

A New gTLD Extension to Rule Them All?

On January 12, 2012, ICANN will begin accepting applications for new top-level domains. The proposed domain name space expansion seeks to break away from ubiquity of .COMs in favor of more meaningful extensions, including custom branded domains (e.g., .CANON or .HITACHI), geographical references (e.g., .CHINA or .NYC), and generic terms (e.g., .MUSIC or .SHOP). Successful applicants will each become a registry responsible for administering their chosen gTLD, an opportunity most brand owners have never considered until recently. Should you spend \$1,000,000 or more for a piece of cyber real estate? An answer may involve balancing some of the following considerations.

Trademark-based TLDs

Whether a typical brand owner would benefit from applying to use its trademark as a gTLD is questionable. While there may be some promotional and brand value in controlling your own brand name internet namespace, this value largely depends on pre-existing popularity of your brand and/or the concurrent marketing effort—people either know your company because of its products, services, reputation or marketing, or they do not, and securing a .YOURBRAND for your brand is unlikely to change this. Granted, if none of your competitors applies, you may receive some extra publicity, but there are less expensive ways to make the news.

A commonly-cited benefit of having a custom branded TLD is brand control—you are in charge of setting the rules and making your TLD as inclusive or exclusive as you wish. Proponents argue that the implied legitimacy of a .YOURBRAND adds value by imparting consumer confidence that Your Brand stands behind the website.

This argument is unconvincing because

you already own YOURBRAND.COM that your customers expect, know and love. You can already allocate sub-domains to your dealers or customers and are free to set any policy you like if you choose to do so. Acquiring a new gTLD will not resolve cybersquatting in the already existing 300 plus namespaces, nor would it be wise to stop enforcement efforts in favor of educating customers that if it is not SOMETHING.YOURBRAND it is not you.

The actual URL address string is becoming increasingly less important as users become heavily reliant on their browser omnibar, using navigational searches rather than exact URL addresses to navigate the internet. With most website traffic being directed from Google, Facebook and Twitter, most users may never actually notice a difference between being directed to your YOURBRAND.COM and SOMEWHERE.YOURBRAND, especially considering the prevalence of URL shorteners that disguise the underlying addresses.

Registering .YOURBRAND solely as a defensive strategy, so no one else can have it, is hardly justified because in all likelihood you will be the only one applying for it. Known cybersquatters will not be allowed to participate, and if a legitimate business happens to share your trademark in a different field, are you really at a loss if you did not want the domain and do not apply? Would you rather spend an additional \$500,000 trying to resolve the contention in your favor, only to get to an auction and spend a few million dollars to “defend” your brand?

While ICANN expects thousands of applications from brand owners, very few companies have publicly expressed their desire to apply for a branded TLD. Among the proposed gTLDs are .ADIDAS, .AIGO, .CANON, .DELOITTE, .FACEBOOK,

.HITACHI, and .MICROSOFT. Because it is not known when ICANN will offer a second opportunity to register a custom gTLD, if it is offered at all, big brands may feel compelled to apply as a way to keep up with their competitors and not be left out without one. Yet, it seems a safe bet that consumer perceptions are not easy to change and that .COM will continue to remain the defacto gTLD for U.S. business sector at least until the next application round.

Brand name TLDs seem to be well suited for socially-minded consumer brands seeking to create brand ambassadors and foster community involvement by offering second-level domains to their customers. For those wanting a custom TLD to enable clever marketing slogans, like SHOP.NORDSTROM or FLY.UNITED, the expense of the application process is much harder to justify.

Generic and Geographical TLDs

Brand owners would be remiss not to consider applying for TLDs based on an industry keyword, social cause or geographic location. These namespaces may well be more valuable than trademark-based TLDs because they are brand-neutral.

Imagine the benefits of controlling a TLD named for your core product or service, say .TIRES—every time someone searches for this keyword, everything else being equal, your brand comes out on top as the most relevant. You can point GOODYEAR.TIRES to your main site, for example, but the best part is that because you control the namespace, you can also have any number of secondary domain names based on product categories, search keywords and product lines: CAR.TIRES, TRUCK.TIRES, PERFORMANCE.TIRES, WINTER.TIRES,

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FORTERA.TIRES, WRANGLER.TIRES, all point to the relevant subsections of your main site. You can choose to allow other tire manufacturers and dealers to register their brands within your namespace, or you can keep it entirely to yourself.

From the new gTLDs proposed so far, it is clear that the majority of potential applicants are entrepreneurs looking to create new markets by monopolizing a location- or keyword-based TLD with a view of making a profit by selling registrations to others.

Going into a registry business and applying for a gTLD as part of a new business venture rather than as a means to protect or further an existing brand, is a risky proposition. Namespaces sought by several applicants (.GAY, .MUSIC, .NYC, .PARIS and .SHOP, for example, already have two known contenders each) may go to auction and ultimately cost millions of dollars to acquire. Recouping the costs of securing a TLD, the infrastructure and staff needed to operate it, and the advertising expenditures needed to attract and keep a sufficient number of registrants will be no easy task.

While it is hard to imagine a single successor to the ubiquitous .COM, niche markets that could benefit from a dedicated TLD certainly exist. Just like trademarks are divided into classes, allowing several registrations for identical marks to coexist when respective goods or services are dissimilar, new keyword-based TLDs

would allow namesake companies to register their names within relevant TLD. The ability of a registry owner to set the rules, pre-qualify registrants and offer additional services that may not be available elsewhere could add value and promote further fragmentation of the internet.

Registering a generic TLD tied to your product or industry keyword could give your company a unique competitive advantage and help further your brand, while registering a gTLD solely as a search engine optimization strategy designed to increase your page rank may not be a sound strategy, since site ranking mechanisms will certainly change if brand owners are seen abusing the system. A better strategy would define a deficiency of the status quo and attempt to address it with a new offering.

Entrepreneurs will surely find unconventional ways to monetize new TLDs. Although registering .SUCKS or an equivalent would likely not be allowed, potential registrants should take note of the financial success that .XXX registry has achieved by running what essentially is a protection racket—allowing brand owners to block their trademarks from being available for registration by members of the adult entertainment industry. At about \$200 per mark, the registry has already collected millions of dollars without issuing a single registration. Some marks have, no doubt, been paid for several times over, because there is no visibility of what has been blocked and unlike domain registra-

tions that could only have one owner, any number of independent rights holders can apply to block the same trademark.

One of the proposed gTLDs, .HIV, seeks to monetize each mouse click within its namespace in the name of fighting the virus. Registrants will be able to show their solidarity with the cause by sponsoring a .HIV website and committing a pool of funds to the fight against HIV and AIDS. Every time someone visits a .HIV website, a small donation would be made.

First adopters of new gTLDs will have to contend with the prevalence and normalcy of .COMs and other already-popular TLDs. New gTLDs may not be supported by some of the existing applications that verify email or web addresses by checking a list of known extensions and rejecting any input that does not match the criteria. Businesses and institutions may choose to block certain namespaces, e.g., .XXX, from being reachable through their networks, creating a disincentive for registrants to register within those TLDs and making generic .COMs more attractive. This is why it is highly unlikely that the convenient .COM button on Apple devices will be going away any time soon.

A new gTLD is not for everyone. While owning a vanity URL suffix may benefit some companies, most would probably be better off investing in other areas of their business.

—Dmitriy O. Makarov