Update
Overarching Issues

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New gTLDs and Overarching Issues

- Four key concerns were identified based on public comments in November, 2008; regarding:
  - Trademark Protection
  - Possible amplification of malicious conduct on the Internet
  - Questions regarding new gTLD demand (including issues of cost)
  - Security and stability impacts of an expanded number of gTLDs

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Approach

- ICANN has approached each issue individually, but recognizing that all must be addressed before launching the new gTLD process

- There has been and will continue to be extensive public comment on these issues

- Generally process will be to update the Draft Applicant Guidebook based on new recommendations

Trademark Protection

Background

- New gTLD Policy states:
  - *"strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law."*

- An independent economist's report:
  - *"while [new gTLD] entry generally promotes consumer welfare, proper account also must be taken for property rights that protect firms' investments in establishing a reputation and brand name."*

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Context of Existing Protections

- UDRP processes
  - Global arbitration process for handling domain name disputes
    - Independent processes designed and run by existing generic and country code registries
    - Actions mandated and enforced by ICANN contract
- "Sunrise" periods used for ccTLD (e.g., .eu) and gTLD (e.g., .asia) launches
- Protections already envisioned for new gTLD process (objection, string similarity, others)

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Issues Raised

- Cost and administrative burden to rights owners of many new gTLDs

- Potential increase in cybersquatting, consumer confusion

- Scalability of existing dispute processes (UDRP) to a larger name space

- Preventing bad actor registry operators

- Others

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Solution Approach

- Implementation Recommendation Team (IRT) formed from experts in the community

- Other organizations (for example, WIPO, Demand Media, more) provided solution suggestions as well

- The IRT developed Preliminary and Final Reports recommending specific approaches to address some intellectual property concerns

- Already been extensive feedback in live forums and on-line regarding this report

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Summarized recommendations (1 of 2)

- The IP community working with ICANN suggested:

  1. There should be a simple, low-cost way to provide all new registries with trademark information (IP Clearinghouse)

  2. All registries should offer a baseline level of protection during start-up phases (IP Claims, Standard Sunrise)

  3. There should be a rapid, low-cost way of handling the clearest cases of rights infringement (URS)

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Summarized recommendations (2 of 2)

- The IP community working with ICANN suggested:

  4. There should be a list of globally protected marks that would have special treatment in the new gTLD (GPML) process

  5. All registries should offer Whois information (thick Whois)

  6. There should be a robust mechanism for sanctions against new gTLD businesses that are "bad actors" (post-delegation dispute)

  7. ICANN's criteria for considering similarity of two strings should be expanded

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Way Forward

- Currently receiving public comment on intellectual property recommendations
  - Encourage your review/comment in this session and on-line

- Recommendations and comments will result in changes to the next version of the Draft Applicant Guidebook

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Malicious Conduct

Issues Raised

- Will instances of malicious conduct multiply with the introduction of new gTLDs?

- What are the manner / modalities of malicious conduct that might arise?

- How can instances of malicious conduct be mitigated (in volume and effect)
  - Through the process of introducing new TLDs
  - Through contract or other restrictions

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Participating Groups

The following groups or representatives of these groups have participated in the development of issues and solutions in this area:

- APWG (Anti-phishing working groups)

- BITS (A division of The Financial Services Roundtable)

- MyCERT (Computer Emergency Response Team, Malaysia)

- FIRST (Forum of Incident Response and Security Teams)

- RISG (The Registry Internet Safety Group)

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How is "Malicious Conduct" Defined?

- Considering malicious conduct as criminal activity
  - e.g. phishing to conduct financial fraud/identity theft, spread of malware/establishing botnets

- Distinct from trademark protection
  - Different processes for determination of what at issue and to authorize response
  - Certain remediation steps may address both issues – strengthen mechanisms for ensuring registrars and registrants can be contacted
  - Generally, time urgency of a trademark protection issue and malicious conduct are quite different

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Understanding Key Issues

- Addressing control of new gTLDs where security may be a high concern (e.g. financial)
  - Understand appropriate standards for registrar/registrants in these TLDs & registry-level security/continuity practice

- Ensuring effective practices in all new gTLD operation
  - For example, implement DNSSEC; prohibit wildcarding; remove glue records

