, and .gov TLDs) and are not country-code TLDs (e.g., .au, .cn, and .ca).

ICANN took so long to launch the program, you may have forgotten it was happening. After years of preparation and multiple rewrites of the "applicant guidebook," ICANN received 1,930 applications from companies, individuals, and common interest groups to create their own gTLDs and run their own domain name registries. In addition to paying the \$185,000 application fee, each applicant was required to demonstrate in its application the requisite technical capabilities for running a domain name registry. Some of the proposed gTLDs are for brands, such as .GOOGLE, .YOUTUBE, and .WEATHERCHANNEL, while others encompass entire industries, .beer, .app, .shoe, .hotel, and the like. If approved, applicants, as registrars, will decide who can register particular domain names ending in those gTLDs.

For perspective, there are currently only 22 active gTLDs. ICANN's announcement means that the number of available domain names may increase by a factor of nearly 100; thus making domain name protection even more challenging.

The revealing of the list on June 13 also marked the opening of a **60 day period** for public comments and a **7 month period** for filing formal objections to the applications. Available objection grounds include:

- **Legal Rights:** the applied-for gTLD violates the rights of trademark owners (including unregistered marks that have common law rights);
- **String Confusion:** the applied-for gTLD is confusingly similar to another application or an existing TLD (available only to applicants or existing TLD operators);
- **Limited Public Interest:** generally accepted international legal norms of morality and public order would be violated if the application were granted; and
- **Community:** there is substantial opposition within the community targeted by the applied-for gTLD.

What You Should Do:

- **Review the list.** Review the list of applied-for gTLDs to see whether your brand or industry is affected by any of the applications.
- **Consider filing an objection.**
- **Organize an industry group.** If one of the applied-for gTLDs affects your industry or a community of which you are a part, a coordinated objection involving multiple interested parties may be more effective and more economical.
- **Register your mark with the new Trademark Clearinghouse.** ICANN established the Trademark Clearinghouse to protect mark owners from future domain name infringement involving the new gTLDs. The registration fee is nominal.

For more information or assistance, please contact one of the following Armstrong Teasdale lawyers:

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