

ICANN Approves Historic Plan for New Top Level Domains

By David M. Silverman and Catherine E. Maxson

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At its meeting in Singapore this week, the Internet Corporation for Assigned Names and Numbers (ICANN) approved a historic plan to allow unlimited numbers of generic top-level domains (gTLDs) to join the ranks of .com, .org, .net, and .biz. Currently, there are only 22 such gTLDs plus the country code TLDs (ccTLDs) such as .us and .ca (Canada).

Top level domains are the string of letters that come immediately after the last period in a domain name. Originally, there were only eight gTLDs, the most common of which is .com. New gTLDs were approved by ICANN in 2000 and 2004, including .mobi, .tel and .info. However, this is the first time that private companies, institutions and organizations will be allowed to establish their own gTLDs. (ICANN will not accept applications from individuals.)

Under the new gTLD program, entities can register and control the gTLD for generic words such as .radio, .music or .birds, or for company names or trademarks, such as .microsoft. For the first time, ICANN is also going to allow applications for Internationalized Domain Names or IDNs, consisting of non-Latin characters such as Arabic or Chinese, and including accent marks on Latin letters as used in various European languages. There are a few restrictions on what can be registered: new gTLDs must consist of at least three letters (except for non-Latin character gTLDs, the minimum is two letters) but no more than 63 letters; they cannot include numbers; they cannot be confusingly similar to existing gTLDs; and they cannot be the name of a geographic place, unless applied for by the relevant governmental or other public authority.

The owner of the new gTLD will also operate the domain name registry for the gTLD, meaning that it will control the process of registering the second-level domain names (the letters to the left of the period, e.g., rock.music or rollingstones.music) associated with the gTLD. The owner will also have to maintain the security and stability of all domain names within that gTLD, and operate the “whois” database containing contact information for registrants of second-level domain names.

ICANN plans to begin accepting applications for new gTLDs beginning in January 2012, with the first filing window expected to last three months. The application will require a background check of the entities and principals involved as well as a showing that the applicant is financially and technically capable of acting as a gTLD “registry” for at least ten years. The application fee will be \$185,000, most of which will be nonrefundable once the evaluation process has begun. It is estimated that the costs of implementing and operating a new gTLD could be several hundred thousand dollars per year, including a \$25,000 annual fee to ICANN.

The evaluation process could take from 7–15 months, or more. Although ICANN will not review proposed gTLDs for potential trademark infringement, third parties will be able to object on that basis. Specifically, objections will be allowed against applications that have passed the initial evaluation stage. Objections to proposed gTLDs may be based on existing legal rights, so-called “string” confusion with an existing TLD (generic or country code) or public interest concerns. One of three dispute resolution service providers (DRSP) will decide the objection, based on the nature of the objection. The relevant DRSP will set the objection fee, which will have to be paid separately by both objector and applicant, who will have 30 days to respond. Both objections and responses will be limited to 5000 words or 20 pages, whichever is less.

Obviously, applying for a new gTLD is a very different process than applying for a mere domain name. Even if a company or trademark owner chooses not to obtain a gTLD, they will have to be vigilant to ensure that there is no proposed new gTLD that is confusingly similar to the company’s name or trademark, and that there are no second-level domain names associated with the new gTLDs that are confusingly similar.

Please contact us if you have any questions about ICANN or the gTLD application process.

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