- Ensuring ability to react to malicious conduct
  - WHOIS requirements and enhanced compliance
  - Registrar-level requirements such as abuse point of contact
  - Include approach as part of application/evaluation

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Way Forward

- Work with Banking/Finance on security-specific TLD concerns and mitigation approaches

- Develop appropriate mitigation processes and explanatory memoranda for AGBv3

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Root Zone Scaling

Issues Raised

- What are the possible combined effects on root zone performance of the (near) coincident introduction of:
  - IPv6
  - DNSSEC
  - IDNs
  - New gTLDs

- Are there any impacts on the new gTLD process?

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Solution Approach

- Joint study by ICANN technical bodies (RSSAC/SSAC); they have commissioned a team of experts

- Model-based analysis of root zone scaling issues
  - Compile a description of the complete root server system
    - Provisioning side (update) and query side (lookup)
    - Technical infrastructure and operational procedures
  - Model the relationships among different parts of the system
    - How does changing something in one part affect each other part?
    - Goal is quantitative model (as timeframe of study allows)

- Factual/analytical tool for resolving concerns about root server system security and stability as the root grows

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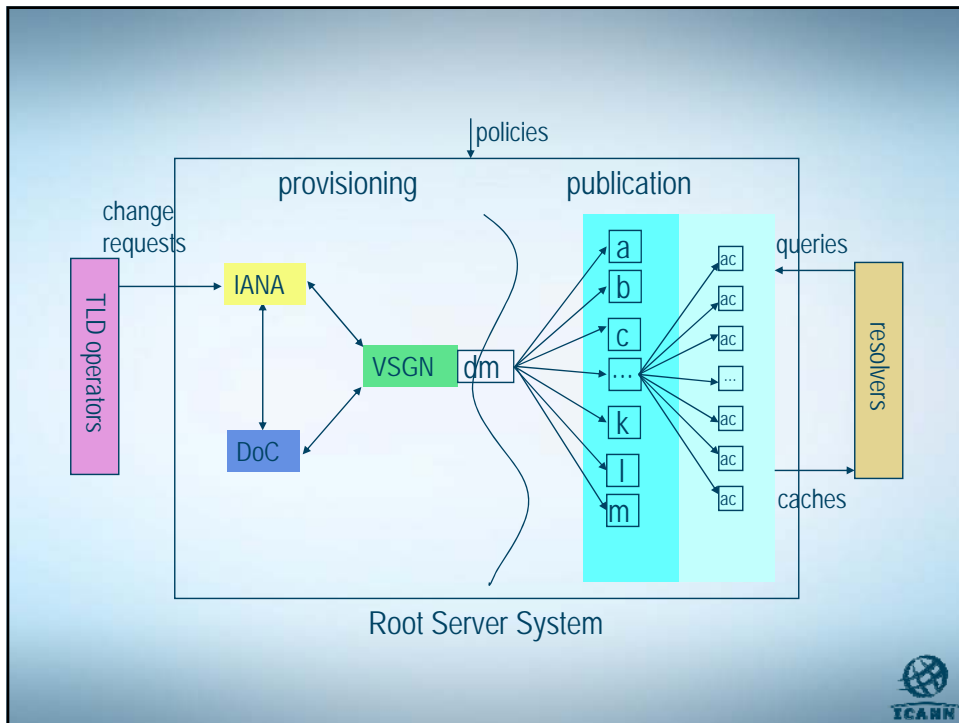
Way Forward

- Draft report available in August/September

- New gTLD process will need to consider any advice from this report, and how to best handle it

Domain Name Markets:
Economic Studies

Issues Raised

- Some economic concerns focused on growth in expense:
  - Trademark infringements (costs for defensive second-level registrations, protection of trademarks at top-level)
  - Potential growth in malicious conduct
  - Potential for user confusion

- Should there be price caps for registration services?

- What are the effects of the switching costs involved in moving from one TLD to another?

- What is the effect of the market structure and pricing on new TLD entrants?

