

## What's the Deal with the "Big Reveal"? Getting Exposed to the List of New gTLD Applicants and Applications

By: Erin S. Hennessy, Jennifer Ashton and Matt D. Schneller.

June 12, 2012

The Internet Corporation for Assigned Names and Numbers (ICANN) has identified June 13, 2012 as the target date for publication of the full list of applied-for new generic top-level domain names (gTLDs), as well as pertinent information regarding Applicant names and character strings. The information comprised in the "Big Reveal" will be available for public perusal on [ICANN's website](#) on the heels of over a month long delay stemming from a glitch in the ICANN software – and peruse you should. Experts are gauging an estimated 2500 applications – which could potentially stake rights in everything from "A to Z" or in this case from .apple to .zoo. The field of Applicants will likely span from major companies strategically protecting their .brand or relevant .generic domains to associations attempting to convey a trusted site as in the case of .pharmacy to enterprising companies intending to secure open gTLDs with the purpose of selling them. One such example is a startup named **Donuts Inc.** which has applied for 307 gTLDs for the purpose of acting as a wholesale seller of domain names of generic dictionary terms. Donuts has bet mucho dollars that there is a market for these .generic tlds – investing a reported \$100 million in venture capital into the applications. Additional "bulk" Applicants include **Top Level Domain Holdings** (who announced it has applied for 92 gTLDs including .blog, .law, .restaurant, .work and .vodka) and **Directi Group** (who announced it has applied for 31 gTLDs including .news, .hotel, .baby, .web and .doctor).

Whether or not you find yourself amongst the estimated 2000+ Applicants, the possibility remains that, amongst the host of other applications, another person or entity has pursued a string that is confusingly similar to your brand or, at the very least, is relevant to your particular industry or field and, as such, may become a desirable registry for your future domain names.

[www.omg.whatnow?](http://www.omg.whatnow?)

### Strategic Move #1: **Do. Not. Panic.**

Post-Reveal, your enforcement strategy is going to be the heart of your new gTLD plan. Due to the scope and size of the gTLD program, it would be impractical to invest the time, money and resources to enforce against *everything*. A more pragmatic approach would be to consider your budget and work to develop a reasonably measured enforcement strategy which may be inclusive of defensive and offensive registrations.

### Strategic Move #2: **Identify and Rectify.**

Mechanisms are in place in the event that you identify a concerning new gTLD string. The posting of information will trigger the opening of the 60-day Application Comment Period during which time anyone – applicants or members of the public – will have the opportunity to submit comments to ICANN on any application. Simultaneously, the "Big Reveal" also marks the commencement of the Objection Period, during which time interested parties will have 7 months to file formal objections based on four grounds: string confusion, legal rights, limited public interest and community objection. The objection period is the time to object to and potentially stop an applied-for gTLD from being approved. If you believe that an applied-for character string infringes your intellectual property rights, you may be able to object by submitting either informal comments and/or formal objections.

### Strategic Move #3: **The Best Defense is a Good Offense.**

All budgeting issues considered, a review of the applied-for strings may shed light on any new gTLDs that are particularly important to your brand. Historically, brand owners defensively registered numerous domains with the launch of each new gTLD such as .info and .biz. (and most recently with .xxx). In view of the potential *thousands* of new gTLDs, reflexively filing across the board will cost brand owners potentially big dollars. Accordingly, brand owners will have to carefully consider their defensive strategy with each new gTLD launch and should be considering future budgets now. Perhaps a more cost effective method of initially approaching new filings would involve "offensive" domain name registrations. The vast number of new gTLDs will open a new expanse of opportunities for brand owners. Indeed, there may be new opportunities for brand owners in the new gTLD world. By way of example, if there is a new gTLD .AIRLINE, would it benefit Delta to register DELTA.AIRLINE and either have a Delta

website resolve at that new domain or have DELTA.AIRLINE redirect to DELTA.COM? Further, a new company (Vox Populi Registry) has announced that it has applied for .sucks. Given that each new gTLD program will have mandatory "sunrise" periods upon launch, trademark owners will get the first bite at the apple (fair warning to those gunning for mcdonalds.sucks or those hoping to protectively acquire one's own brand.sucks – be cognizant of your rights and of impending sunrise periods).

The onslaught and effectuation of new gTLDs will certainly alter the Internet landscape as we know it – from search to cybersquatting – commerce on the Internet is sure to change. Brand owners will need to leverage opportunity where possible, stay calm and be creative.

For information about reviewing the applied-for gTLD character strings, assistance with filing comments and/or formal objections, and for further analysis regarding the new gTLD process and related business strategy, please contact your Bracewell attorney.

Bracewell & Giuliani LLP makes this information available for educational purposes. This information does not offer specific legal advice or create an attorney-client relationship with the firm. Do not use this information as a substitute for specific legal advice. Attorney advertising.