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Trademark Registration Owners Have Limited Window to Block New Adult Content Oriented Top Level Domains

While a number of parties might be eager to secure a new top level .xxx domain for adult content material, most of our clients will prefer to remain disassociated from the adult content community. If you own a trademark registration, filings can be made with a number of registrars in a window beginning September 7, 2011, and ending October 28, 2011, to prevent the registration of *your trademark registration.xxx* by any party. A complete list of registrars performing this service is provided at www.icmregistry.com/registrars.php.

As long as no party owns a trademark registration identical to yours, then a proper application accompanied by the prescribed fee filed during this window should block *your trademark registration.xxx* from being made available for use by any party for the term advertised by the registrar. Concurrently, those parties active in the adult content community can also file applications in this time window extending from September 7, 2011 to October 28, 2011, to attempt to secure their trademark registration, or other top level domain, as a .xxx domain. In the event of competing applications, those parties owning trademark registrations or other identical top level domains applying to register .xxx will likely prevail, but there remains the possibility that even if your trademark is also owned by another trademark registration owner for an adult content use or used with another top level domain, those parties might fail to file an application before the October 28, 2011 deadline, thereby potentially blocking them from being able to do so in the future based on your domain block filing.

After the window closes on October 28, 2011, another window extends between November 8, 2011 and November 25, 2011, for those parties wishing to register .xxx domain names without a need for providing proof of trademark registration or top level domain ownership. If multiple parties seek the same .xxx name, not previously blocked, an auction will occur at the end of the window. Otherwise, those applicants who do not encounter competition for unblocked domains will be issued the .xxx domain names they seek. Finally, starting December 6, 2011, any party can file for any available .xxx domain name on a first-come, first- served basis.

If your company owns a trademark registration and would like to pursue preventing any party from using that .xxx or alternatively securing the .xxx extension of any of your trademark registrations, we would highly

recommend that you file a blocking application with a selected registrar during the window extending from September 7, 2011, to October 28, 2011.

If you have any questions regarding trademark or domain name registrations, or the new .xxx top level domain name, or need advice regarding these matters, please contact [Steve Stark](#) at 423-785-8229 or any other member of Miller & Martin's [Intellectual Property](#) practice group.

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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