
Preparing for New Top-Level and Multilingual Domain Names

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Recent months have seen the introduction of plans to expand the number of available Internet domain names through the addition of new "top-level" domains, as well as the introduction of "multilingual" domain names. Although additional domain names are not yet available under either of these regimes, companies are taking various measures to prepare for the availability of these new domain names. These measures include pre-registration of domain names and registration of trademarks with proposed new top-level domains.

Companies seeking protection for their trademarks and domain name assets should consider whether these approaches are desirable, and should be on the lookout for cybersquatting activity in these new arenas. See our prior Internet Alerts on the [U.S. federal cybersquatting statute](#) and on the [Internet Corporation for Assigned Names and Numbers \(ICANN\)'s Uniform Domain Name Dispute Resolution Policy](#).

New Generic Top-Level Domains

This month, ICANN accepted 47 applications from domain name registrars and others for the creation of an unspecified number of new "generic" top-level domains (gTLDs). The applications propose dozens of new gTLDs including .firm, .travel, .law, .kids (four competing applications), .xxx (three applications), .africa, .museum and even .dot.

Currently, there are only three "generic" top-level domains: .com, .org and .net. Internet domain names ending with these suffixes are available to any applicant throughout the world from any of over 120 registrars accredited by ICANN. However, commentators have long felt that the supply of available names in these existing gTLDs has become depleted. For example, of the approximately 31 million domain names registered worldwide, approximately 19 million end in .com. By now, almost every common word in the English language, and in many foreign languages, is registered as part of a .com domain name.

In order to expand the number of gTLDs and the overall number of domain names available to the public, ICANN invited registrars in June (for a \$50,000 fee) to submit applications to administer one or more new gTLDs. The application period ended on October 2, and ICANN is now in the process of reviewing applications to select a limited number of new gTLDs, on a test basis. ICANN has

published the applications, and will accept public comments on them until October 27 (see www.icann.org). Once ICANN selects the new gTLDs and registrars, the public will have the opportunity to register domain names using these new gTLDs, probably early in 2001.

In anticipation of this opportunity, some hopeful domain name registrars have begun to "pre-register" domain names with their proposed new gTLDs. ICANN has sought to discourage pre-registration, as it has not yet selected which of the new gTLDs will be allowed, and there is no guaranty that the registrars offering pre-registration will be among those selected to administer the new gTLDs.

In addition, applicants are flooding the U.S. Patent and Trademark office with applications seeking trademark registrations for domain names with as-yet-uncreated gTLDs. These applications are generally filed as "intent to use" applications, which give the applicant up to four years to demonstrate that the name is being used as a trademark in commerce.

Although new gTLDs are viewed as beneficial by observers who are concerned about the current shortage of .com names, many trademark owners have voiced concern that the introduction of new gTLDs will simply open more territory to cybersquatters. That is, companies owning well-known trademarks may be forced to pre-emptively register or buy domain names in each of the new gTLDs as soon as they become available, in order to prevent their registration by cybersquatters. This result could be viewed as a boon to domain name registrars, but an unwelcome cost and risk to trademark owners. Thus, trademark owners should consider whether to register in the new gTLDs soon, in order to be ready to register as soon as the gTLDs are approved.

Genericized Country Code Domains

In addition to the new gTLDs being considered by ICANN, some top-level domains (TLDs) initially assigned to small countries have become "genericized," and are being promoted as generic TLDs themselves. The most publicized example of this phenomenon is the .tv TLD, which was assigned to the island nation of Tuvalu. Last year, Tuvalu sold the rights to the .tv TLD to dotTV, a Canadian company which has sold over 50,000 .tv domain names for prices ranging from \$100 to \$1 million. Another example is the .fm TLD, assigned to the Federal State of Micronesia, and now touted on the dot.fm site as "a great sounding web address."

Multilingual Domain Names

Until now, all Internet domain names have been expressed exclusively in English-language letters. That is, domain names containing foreign-language characters (such as Chinese, Japanese and Korean characters, as well as non-English characters used in languages such as Spanish and German) have not been recognizable by the servers that carry traffic over the Internet. This limitation, which arises from the historical origin of the Internet as a project of the U.S. government, has prevented owners of business names and trademarks containing foreign-language characters from registering these names and marks as domain names. In addition, some observers argue that the unavailability of multilingual domain names has hindered the growth of web sites that cater to non-English speakers.

This month, several domain name registrars, including Network Solutions, i-DNS.net, Alldomains.com and others, began to accept pre-registrations for so-called multilingual domain names in Japanese, Korean and Chinese characters. These names would be followed by the .com, .net or .org gTLDs, and will become operational once the technical protocols for multilingual domain names have been finalized by the Internet Engineering Task Force (IETF), which is expected next month. Following the implementation of Japanese, Korean and Chinese domain names, Spanish, Portuguese and Arabic domain names are expected to be introduced.

Under the proposed registration program, domain names written in these character sets would become part of the global Shared Registry System (SRS) in which all accredited registrars of .com, .net and .org domain names participate. These domain names could then be located through a "whois" search (that is -- a search which scans the global registry to identify the registered user of a domain name) conducted through any SRS participant, as can all other .com, .net and .org domain names.

One of the problems anticipated with the pre-registration plans currently being offered for multilingual domain names is that these domain names will not yet be part of the SRS, and registrars will not know whether any given domain name has already been pre-registered through another registrar. Once the multilingual domain name system becomes operational, it is expected that all of the pre-registered domain names will be submitted to the SRS more or less simultaneously, and duplicate registrations will be resolved, somewhat randomly, on a first-come, first-serve basis. Thus, pre-registrants of multilingual domain names may find that their pre-registrations have not been accepted into the SRS, and are thus invalid.

In addition to the multilingual domain name program, which will apply only to the .com, .net and .org gTLDs administered by ICANN, local registrars in some countries are introducing plans to permit the registration of non-English domain names with specific country-code top-level domains. For example, the Japanese national registrar, JPNIC, has announced plans to permit the registration of Japanese character names with the .jp top-level domain beginning next year.

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