

Trademark Clearinghouse Brand Protection Service to Launch on March 26, 2013 for New gTLDs

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March 14, 2013 -- In 2012, the Internet Corporation for Assigned Names and Numbers ("ICANN") received nearly 2,000 applications for new generic top level domains ("gTLDs"), including such names as: .bank, .capital, .credit, .creditcard, .finance, .financial, .insurance, .investments, .life, .life insurance, .mutual funds, and .retirement. (See our article in the Summer 2012 issue of Expect Focus®, ICANN Reveals the Applied-For Generic Top Level Domain Names). Trademark counsel worldwide anticipate new cases of infringement as a result of the substantial increase in the number of domain names. On March 26, 2013, ICANN will launch the Trademark Clearinghouse ("TMCH") to assist brand owners in protecting their marks within the new gTLD area of the Internet. The TMCH will allow eligible mark owners to obtain verification of their trademark information in a TMCH-centralized database. Owners of marks that have been verified will have the option of receiving one or both of the following services: **Sunrise Service:** during the 30-day period prior to the launch of a new gTLD, mark owners may apply to register one or more domain names that are an exact match to their marks. This will provide mark owners with an opportunity to purchase domain names within new gTLDs before the general public. **For example, an eligible owner of the mark ACME may wish to purchase the domain name "acme.insurance."** **Trademark Claims Service:** following the expiration of said 30-day sunrise period, mark owners will receive alerts of any registered, or attempts to register, domain names that are an exact match to the owner's marks. The notification period is limited to 60 days after the launch of each particular gTLD. Deloitte will perform the verification services and IBM will be the database provider. While the TMCH provides a centralized option that alleviates the administrative burdens of having to monitor each new gTLD registry for infringements, there are several limitations. First, the TMCH services do not automatically block potentially infringing registrations. Mark owners must therefore resolve their disputes through other means (such as via ICANN's Uniform Domain-Name Dispute Resolution Policy). Second, the TMCH services apply only to domain names that are **exact** matches to the validated marks; in other words, the mark owner will not receive an alert for any confusingly similar domain names within new gTLDs.

Third, no alerts are provided once the above-described 60-day notification period expires. Furthermore, the TMCH filing fee is \$150 per mark, per year.

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