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# ICANN's Role in the Domain Name System

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## Introduction

Good morning, ladies and gentlemen, fellow panelists, our moderator Michael Wolnizer. I want to thank you for the opportunity to share my thoughts with you today. I'd like to address several inter-related topics that we at ICANN—and the Internet community as a whole—expect to bring about the biggest changes in the Internet since its inception nearly four decades ago. I think it will also be of interest to you to learn about some of the work the ICANN community has done to bring about these changes.

When the global Internet community talks about the next billion people coming on line, they are talking about Asia. India has a population of 1.13 billion and penetration of 5.3%. China has a population of 1.3 billion, and penetration of 12.3%. Compare that to Europe, to Australia and Asia, all around 70% penetration. New Internet users—especially with ICANN's work to introduce Internationalized Domain Names, or IDNs, and new generic top-level domains—will overwhelmingly be using the languages of Asia. They will change the face of the Internet.

> ➤ First, I'd like to brief you on ICANN, its charter and its role in the expansion of the domain name space.

> ➤ Then I want to tell you about ICANN's activities. Our activities are focused entirely on coordinating the changing face of the Internet. Because change is the nature of the Internet, change is also ICANN's steady state. The ICANN community has

accomplished more during 2007 than in all the previous years of its existence.

➢ Evolving along with the Internet is the domain name space, so we are developing a process for introducing new top-level domains— both generic and country code TLDs, as well as internationalized domain names in national and regional language scripts.

➢ Again, we are working in a number of related fields to improve Whois enforcement and contractual compliance.

➢ We are also developing a process for curbing domain tasting.

➢ Finally, I'd like to briefly touch on the UDRP.

## A Brief History of ICANN

ICANN was formed in 1998 as an international multi-stakeholder organization responsible for the technical management and coordination of the Internet's domain name system and its unique identifiers. It is responsible for coordinating the Internet's—

➢ Internet Protocol address space allocation;

➢ Protocol identifier assignment;

➢ Generic and country code top-level domain name system management; and

➢ Root server system management functions.

In fulfilling its mission, ICANN is guided by four founding principles:

➢ To preserve the operational stability and security of the Internet, particularly the domain name system;

➢ To promote competition and choice for registrants, especially in the generic top-level domain arena;

➢ To achieve broad representation of global Internet communities;

➢ And, to develop policy appropriate to its mission through bottom-up, consensus-based processes.

These principles guide ICANN in introducing competition in the domain name market—and new gTLDs have been the key tool in doing this. The year 2000 saw the introduction of .biz, .info, .name, .pro, .aero, .coop, .museum. Another round of gTLDs in 2004 led to the introduction of .jobs, .mobi, .cat, .travel—and latterly, .asia and .tel.

So right now, there are about 20 generic top-level domains and 252 country-code TLDs supporting more than 146 million registered names in the domain name space.

Internet users are demanding more. Moreover, we expect the deployment of Internationalized Domain Names alone to create huge momentum driving applications for new generic and country code top-level domains.

## ICANN's Activities

Last month, ICANN held its 31$^{st}$ international meeting in New Delhi—the first of the three public meetings in 2008. These international public meetings are the ICANN model in action—bottom-up, consensus-driven discussions that help ensure the domain name system is coordinated rather than controlled. These meetings are crucial because ICANN's policies are created through a bottom-up, transparent process involving the entire Internet community.

Some highlights of the 31st ICANN meeting include:

> ➢ A workshop on Progress on the Fast-Track Process for IDN ccTLDs to find a way to represent territory identifications in local languages as country-code top-level domains as quickly as possible in the areas of highest need.

> ➢ A workshop on ICANN's planning for what happens if a Registrar ceases operating.

> ➢ Discussion of the decision by ICANN's Generic Names Supporting Organization on a report on domain tasting.

> ➢ And other activities I will address with you today.

It was fitting and exciting for ICANN to hold this meeting in India. India and Asia are at the heart of the Internet's future—a future that ICANN is working on as we speak. India is the fastest growing IT hub in the world and at its foundation is the single, globally interoperable Internet coordinated by ICANN. ICANN and the Internet community are right now discussing the issues that will help the Internet expand to the next billion users.

