

.XXX Domain General Availability Starts December 6, 2011

November 30, 2011

As of December 6, 2011 the Internet Corporation for Assigned Names and Numbers (ICANN) will begin offering .xxx domain registrations to the general public. The registry will be operated by Florida-based ICM Registry (ICM), the company that first applied for the .xxx domain in 2004. ICM's intent is to create designated domains for adult content which are operated under its policies which are intended to reduce malware, SPAM, and intellectual property infringement. The .xxx domain also represents the creation of new internet real estate and, because any string ending with .xxx can be purchased, the launch of .xxx represents an opportunity for domain squatters and trademark infringers. In other words, your trademark could become associated with a .xxx domain and an adult entertainment website. We previously advised trademark owners to consider registering to block .xxx domains that correspond to registered trademarks during the Sunrise B opt-out period which closed on October 28, 2011. If you missed that deadline, or if you want to block .xxx registrations for domains that do not correspond to a registered trademark you can register defensive .xxx domains anytime starting on December 6, 2011 and you can pre-register now.

.XXX General Availability

Starting December 6, 2011 .xxx domain registrations will be available for the general public. Only members of the Adult Sponsored Community will be able to host content at .xxx domains. However, anyone can purchase a domain name. Those who were not able to block .xxx domains that correspond to registered trademarks during the Sunrise B period can secure defensive .xxx registrations once the registry is open to the general public. Domain names registered by non-members of the Adult Sponsored Community cannot host websites with any content and their domain will simply not link to a website.

Why Register a .XXX Domain

This is the time for businesses to block non-trademarks (company names, slogans) or variations of trademarks blocked in Sunrise B that could be abused by cyber-squatters. Absent a domain registration block secured during the Sunrise B period, securing a defensive .xxx domain registration is the only pre-emptive protection available. Post-registration remedies for cyber-squatting, such as ICANN's Uniform Dispute Resolution Procedure, can be significantly more costly than owning a pre-emptive domain registration.

Costs

Costs for .xxx domain registrations vary slightly among registrars but average about \$110 per year per domain. Some registrars are currently taking orders for .xxx domains so that the applications can be filed immediately on December 6, 2012. As the .xxx domain registrations are awarded on a first come first served basis, anyone wishing to secure a .xxx domain should act promptly.

© 2011 McNees Wallace & Nurick LLC

This document is presented with the understanding that the publisher does not render specific legal, accounting or other professional service to the reader. Due to the rapidly changing nature of the law, information contained in this publication may become outdated. Anyone using this material must always research original sources of authority and update this information to ensure accuracy and applicability to specific legal matters. In no event will the authors, the reviewers or the publisher be liable for any damage, whether direct, indirect or consequential, claimed to result from the use of this material.