

## ICM REGISTRY POLICY: PREVENTING ABUSIVE REGISTRATIONS

1. Implement Whois Policy in accordance with Registry Agreement, Appendix S, Part 6 and ICANN Consensus Policy (as amended from time to time).
2. Verify prospective registrants/beneficial registrants as members of the Sponsored Community before being permitted to register a name in the sTLD. [Approved proxy services need not be verified as members of the Sponsored Community, but the beneficial registrant must be.] The verification process, will be operational at least 60 days before Limited-Launch, and be available thereafter on an ongoing basis. The verification process is designed to establish that a prospective registrant meets the registration criteria. A variety of automated and manual procedures will be utilized for verification, including pre-authentication by designated Authentication Providers (for example, Representative organizations), or a cross check of registration against information held by designated Authentication Providers.
  - When a prospective registrant submits a registration request, the Registry will send a unique HTML link to the registrant's email of record or, in the case of approved proxy services, to the email of record of the beneficial registrant.
  - The registrant/beneficial registrant must then follow the link, and provide supplementary information that will permit ICM to verify that the registrant/beneficial registrant is a member of the Sponsored Community. This process inherently identifies the IP address of the registrant/beneficial registrant.
  - If the automatic verification process does not provide verification, the request will be referred to ICM's compliance staff, which will attempt to verify the registrant/beneficial registrant manually.
  - No name can go live until the registrant/beneficial registrant has been verified as a member of the Sponsored Community.
3. ICM will verify contact/WHOIS data for prospective registrants prior to the addition of a name to the .xxx zone file. A member of the Sponsored Community must first be verified, and may then use verification codes in connection with the use of an approved proxy service.
4. ICM will permit registrants to use only pre-approved proxy services, and approvals will be limited to services that have demonstrated responsible and responsive business practices and that agree to comply with ICM Registry requirements for verification and authentication.
5. Where a member of the Sponsored Community uses an approved proxy service, ICM will maintain verified contact data for the actual registrant, which will not be included in the public WHOIS.
6. Prospective registrants/beneficial registrants must represent and warrant - in both the registration agreement and again as part of the WHOIS verification process (or in the case of a member of the Sponsored Community using an approved proxy service, in connection with verification) - that neither the registration of the desired string, nor the manner in which the registration will be used, infringes the legal rights of third parties. This is a material term with respect to charter eligibility.

7. ICM fee structure shall be designed to discourage speculative registrations and/or domain sampling.
  - A portion of each registration will be non-refundable, to support verification and authentication activities.
  - At launch, the registration fee for resolving domains will be \$60, in line with other “specialty domain” registrations fees.
8. All prospective registrants/beneficial registrants must agree to participate in and abide by any determinations made as part of the ICANN UDRP, and ICM’s specialized dispute resolution procedures including the Charter Eligibility Dispute Resolution Procedure (CEDRP).
9. Mechanisms for those who are not part of the Sponsored Community to protect their intellectual property.
  - a. “Pre-Reservation Service,” available since May 2006, facilitates inheritance between namespaces. The service enables existing holders of an identifier who are (i) members of the Sponsored Community and/or (ii) trademark holders to reserve - free of charge - xxx registrations that correspond to their existing registrations in other ICANN recognized TLDs.
    - The reservations will be for resolving (Sponsored Community) and non-resolving (IP holders not members of the Sponsored Community) names, depending upon the nature of the entity submitting the reservation.
    - i.e., registrant of [abcdesite.com](http://abcdesite.com) can prevent registration of [abcdesite.xxx](http://abcdesite.xxx) by a third party.
    - If registrant of [abcdesite.com](http://abcdesite.com) is not a member of the Sponsored Community, the registration will be non-resolving.
    - A “tie-breaker” mechanism will allocate .xxx names where more than one valid pre-reservation is received (e.g., by different entities holding [abcde.com](http://abcde.com) and [abcde.net](http://abcde.net)).
    - A special mechanism will be used to resolve conflicts between reservations for (a) resolving and non-resolving strings, and (b) two non-resolving strings.
    - Trademark holders who receive pre-registration rights will be eligible for long-term, deeply discounted registration of the names as non-resolving strings. .
    - Non-resolving registrations cannot be transformed into resolving registrations.
    - In the event a non-resolving registration lapses, ICM will notify others who submitted pre-reservations, who will be permitted to register the non-resolving string on long term, deeply discounted rates.
  - b. Start Up Trademark Opposition Proceeding (STOP). Intellectual Property (‘IP’) holders will have an extended period in which they can make an IP Claim prior to the Limited-

launch of .xxx names. Once registrations begin, if a registrant attempts to register a name that has an IP claim against it, the prospective registrant will be notified of the existence of IP Claim(s) and the identity of the claimant(s) before the registration is confirmed and once registration is confirmed, the IP Claimant(s) will be notified the name has been registered. The IP claimant may challenge the registrant's rights to the name.