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Economic Studies of the gTLD Marketplace

- Preliminary Report of Dennis Carlton Regarding the Impact of New gTLDs on Consumer Welfare (March 2009)

- Preliminary Analysis of Dennis Carlton Regarding Price Caps for New gTLD Internet Registries (March 2009)

- Report Of Dennis Carlton Regarding ICANN's Proposed Mechanism for Introducing New GTLDs (May 2009)

- Comments on Michael Kende's Assessment of Preliminary Reports on Competition and Pricing (May 2009)

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Going Forward

- In all events, work to mitigate costs or negative effects before the TLD process is launched:
    - Implement appropriate rights protection mechanisms
    - Consider and implement measures to mitigate and reduce malicious conduct

- Continue conversation with community on utility of more economic studies

- Establish metrics, renew analysis regularly

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Summary and Next Steps

Overarching Issues - Next Steps
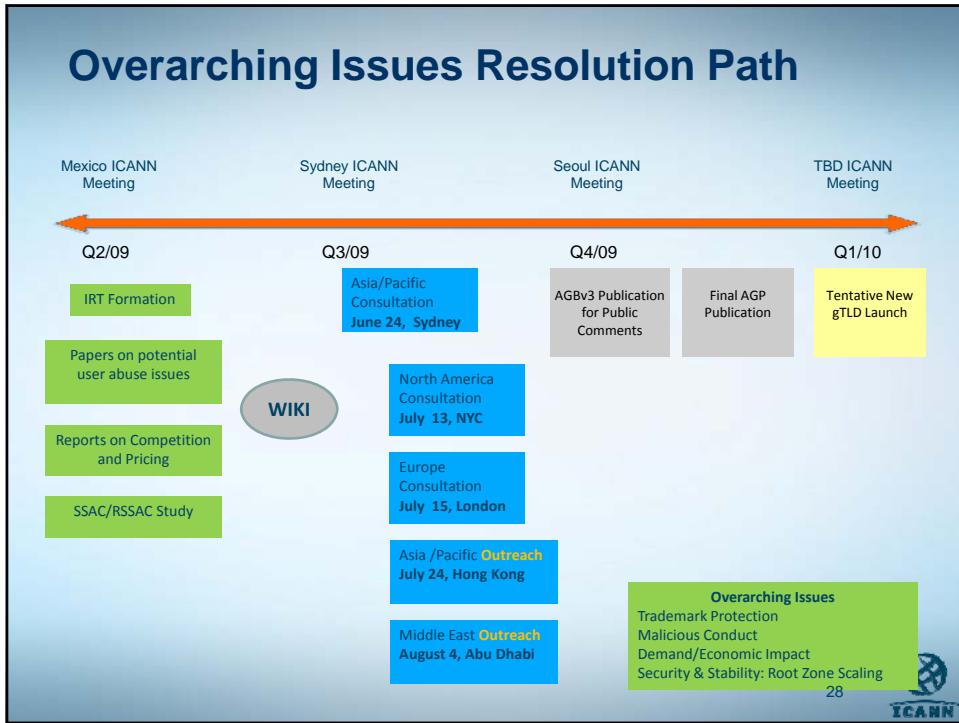
- Trademark Protection and Malicious Conduct:
  - Complete consultations, include set of rights protection mechanisms into Applicant Guidebook

- Root Zone Scaling:
  - Complete study; publish draft for review and comment by September

- Market Impact:
  - Review and summarize work to date
  - Potentially hold additional discussions regarding effects of TLD introduction on the marketplace

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Overarching Issues Resolution Path

Mexico ICANN Meeting

Sydney ICANN Meeting

Seoul ICANN Meeting

TBD ICANN Meeting

Q2/09

Q3/09

Q4/09

Q1/10

IRT Formation

Papers on potential user abuse issues

Reports on Competition and Pricing

SSAC/RSSAC Study

WIKI

Asia/Pacific Consultation
June 24, Sydney

North America Consultation
July 13, NYC

Europe Consultation
July 15, London

Asia /Pacific Outreach
July 24, Hong Kong

Middle East Outreach
August 4, Abu Dhabi

AGBv3 Publication for Public Comments

Final AGP Publication

Tentative New gTLD Launch

Overarching Issues
Trademark Protection
Malicious Conduct
Demand/Economic Impact
Security & Stability: Root Zone Scaling

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THANK YOU

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