



INTELLECTUAL PROPERTY DEPARTMENT

ALERT

YOUR TRADEMARK.XXX – TRADEMARK OWNERS HAVE UNTIL OCT. 28, 2011 TO BLOCK ADULT ENTERTAINMENT COMPANIES FROM USING REGISTERED TRADEMARKS

The new generic top-level domain .XXX will debut next year, and the process to reserve .XXX domains has already begun. As of Sept. 7, 2011, certain registered companies within the adult entertainment industry can start reserving .XXX domain names with priority. This is known as the “Sunrise A” period and runs until Oct. 28, 2011. Following the Sunrise A period, the .XXX domains will be open to all companies in the adult entertainment industry (“Land Rush” period), followed by the general public (“General” period).

But what if your company is not in the adult entertainment industry? Then your company probably does not want its trademark standing in front of the .XXX designation, particularly if that directs a user to a pornographic site. Fortunately for registered trademark owners, ICANN has provided a period for brand protection known as “Sunrise B,” which runs concurrently with the Sunrise A period—i.e., Sept. 7 to Oct. 28, 2011.

During the Sunrise B period, owners of registered trademarks that are not active in the adult entertainment industry may “opt out” of having those trademarks sold as part of a .XXX domain. A successful Sunrise B application will block substantive content from appearing on that .XXX domain for at least the next 10 years. Instead, it will redirect the user to a standard informational page.

What are the benefits? A successful Sunrise B brand-protection application will prevent anyone in the Land Rush and General periods from using the registered trademark as a .XXX domain. Any Sunrise A adult industry applicant who requested the registered trademark as a .XXX domain will

be notified of the trademark owner’s Sunrise B application. The intent of this program is to entice the Sunrise A applicant to then withdraw its application and choose another domain. If the Sunrise A adult industry applicant does not withdraw its application, that company will be given priority to the domain over the Sunrise B non-adult industry trademark owner, but the Sunrise B trademark owner may then commence proceedings to block the domain registration.

What are the limitations? Not all trademark owners are eligible. Only owners of U.S. trademark registrations or foreign equivalents valid as of Sept. 1, 2011, may submit a Sunrise B application. Additionally, the Sunrise B application will block only the exact registered trademark, not misspellings or modified words.

How is a Sunrise B application submitted and at what cost? Most major domain name registrars (e.g., Go Daddy, Network Solutions) are expected to offer Sunrise B application services. Trademark search and watch companies that usually service law firms and their clients (e.g., CT Corsearch) are also offering these services. The cost is expected to be about \$200 to \$500.

If your company owns one or more trademark registrations that you would like to prevent from being registered as a .XXX domain, we recommend considering filing a Sunrise B application to protect your brand.

If you have any questions, please contact Christopher R. Kinkade at 609.844.3023 or ckinkade@foxrothschild.com or any member of Fox Rothschild’s [Intellectual Property Department](#).

Attorney Advertisement

© 2011 Fox Rothschild LLP. All rights reserved. All content of this publication is the property and copyright of Fox Rothschild LLP and may not be reproduced in any format without prior express permission. Contact marketing@foxrothschild.com for more information or to seek permission to reproduce content. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.