## How We Take Comments

So how, you may ask, does an organization with the job of building consensus among a multitude of stakeholders from every conceivable Internet interest group and from all around the world gather and incorporate all these

diverse views into its process for developing policy? It isn't simple or easy, but it's a model that has worked—amazingly—since ICANN's inception.

A vital part of ICANN's processes is the opportunity for there to be public comment on each substantial piece of work before it is put forward for final approval by ICANN's Board.

An independent review found ICANN to be one of the most transparent organizations in the world. But some participants feel overwhelmed at the sheer number, volume, and technical and legal complexity of our policy issues and processes. In the past two years, we have made great progress in making ICANN's policy processes much easier to follow.

Recently, we created a one-stop shop where you can track every issue for public comment in any ICANN process.

You can see that page at http://www.icann.org/public_comment/

This page outlines clearly and simply the public comment periods that are currently open, have recently been closed, or are upcoming. It also provides links to an archive of closed forums and to relevant reports and official announcements. And it has a link to where all existing comments can be found, and an email link for anyone who wishes to send in a comment.

But, you may ask, what do we do with the comments?

The public comments page I mentioned a moment ago also includes a summary and analysis of the comments for each issue. This provides valuable information and insights for those in the decision-making process, and it also creates a record for the wider community on the factors contributing to a final decision.

Our policy development processes include requirements mandated by ICANN's bylaws for committee members to include public comments in their final reports. For example, in our Generic Names Supporting Organization, policy staff summarize comments and make them available to committee members and the ICANN community. Each constituency involved in the process is then responsible for reflecting on the merits of all comments made. To this end, while the volume of comments on an issue can sometimes reflect the depth of concern or the breadth of those affected, the true value of public comments is their ability to provide new information, global context, and solid argumentation for the points of view expressed.

Let me give you an example. At one point during the lengthy Whois policy process, we received a public comment on the need to track down fraudulent websites from an unexpected source—the U.S. Red Cross. When a disaster such as Hurricane Katrina occurs, fraudsters set up sites overnight—like Red

Cross Katrina Victims.com—to extract donations from the public. The Red Cross argued that it needs immediate and accurate Whois data to help shut these sites down within hours.

Receiving input from a humanitarian organization about the importance of Whois changed perceptions of the issue. Submitting a public comment does not mean the process will always give you the result you want, but it does have an impact on our community's decision-makers.

## GNSO Recommendations for Dealing with Controversial Strings

ICANN's Generic Names Supporting Organization over the past two years has led the work to develop a process for introducing new gTLDs in the domain name space. That effort resulted in 20 policy recommendations, which are now before ICANN's Board for consideration.

There are three recommendations I'd like to focus on that should pique the interest of intellectual property experts here today. They fall into the general category of applications for strings that might be considered controversial and thus give rise to disputes.

One recommendation states that strings must not infringe the existing legal rights of others. A similar recommendation states that strings must not be contrary to generally accepted legal norms relating to morality and public order. These legal norms stem from generally accepted internationally recognized law that applies to trademarks and similar marks.

A third recommendation states that an application will be rejected if substantial opposition to it comes from a significant portion of the targeted community.

It takes little imagination to see the complexities involved in developing a process for excluding or denying strings because of one of these reasons.

A related policy recommendation states that strings must not be confusingly similar to an existing top-level domain, another application, or a reserved name. Now, I'd like to clarify something here. In the trademark community, "confusingly similar" is confined to deliberate misspellings of well-known brands or trademarked names.

In the new gTLD process, "confusingly similar" means visually confusing. One of the best examples is the almost indistinguishable difference between the English lower-case "a" and the Cyrillic letter "а".

Factors such as the various meanings or pronunciations of new TLD strings would not be taken into account in determining whether two strings are confusingly similar. The comparison is between two strings of characters, without regard to content.

