



## Preliminary Overview

# Evaluation of the New gTLDs: Policy and Legal Issues

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Presentation at the Rome ICANN Meeting

by

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March 2-6, 2004

# Background

## ● New gTLDs

- Introduced as “proof-of-concept” in November 2000
- Order of launch:
  - **.info**
  - **.biz**
  - **.name**
  - **.museum**
  - **.coop**
  - **.aero**
  - **.pro**

# Background - continued

## ● Task Force

- New TLD Evaluation Process Planning Task Force (NTEPPTF)
- Critical questions
  - Policy and Legal Issues (SSI)
  - Operational and Technical Issues (Solucom/Finaki)

## ● Goals

- Assess how well “proof-of-concept” idea worked in practice
- Use information in considering new gTLDs

## ● Timetable

- Carthage launch
- Next steps

# Evaluation of Policy & Legal Issues – SSI

- ***“How effective have startup mechanisms been in protecting trademark owners against cybersquatting and other abusive registrations?” (TF Question B3);***
- ***“How effective were the different start-up mechanisms employed [from a functional perspective]? To what extent did they achieve their objectives or, conversely, cause consumer confusion, delays, legal issues, operational problems, or other impediments to smooth implementation?” (TF Question B6);***
- ***“Have there been any unusual number of disputes during the startup period and how well have they been addressed?” (TF Question L3);***
- ***“How often and how successfully have advance filtering and other mechanisms for enforcement of registration restrictions been used, both in sponsored gTLDs and in restricted unsponsored gTLDs?” (TF Question B2);***
- ***“What effect have the new gTLDs had on the scope and competitiveness of the domain name market, in terms of opening new markets, and in their effect on existing TLDs and registrants?” (TF Question B4);***
- ***“How well do the agreements provide a [reasonable] framework for the addition of future TLDs?” (TF Question L1); and***
- ***Have the new gTLDs encountered any legal or regulatory problems that were not considered at the outset, and, if so, how could they have been avoided?” (TF Question L2).***

# Evaluation of Operational & Technical Issues – Solucom/Finaki

- ***“Have new TLD registries incorporated technologies, including new technologies, that can adversely affect the performance of the DNS, violate DNS technical standards, or cause existing applications to fail” (TF Question T2);***
- ***“To what extent and in what timeframe have the registry operators provided free, real-time access to a fully searchable Whois database?” (TF Question B3);***
- ***“Are adequate management policies and safeguards in place to ensure protection against accidental or malicious acts that could substantially interfere with continuity of service?” (TF Question B5); and***
- ***“To what extent were the Board's original objectives met through processes that were used for selection, approval, negotiation, and implementation? How could these processes have been streamlined?” (TF Question P1)***

# Legal and Functional Aspects of the Start-Up Periods

- How effective have startup mechanisms been in protecting trademark owners against cybersquatting and other abusive registrations?
- How effective were the different start-up mechanisms employed, from a functional perspective? To what extent did they achieve their objectives or, conversely, cause consumer confusion, delays, legal issues, operational problems, or other impediments to smooth implementation?
- Have there been any unusual number of disputes during the startup period and how well have they been addressed?

## ● Preliminary Methodology

- Interviews
- Random sampling
- Statistical analysis

## ● Preliminary Issues to Address:

- Different methods used to protect trademark holders
- Different methods used to allocate names during Landrush
- Disputes - number and handling



# Compliance by Restricted, Un-sponsored gTLDs with their Registration Requirements

- How often and how successfully have advance filtering and other mechanisms for enforcement of registration restrictions been used, both in sponsored gTLDs and in restricted un-sponsored gTLDs?

**Note:** Question of compliance with registration restrictions for SgTLDs has been answered by Summit's Report on Compliance by Sponsored gTLDs with the Registration Requirements of their Charters (<http://www.icann.org/committees/ntepptf/stld-compliance-report-25feb03.htm>). This Evaluation therefore focuses on .biz and .name.

## ● Preliminary Methodology

- Interviews
- Random sampling
  - Prima facie review
  - Detailed review
- Discussions with registrars & relevant ICANN constituencies

## ● Preliminary Issues to Address

- Self-certification
- Third party enforcement
- Other options

# Effect of New gTLDs on Scope & Competitiveness of Domain Name Market

- What effect have the new gTLDs had on the scope and competitiveness of the domain name market, in terms of opening new markets, and in their effect on existing TLDs and registrants?

## ● Preliminary Methodology

- Research
- Interviews
- Queries to selected registrants

## ● Preliminary Issues to Address

- Stakeholder views on scope & competitiveness
- Nature of new markets
- Impact of new gTLDs





# Reasonableness of the Legal Framework

- How well do the agreements provide a [reasonable] framework for the addition of future TLDs?

## ● Preliminary Methodology

- Analysis of 7 gTLD agreements
- Interviews with Registries & ICANN Legal Staff
- Review of negotiating dynamics

## ● Preliminary Issues to Address

- Reasonableness
- Non-essential elements
- Omissions

# Legal & Regulatory Issues Arising from the New gTLDs

- Have the new gTLDs encountered any legal or regulatory problems that were not considered at the outset, and, if so, how could they have been avoided?

## ● Preliminary Methodology

- Interviews with Registries
- Interviews with ICANN Legal Staff
- Interviews with ICANN Constituencies
- Review of court filings

## ● Preliminary Issues to address

- Legal problems (other than during startup)
- Regulatory issues

# Conclusion

- **Cooperation / Success**

- **Questions / Information**

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