

JONAS

IP-NEWS

Domain names – new opportunities.

Domain update.



I. Internationalized domain names

Last weekend the decision was made: countries and specific territories shall be able to provide their country code top level domains (ccTLDs) as for example “*.de”, “*.eu” or “*.ru”, “*.cn” not only in Latin letters but also in non-Latin script, e. g. Cyrillic. These new so-called “internationalized domain names” (IDN) are, in particular, interesting for the Asian and Arabic territory as well as for the Russian Federation and Greece with their different non-Latin script.

Already next year the registration of so-called second level domains, i. e. single domain names under each top level domain, shall be available for everyone. The respective countries and territories as for instance for the Russian Federation, China, the European Union, Japan have to apply with ICANN for the respective top level domains. Only the legitimate representatives of the respective countries and territories can apply for the new IDNs as ccTLDs and assign the task of registry to an appropriate service provider similar to DENIC e. G. in Germany. The Russian Federation has already proposed that they wish to maintain the ccTLD “*.pф”.

There are many indications that the successful applicant countries will provide “sunrise periods” for later registration of second level domains to enable right holders prior to the general “land rush period” to secure domain names which match registered trademarks in the respective non-Latin script. The Russian Federation already proposed to provide such sunrise period. A definite time schedule is not yet provided.

This is a new field for cyber squatters. The best strategy will be prevention, namely registration of domains before these are registered by third parties. Afterwards, any measures against cyber squatters will be as problematic as with regard to the current ccTLDs. ADR proceedings are still available in some countries, only.

It is recommendable for those right holders which own trademarks e. g. in the Russian Federation or China in non-Latin script to also secure the matching domains. One should start monitoring when this will be possible and under which circumstances.

II. New second level domains under “*.de”

Since October 23, 2009, second level domains consisting of one or two letters as well as numbers up to 63 characters can be registered under the ccTLD “*.de”. The competent registry DENIC e. G. pronounced only one week ahead that anyone will be able to register such second level domains. The reason was a law suit by Volkswagen AG who requested the domain “vw.de” and which request was confirmed by the German Federal Supreme Court (BGH).

DENIC e. G. refrained from any form of a so-called “sunrise period”. The principle of “first come, first served” was in place. Now, some cleaning up – also relying on legal means – will be necessary to enable owners of registered trademarks and other designations to use these signs as domain names under the ccTLD .de in the future. Not all owners of designation rights were lucky when the new domain names became available – almost 30,000 on the first day. Cyber squatters as well as unsuspicious third parties have registered domain names which may be important for right holders.

Affected trademark owners are referred to the avenue of negotiations, cease and desist letters as well as – if necessary – law suits. Beforehand, dispute entries filed with DENIC e. G. are recommended.

III. New generic top level domains (gTLDs)

Since 2008, ICANN intends to open the domain name system for an indefinite number of TLDs. The TLD strings can be (almost) freely chosen. Now, the third "Draft Applicant Guidebook" was published and public commentaries can be provided until November 20, 2009. As an applicant, one does not register a "regular" domain. With respect to these gTLDs one will become the registry as for example DENIC e.G. for "*.de" domains. This is one reason for the minimum fee of 185,000 USD for participation in the application proceedings. Also, the financial and technical ability as registry has to be proven.

The system is proposed to start in 2010. Despite serious concerns of right holders against the introduction of the gTLDs to be chosen freely it has to be presumed that ICANN implements its plans. ICANN wishes to address the right holder's concerns by providing an opportunity to notify trademark and other designation rights with ICANN and the opportunity to apply for certain exclusion proceedings during the registration of a gTLD. Trademark owners which are themselves interested in one of the new gTLDs and accept the effort to be spent, are recommended to apply for the intended gTLD as soon as possible. The most effective protection for their own trademarks may be available for right holders when they notify ICANN at an early stage on their trademarks and other designations and monitor which applications for gTLDs are filed.

If you have any questions or if you require more detailed information, please do not hesitate to contact us.

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