Putting this recommendation into practice requires devising a test to determine whether two TLD strings are confusingly similar to one another. Given the goal of determining confusingly similar strings through a process that is objective and repeatable, the best test would appear to be a formula or algorithm.

Such a test mechanism would enable applicants to test prospective strings before starting the application process, thereby reducing the potential for surprises as the process moves through its steps.

ICANN has consulted mathematics experts, spell-check program developers, fuzzy string search and search engine software developers, linguistics experts, and others about the feasibility of the algorithm approach. These experts believe such an approach is feasible and that existing products can be adapted for this purpose.

ICANN is also creating a dispute resolution procedure and standards for providing decisions on objections to TLD strings based on concerns about public morality and order. We recently made a call for expressions of interest from potential dispute resolutions providers.

These mechanisms would not only help resolve any confusion, but they would also keep the application process moving smoothly.

## Internationalized Domain Names

I don't need to remind you that we're dealing with an Internet that is global in its infrastructure and technologies.

The genius of the Internet is it is single, it is global, and it is interoperable. No matter where in the world you plug into the Internet, it behaves in the same way.

So while its single, global, and interoperable status will be preserved, the Internet is about to undergo the most significant advance since its inception nearly forty years ago—increasing the ability of the next billion users to reach each other around the globe through their own local languages and content.

ICANN is in the midst of a technical test of Internationalized Domain Names, or what we call IDNs. Right now 11 versions of a top-level domain called "example.test" are live in the Internet root, using IDNs from 11 scripts.

Users around the globe are accessing wiki pages constructed by ICANN to see how IDNs and different browsers work. In fact, at ICANN's recent international meetings in Los Angeles and New Delhi, the IDN wiki booth drew crowds of visitors eager to test their names in these 11 languages. It was a roaring success on both occasions.

There have been 500,000 page requests since October of 2007, when the IDN wiki pages were launched. They are broken down as follows:

| Script | Language | % Share |
| --- | --- | --- |
| IDN main gateway | | 16.29 |
| Chinese | Chinese | 38.22 |
| Arabic | Arabic | 13.54 |
| Cyrillic | Russian | 13.19 |
| Hebrew | Yiddish | 4.08 |
| Hangul | Korean | 3.28 |
| Arabic | Persian | 3.10 |
| Kanji, Hiragana, Katakana | Japanese | 2.25 |
| Greek | Greek | 2.03 |
| Tamil | Tamil | 2.01 |
| Devanagari | Hindi | 2.00 |

The next step is how IDNs move beyond testing and into day-to-day use. Processes for accepting and validating proposed new TLDs—including IDN TLDs—are in development, anticipating that calls for formal applications for new TLDs could come quite soon.

## Twin-Track Process for Introducing IDN TLDs

ICANN's Country Code Names Supporting Organization and Governmental Advisory Committee are working on a twin-track process to deal with the complexities of introducing IDN TLDs. Two processes are being developed in parallel—an overarching policy development process that will lead to the creation of IDN equivalents of the existing country-code top-level domains, and a fast-track process to find a way to introduce a limited number of IDN ccTLDs to represent territory identifications in characters from local languages as quickly as possible in the areas of highest need. The principle driving both processes is that the latter—the fast-track process—must not impact the long-term policy process for the full implementation of IDNs.

The first draft report of the fast-track work was posted for public comment before the ICANN meeting in New Delhi in February. Our aim is to make both the fast-track and long-term processes for introducing new gTLDs available later in2008.

## Whois Enforcement

In 2007, the GNSO concluded a policy development process that addressed a number of important questions related to Whois service—what information should be available to the public, how to improve Whois accuracy, and how to deal with conflicts between Whois requirements and relevant privacy laws.

As part of our Whois policy effort, a GNSO task force completed work on defining the purpose of Whois and developing a draft procedure for addressing conflicts between Whois contractual requirements and national or local privacy laws. The ICANN Board has approved the GNSO's recommended contractual requirements, and ICANN staff has developed and posted a procedure for dealing with such conflicts.

