

Josh Bourne, President

December 21, 2011

Phil Lodico, Vice President

Bacardi & Company Limited

Carlson/Carlson Hotels  
Worldwide/Carlson  
Restaurants Worldwide

Mr. Rod Beckstrom  
CEO and President  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90206-6601

Dell Inc.

Dear Mr. Beckstrom:

DIRECTV, Inc.

Eli Lilly and Company

Harrah's Entertainment, Inc.

Hewlett-Packard Company

Hilton Hotels Corporation

HSBC Holdings plc.

InterContinental Hotels  
Group

LEGO Juris A/S

Marriott International, Inc.

Morgan Stanley

Nationwide Mutual  
Insurance Company

New York Life Insurance  
Company

NIKE, Inc.

Wells Fargo & Company

Wyndham Worldwide  
Corporation

The last several weeks have been an interesting period of debate about the New gTLD Program. Both the United States Senate and the House of Representatives convened hearings and heard a wide range of concerns about the policy. At one end of the spectrum, there has been a call to stop or eliminate the Program, while at the other end there has been support to see the policy through. Others have provided a number of constructive suggestions to improve the policy surrounding the New gTLD Program.

CADNA recognizes the inherent challenges of rolling out a policy that will profoundly impact all Internet stakeholders, and submits the following suggestions for improving the New gTLD Program. Our suggestions are a result of participating in the recent discussion about the policy both as a witness in one of the Congressional hearings and as an advocate for making the policy better in order to reduce anxiety felt by businesses about the impending New gTLD Program.

CADNA believes that at this juncture, only concrete, achievable suggestions are helpful. The political pressure to repeal the policy will only increase if some changes are not implemented immediately. The consequences of such pressure may ultimately have a debilitating effect on ICANN and the New gTLD Program. We encourage ICANN to seriously consider these suggestions and CADNA stands ready to help in any way it can.

As I expressed in my November 18 letter, businesses continue to feel anxiety that stems from the belief that if they do not apply for one or more new gTLDs in this first application round, they will be put at a disadvantage relative to their competitors, in the event those competitors apply and gain a theoretical advantage from owning gTLDs.

CADNA would like to present recommendations to ICANN that encompass a series of manageable but significant changes to the New gTLD Program. We firmly believe that if ICANN commits to executing on these suggestions, it will not only improve the New gTLD Program for all applicants, but will also make meaningful strides toward repairing its strained relationship with members of the business community.

**I. Our recommendations for ICANN are as follows:**

1. *The ICANN Board should commit to requesting an Issues Report to formally initiate a policy development process to determine when the next round of new gTLD applications will occur.*

A declaration by ICANN of when the next applicant round will take place would relieve much of the anxiety surrounding the first application period. CADNA has found that businesses feel forced into applying for new gTLDs in this first round, lest they be put at a disadvantage relative to their competitors who may gain an edge by acquiring their own new gTLDs.

Businesses are making decisions by weighing the consequences of not participating in this first round when it could be five or more years, a lifetime in this digital age, before they could apply again. For many companies that is too long, should their competitors act now and begin to extract (yet unknown) benefits from a gTLD of their own.

2. *ICANN should consider including a requirement in the Applicant Guidebook that all new gTLD registries that choose to sell second-level domains to registrants adopt a low-cost, one-time block for trademark owners to protect their marks in perpetuity.*

Businesses are worried about dealing with the cybersquatting that will occur to the “left of the dot” in the new space – in other words, they are worried about the defensive registrations that they will need to pay for in open-registry-model new gTLDs in order to reduce the impact cybersquatting will have on their businesses and customers. To alleviate this issue, ICANN should require registries to give brand owners the option to buy low-cost blocks on their trademarks before any registration period (Sunrise or Landrush) opens. This can be offered at a lower cost than sunrise registrations have been priced at in the past – this precedent has been set with the blocks offered in .XXX, where the blocks are made in perpetuity for a single, non-recurring fee.

3. *ICANN should consider adopting a pricing structure where a single applicant applying for multiple gTLDs pays a reduced rate for the subsequent gTLD applications, provided that the applicant has trademarks for those applied-for strings predating 2008, and that those strings are exact matches to their registered marks.*

One of the major sources of the anxiety felt by businesses around the New gTLD Program is the cost they will incur in pursuing multiple gTLDs. While ICANN should not adjust the cost of a single application, we believe ICANN should lower the cost of an applicant's subsequent applications. Many businesses that choose to apply for their own gTLD will likely also feel they need to apply for other gTLDs, either in other languages or scripts, or for other vital business units' and brands' monikers. This pricing model should be limited to trademark holders whose trademarks predate 2008, when the ICANN Board officially approved the GNSO's recommendation to introduce new gTLDs.

