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May 17, 2012

Mr. Rod Beckstrom
Internet Corporation for Assigned
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Attn: Kurt Pritz

Submitted via: <http://www.icann.org/en/news/public-comment/com-renewal-27mar12-en.htm>

Re: Comments of the Intellectual Property Owners Association Regarding .com Registry Agreement Renewal

Dear Mr. Beckstrom:

Intellectual Property Owners Association (IPO) appreciates this opportunity to address the comments posted in response to the request by ICANN for comments concerning .com Registry Agreement renewal.

IPO is a trade association, based in the United States, representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. IPO's membership includes more than 200 companies, and approximately 12,000 individuals who are involved in the association either through their companies or law firms or as IPO individual members. Our members hold trademarks around the world. As such, IPO has a significant interest in the new gTLD introduction generally and, more specifically, the rules, requirements, and processes of applying for new gTLDs.

IPO submits this reply comment in support of two points raised by the Intellectual Property Constituency (IPC) and the International Trademark Association (INTA) during the initial comment round: first, that the .com Registry Agreement (RA) contain a provision requiring transition to a "thick" Whois, and second, that the RA contain a provision requiring the implementation of the additional rights protection mechanisms (RPMs) adopted by ICANN for implementation with the new gTLDs.

Thick Whois

The value of a Thick Whois system in the .com registry, as opposed to the current mishmash of registrar-based Whois databases, is difficult to overstate. Open access to accurate ownership information will, among other things, increase the security and stability of the registry, improve the quality and accuracy of Whois data, and promote uniformity in Whois data collection and retrieval. These improvements will create tangible benefits to *all Internet users* by aiding consumers, brand owners, and law enforcement to quickly and accurately identify domain name registrants, thereby reducing the intellectual property abuse, counterfeiting, and fraud in the Internet marketplace, as well as making it easier for law enforcement to combat criminal activity generally.

As the IPC and INTA point out, the justifications ICANN puts forth for its proposed revisions to the .com RA nearly entirely *support* a provision requiring the .com registry's migration to a Thick Whois. Further, the sole justification for its failure to include such a provision is that the possibility "raises operational and other issues that require further discussion and consideration." While ICANN is correct that "such a change can be implemented separately from the renewal process" in the context of a Policy Development Process (PDP), the Generic Names Supporting Organization (GNSO) has postponed the Thick Whois PDP for the time being precisely because the path of least resistance, by far, is the inclusion of Thick Whois in the .com RA itself. As .com-based websites are anticipated to remain the "Main Street" of the Internet for years to come, failure to transition to a Thick Whois as quickly as possible would be a terrible mistake. We urge ICANN to include a Thick Whois migration provision in the .com RA rather than spend vast amounts of time and resources on a PDP that would take years longer to achieve the same goal.

Rights Protection Mechanisms

IPO fully supports that ICANN adopt strong RPMs. IPO appreciates that certain RPMs (Trademark Clearinghouse and its attendant RPMs) are not relevant to a registry already in operation, and that others (Uniform Rapid Suspension, Post-Delegation Dispute Resolution Process) are untested and "approved only in the context of new gTLDs." However, this does not mean that the .com registry should simply go without, bereft of additional RPMs, for the full six-year duration of the renewal term. Such a conclusion makes little sense, especially from the standpoints of consistency, competition, and security and stability. For this reason, ICANN should add a provision to the .com RA requiring implementation of the relevant RPMs after a suitable ramp-up period in the new gTLDs.¹

¹ Eventual implementation of RPMs in the .com registry should mirror the implementation of the RPMs in the new gTLDs, including any changes made prior to gTLD launch, or as a result of RPM evaluation post-launch. For instance, IPO finds the current version of the URS to contain serious flaws and anticipates changes thereto, if not a complete overhaul, in the coming years.

INTELLECTUAL PROPERTY OWNERS ASSOCIATION

We thank ICANN for this opportunity to provide the foregoing comments.

Respectfully submitted,

A handwritten signature in black ink, reading "Herbert C. Wamsley". The signature is written in a cursive style with a large, looping initial "H".

Herbert C. Wamsley
Executive Director