In the area of access to Whois data, several registrars offered a proposal called the Operational Point of Contact, or OPoC for short, which is intended to define who can access contact information for registrants.

After further work and careful consideration, the GNSO Council decided not to accept the OPoC procedure. Instead, in-depth studies on crucial aspects of the current Whois service are being undertaken. You can find updates on the Whois studies at http://www.gnso.icaan.org/.

In the meantime, ICANN will continue to enforce existing policy relating to Whois, which requires that ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete Whois information, including registrant, technical, billing and administrative contact information.

## Contractual Compliance

The IP community has made it clear that one of its bugbears is the accuracy— or more correctly—the inaccuracy of data about domain name registrants available through a Whois look-up. So in 2007, ICANN created a new, more comprehensive contractual compliance program. We now have significant dedicated resources to ensure registry and registrar compliance with all their contractual obligations to ICANN, with a strong emphasis on Whois.

When we created ICANN's new compliance program, we met with each community to hear its concerns. Specific messages we got from the IP constituency within ICANN were —

➢ They wanted a properly resourced compliance program

➢ They wanted to make sure all registries and registrars obey the rules, especially those regarding Whois and the Uniform Domain Name Dispute Resolution Policy

➢ And finally, they wanted us to have a way to escalate our remedies for noncompliance

Today, I am happy to say we have a highly effective compliance function whose director continues to give updates to and accept feedback from ICANN's stakeholders—including the IP constituency. This two-way communication has been extremely useful in helping us focus compliance efforts on issues of immediate importance to the community. Comprehensive Whois enforcement is and will continue to be a high priority in our compliance work.

For several years, ICANN filed annual reports on compliance with the Whois Data Reminder Policy—an obligation on the part of registrars to remind customers to update their Whois information once each year. We also reported on the online system for notifying a registrar of inaccurate Whois data.

Now we have augmented this work with regular audits of Whois data accuracy and data retention, and by regularly monitoring Whois data accessibility. We will report in more detail on the results on this work during 2008. In the meantime, Whois enforcement will remain a high priority for our compliance team.

One compliance program is also exploring other potential remedies with our legal team, and any proposed changes will be subject to public consultation in due course.

You may be surprised to hear that ICANN's compliance program has also been positively received by registrars—as none can escape from their compliance obligations—meaning none of them has a competitive advantage. Everyone gains something by obeying the rules.

## Domain Tasting

Progress is being made on domain tasting, another issue of great concern to the IP community.

Just as a reminder, the add-grace period is a five-day period after a domain name is first registered when the name can be deleted and a credit issued to the registrar. Its original intent was to allow domain names that had been accidentally registered or misspelled to be cancelled without cost to the registrar. It is part of the registry contracts for .com, .net, .org, .info, .name, .pro, and .biz.

Domain tasting uses this grace period to test the profitability of a domain registration. Domain tasters register and delete names in enormous numbers, often creating names that may infringe trademarks.

To give you a feel for how pervasive this practice is, the top four registrars engaged in domain tasting deleted 35,357,564 domain names within the add-grace period, or 74% of all deletes.

Tasting has grown exponentially since 2004. In January 2007 the top 10 domain tasters accounted for 95% of all deleted .com and .net domain names—or 45,450,897 domain names out of 47,824,131 total deletes.

The ICANN community as a whole is taking a multi-pronged approach to domain tasting. Several registries—those for .org, .info and .biz—have introduced or proposed registry-level measures to curb domain tasting.

Recently, the ICANN Board passed a resolution encouraging stakeholders to change ICANN's budget to charge registrars the annual ICANN fee on domain registrations as soon as they are registered.

The ICANN budget is set using public consultation, and includes agreement by the registrars. The new budget will be implemented on 1 July 2008.

Changes to the way ICANN bills registrars that create an economic disincentive to domain tasting are under discussion in our current budget cycle. We have also engaged expert economic assistance to help us ensure the efficacy of any steps taken to change economic incentives to tasting. The community has studied and discussed the approach in depth. All the interests involved have worked hard to avoid a hasty response that could lead to undesirable, unintended consequences, such as those that gave rise to this issue in the first place.