In addition to our recommendations to ICANN, we have also developed suggestions for the U.S. Congress as well as the National Telecommunications and Information Administration (NTIA) that are also designed to make the New gTLD Program less detrimental for businesses and Internet users. We have included them here to keep you and the ICANN community informed of our efforts, because we believe that to ensure that our suggestions have the greatest chance of success, ICANN, Congress and the NTIA will need to work in concert.

4. *ICANN should allow non-profit organizations who want to apply for their organizations' names as gTLDs to qualify to participate in the Applicant Support Program, as described by the Joint Applicant Support Working Group (JAS WG).*

As Angela F. Williams, Senior Vice President and General Counsel of YMCA USA, stated in the testimony she provided at the Senate Commerce Committee's hearing on ICANN's New gTLD Program on December 8, 2011, the \$185,000 application fee is prohibitively expensive for most non-profit organizations. However, certain non-profits see the value in acquiring their own gTLD that reflects their organization's name. The JAS WG has developed recommendations for a program to provide support to applicants requiring financial assistance in applying for and operating new gTLDs, and it would be useful for ICANN to allow non-profits applying for .BRAND gTLDs to qualify for this assistance.

## **II. To Congress, we recommend the following:**

5. *The U.S Congress should take much-needed action to improve the language of the Anti-Cybersquatting Consumer Protection Act (ACPA), so that it provides proper deterrents against cybersquatting.*

Cybersquatting to the left of the dot is already a massive problem; with approximately 200 million domain name registrations, concentrated mainly in .COM, there already exist millions of brand-infringing domains. We know it is unlikely that the new gTLDs will garner the same volume of cybersquatting, but that does not mean that no cybersquatting will occur in these domains.

Before new gTLDs transition to delegation, we need Congress to update the U.S. law in order to create a process that not only curbs and deters cybersquatting in the existing TLDs, but in any new ones that are created.

**III. To the NTIA, we make the following suggestion:**


6. *If ICANN is awarded the new IANA contract, its structure and policy development process should also be subject to an audit.*

To ensure that this is done, perhaps the contract should be renewed for a short period of time. During the one- to two-year extension period, there should be an evaluation of whether ICANN followed through on its commitments with regard to the gTLD process, and extension of the contract should be contingent on conducting internal reforms to improve governance and transparency.

We hope that ICANN will consider the recommendations we have outlined here, and hope that you find these suggestions both constructive and achievable. The recent decision by ICANN to allow applicants to file for financial support is an example of how the organization can still introduce productive improvements into the New gTLD Program. ICANN should commit to acting upon these recommendations before the application period concludes, and must also be diligent about communicating to applicants what will be required of them as a result of these proposed solutions.

Again, CADNA is ready and willing to help in any way it can. I appreciate your response to this letter, and look forward to working with you and ICANN in the future.

Sincerely,



Josh Bourne  
President  
The Coalition Against Domain Name Abuse



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cc: The Honorable Victoria Espinel, U.S. Intellectual Property Rights Enforcement Coordinator,  
White House

The Honorable Lawrence E. Strickling, Administrator, National Telecommunications and  
Information Administration, U.S. Department of Commerce

The Honorable John D. Rockefeller, Chairman, Senate Committee on Commerce, Science and  
Transportation

The Honorable Kay Bailey Hutchison, Ranking Member, Senate Committee on Commerce,  
Science and Transportation

The Honorable Frederick Upton, Chairman, House Committee on Energy and Commerce

The Honorable Henry Waxman, Ranking Member, House Committee on Energy and Commerce

The Honorable Gregory Walden, Chairman, House Committee on Energy and Commerce  
Subcommittee on Communications and Technology

The Honorable Anna Eshoo, Ranking Member, House Committee on Energy and Commerce  
Subcommittee on Communications and Technology

The Honorable Patrick Leahy, Chairman, Senate Committee on the Judiciary

The Honorable Chuck Grassley, Ranking Member, Senate Committee on the Judiciary

The Honorable Lamar Smith, Chairman, House Committee on the Judiciary

The Honorable John Conyers, Ranking Member, House Committee on the Judiciary

The Honorable Bob Goodlatte, Chairman, House Committee on the Judiciary Subcommittee on  
Intellectual Property, Competition, and the Internet

The Honorable Mel Watt, Ranking Member, House Committee on the Judiciary Subcommittee on  
Intellectual Property, Competition, and the Internet

The Honorable Jon Leibowitz, Chairman, Federal Trade Commission