

Monitoring ICANN gTLD Program Applications for Infringement

May 2, 2012

On January 12, 2012, the Internet Corporation for Assigned Names and Numbers (ICANN) began accepting registrations to apply for eligibility to submit an application to become a registrar in its new Generic Top Level Domain program (gTLD). The window to apply for a new gTLD to register and submit a TLD application request closed on March 29, 2012.

In early May, information from these public applications will be posted to ICANN's website and will be viewable here: <http://newgtlds.icann.org/en/program-status>. From April until November, the application review and initial evaluation process will occur. Any objections must be filed during this time period.

What You Should Do

Starting in mid-May, owners of marks should monitor published applications for new gTLDs for possible infringement of brand names and trademarks. Should they wish to file a dispute, proceedings must be based on one of the following four criteria:

- **String Confusion Objections** – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied for gTLD string in the same round of applications. *Only the existing TLD operator or gTLD applicant in current round may file an objection under this criterion.*
- **Legal Rights Objections** - The applied-for gTLD string infringes the existing legal rights of the objector. *Only rightsholders may file an objection under this criterion.*
- **Limited Public Interest** - The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under principles of international law. *There are no limitations on who may file – however, objections are subject to a “quick look” designed for early conclusion of frivolous and/or abusive objections.*
- **Community Objections** - There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted. *Only an established institution associated with a clearly delineated community may file an objection under this criterion.*

Additional details regarding who can challenge the applied-for gTLDs and how those challenges can be filed are contained in the Applicant Guidebook on-line at www.icann.org. Other resources and continuing announcements will also be listed on the ICANN web site.



If you have any questions about how to monitor the public applications or questions about potential infringement, please contact your regular Lathrop Gage attorney or one of the attorneys listed at the top of this legal alert.