The active involvement of the IP community in these efforts has been particularly helpful, and I would like to draw special attention to the work of my fellow panelist J. Scott Evans in this regard. He has worked diligently behind the scenes with registries and other ICANN interests to discuss workable solutions in a way that is a credit to ICANN's multi-stakeholder model.

Gradual maturing of the domainer community has increased understanding of their legal obligations with respect to trademarks and the reputational harm done by their cyber-squatting brethren. The industry is evolving and maturing as it attracts capital from serious investors. It is also in response to successful trademark infringement litigation in the United States. They still have a long way to go, but we expect to see domainers becoming more responsibly involved in the ICANN community and think 2008 will mark a turning point in this area.

## Tips on Protection Strategies

Last November, Michael, our moderator, suggested I address several topics he felt would be of interest to this audience. One suggestion involved tips on protection strategies for trademark owners.

However, it is outside ICANN's fairly narrow remit to offer suggestions or advice on marketplace matters—even though we understand the enormous costs involved in protecting trademarks, domain names, and other intellectual property.

## Uniform Domain Name Dispute Resolution Policy

I've also been asked to tell you a little about the UDRP. This mechanism for resolving disputes over intellectual property rights and cyber-squatting has seen considerable success in the nine years since its establishment.

J. Scott Evans will give you a more in-depth discussion of the UDRP. However, I want to mention in particular the Asian Domain Name Dispute Resolution Centre, which is an ICANN-approved dispute resolution agency. ICANN is extremely pleased to have such a resource available and to be able to work with the people at ADNDRC. Under the guidance of Mr. Christopher To, its secretary general, this organization makes a priority of resolving disputes.

You might be interested to know that Mr. To is on ICANN's Nominating Committee and is very active within ICANN.

Like other dispute resolution providers, ADNDRC can accept cases from anywhere in the world. But its four offices—in Hong Kong, Beijing, Seoul, and Kuala Lumpur—allow it to offer services that meet the unique needs of the Asia-Pacific region. Indeed, the ADNDRC model of distributed offices in different countries is unique among dispute resolution providers.

ADNDRC is becoming an increasingly strong option for trademark owners to consider when seeking a dispute resolution provider. In addition, its offices now offer arbitration services in country code disputes for Internet communities across the Asia-Pacific region. This cultural and linguistic diversity truly augments the global Internet community and its ability to deal with disputes as they arise.

## Conclusions—Observations

The Internet has grown into a vast, global system embracing stakeholders from all sectors—the public, industry, academia, governments and civil society. Its physical manifestation lies in the hands of a remarkable confederation of parties. And it is utterly dependent on collaboration, cooperation, and coordination among these many stakeholders for its effective operation. In addition, Internet users around the world increasingly are relying on the Internet's global infrastructure—including the domain name space—to communicate, transact business, transfer and store data, and gather together in virtual communities.

As grand as all that sounds, a reality check is in order. More than 1.3 billion people can access the Internet today. That's a huge number, but it's really only about 20 percent of the people on the earth. Clearly, we all have much to do to make the Internet reach out to those 5 billion-plus people still without secure, stable, and low-cost access—still unable to use the Internet in their own languages with their own content.

The deployment of top level IDNs and new gTLDs will help foster this expansion. These and other significant initiatives demonstrate that the Internet's stakeholders are working hard to make the Internet truly global— and to maximize its potential as a global place of commerce.

The Internet is the most powerful and pervasive means of empowering individuals in recent human history. It is the primary engine that ensures a rapid unleashing and sharing of humanity's knowledge and possibilities for all persons everywhere. And it is the solvent radically dissolving the obstacles to a global community.

By continuing to work together as a community, we can ensure the rapid and successful development of a secure, stable, and globally interoperable Internet.

Finally, allow me once again to express my personal delight at being invited to address this distinguished gathering, as well as my sincere appreciation for the opportunity to share such exciting news with you.

Thank you.