- Following contract approval by the ICANN Board, ICM will permit individuals and entities to file a "STOP," indicating that they intend to oppose registration of the flagged string by a third party.
- In the event that another party attempts to register that string, the prospective registrant will be notified that:
  - One (or more) STOP(s) have been placed on the string.
  - If the registrant elects to proceed, ICM will:
    - Notify the STOP holder(s)
    - Provide verified contact information for the registrant to the first STOP holder.
- c. When general registrations commence, Registry Operator will begin accepting applications on a first come first served basis through ICANN accredited registrars from non-members of the Community to register non-resolving names that protect their Intellectual Property Rights. There will be strict guidelines governing these "non-resolving names" and any potential future changes to their status to discourage abuse of non-resolving names for purposes of speculation. Non-resolving names corresponding to trade or service marks held by community members will be subject to challenge under ordinary domain dispute procedures, ICM will provide an administration dispute resolution service - the "Charter Eligibility Dispute Resolution Process" (CEDRP) to combat abusive registrations, which will remain in effect after the initial launch. The CEDRP will be available to challenge any resolving registration to an entity that is not qualified to register a resolving name in the .xxx TLD.

#### 10. Abusive Registrations.

"Abusive registrations" are not limited to intellectual property claims, and the .xxx sTLD may raise special concerns about strings that cannot be automatically catalogued, but in which common-law trademark claims, personal names, cultural or religious terms, may give rise to a legitimate concern. Accordingly, ICM believes that any policy that mechanically defines "abusive" is likely to be under-inclusive. Additionally, ICM is well aware that some parties, in anticipation of, and for the purpose of manipulating mechanical "sunrise" procedures, have made bulk filings in various legal jurisdictions to acquire "IP rights."

- a. ICM will, therefore, make non-resolving name registrations available to any party without such party having to satisfy arbitrary formal requirements. Such names will not be transferable and cannot be transformed into a resolving name. ICM will provide a mechanism whereby those who have sought, but not obtained, non-resolving registrations will be notified in the event a non-resolving registration lapses, so that they

may, if they so elect register the non-resolving string on long term, deeply discounted rates.

- b. ICM will draw on domain name registry best practices to create or acquire the rights to use an initial Country and Geographic Designators Reserved List, which shall be posted no less than sixty (60) days prior to the TLD's Limited Launch date.
- c. Cultural/Religious Names. ICM will provide a mechanism whereby, during a specified period of no less than sixty (60) days prior to the TLD's Limited Launch date (as defined in the Start-Up Plan), ICANN's Government Advisory Committee and/or the government of any country or distinct economy participating in the GAC (collectively, "Governments") may identify for reservation from registration names that match words of cultural and/or religious significance ("Culturally Significant Names").

#### 11. Rapid Takedown

Analysis of UDRP disputes indicates that the majority of UDRP cases involve obvious variants of well-known trademarks. ICM Registry does not believe that the clearest cases of abusive domain registration require the expense and time involved in traditional UDRP filings. Accordingly, ICM Registry will institute a rapid takedown procedure in which a response team of independent experts (qualified UDRP panelists) will be retained to make determinations within 48 hours of receipt of a short and simple statement of a claim involving a well-known or otherwise inherently distinctive mark and a domain name for which no conceivable good faith basis exists. Such determinations will result in an immediate termination of resolution of the domain name, but will not prejudice either party's election to pursue another dispute mechanism. The claim requirements will be modeled after the Digital Millennium Copyright Act.

#### 12. Registrant Disqualification

Abusive domain registration has historically attracted a small number of individuals and organizations that engage in high volume registrations, driven by the marginal profitability of individual abusive registrations. In addition to the economic disincentive for high volume registration of any kind, registrants found to have repeatedly engaged in abusive registration, their agents, or parties determined to be acting in concert therewith, shall be disqualified from maintaining any registrations in the .xxx TLD or making future registrations in the .xxx TLD. Registrant disqualification provides an additional disincentive for qualified registrants to maintain abusive registrations in addition to any otherwise non-abusive registrations, and repeated abusive registration shall result in loss of all registrations in the .xxx TLD.