Will there be 2,000 gTLDs?

T here were more than 2,000 applications for new generic top-level domains (gTLDs) before the system was taken offline on April 12, ICANN said on Friday night. The figure is at the top end of predictions.

The organization revealed the number in its latest update on the software problems that caused a delay in the new gTLD program. It plans to reopen the program for at least five working days once the technical issues have been resolved, and all affected applicants have been notified. Notification is expected to be completed by Tuesday.

The number of applications could rise further during that period. However, it is also likely that some applications are for the same string. The names of the strings applied for were due to be published on April 30 but this date has been delayed. They will likely be revealed several weeks after the closing date.

The new gTLD program was launched in January and enables anyone to apply to own and operate a TLD. Applications can be for generic words, geographical terms, names—and brands. The cost of each application is US$185,000.

ICANN had previously said that if there were a large number of new gTLD applications, they would be dealt with in batches of 100. There is a complex set of criteria determining which applications will go in which batch.

Claudio Di Gangi, Manager of External Relations, Internet and the Judiciary at ICANN, said trademark owners will have to rely on their established plans to take action in a timely manner, such as by filing a Legal Rights Objection through WIPO, when the applied-for names are published. “The technical problems with ICANN’s online application system serve as a stark reminder of the many risks inherent in the organization’s program for the broadest expansion of the domain name system in history,” he added.

Di Gangi urged ICANN to put in place sufficient protections to protect consumers and brand owners, and complete safeguards such as the Trademark Clearinghouse and Uniform Rapid Suspension System (URS): “To reduce uncertainty and address the legitimate concerns of stakeholders, ICANN should take measures to improve its public transparency and accountability.”

INTA Internet Committee chair Adam Scoville of REMAX said: “In terms of the overall competence of ICANN to serve as a private sector organization, this will be an incident that will not be easily forgotten.” He added that ICANN is also “far behind” with developing the Clearinghouse and the URS: “That has a direct impact on when new gTLDs will launch.” Scoville said the INTA Internet Committee will try to ensure that all successful gTLD applicants take IP protection measures seriously and do not seek exclusions. INTA will host a webinar on defensive protection at the top level soon after the application strings are revealed.

New gTLDs in figures:

| 839 | Number of registered applicants |
| 2,091 | Applications either submitted or in progress on April 12 |
| 214 | Potential applications registered where payments not yet received |
| 2.5 | Average number of applications per applicant so far |
| US$350m | Fees ICANN has received for new gTLD applications |

Make the most of the Annual Meeting

I f this year’s Annual Meeting co-chairs could give first-time attendees only one piece of advice, it would be these two words: Pace yourself.

The sheer number of activities of the nearly week-long event can be overwhelming for those here for the first time. “You can very easily burn yourself out on the first day,” says co-chair Jordan Weinstein of Oblon Spivak McClelland Maier & Neustadt. “Always leave down time. Don’t schedule yourself until 2 a.m. every night or you’re going to work a very tired person.” Co-chair Belinda Berman of the United States Golf Association says it’s helpful to skim the Meeting Portal to pinpoint sessions of interest. The events go on all day and all night, but, she warns, “that doesn’t mean you should.”

Eighteen months in the making, the Annual Meeting is the result of INTA members and staff who took charge of various aspects of the planning process. The co-chairs promise this year’s sessions are different. “It’s not a rehash of what you’ve heard before,” Berman says. “We think and hope there’s something for everyone.” One session will address a topic at the meeting for the first time—Protection of Indigenous Rights: An Increased Need. “It’s going to be a really interesting topic that hasn’t gotten as much publicity and discussion,” Weinstein says. Phil Fontaine, former national chief of the Assembly of First Nations in Canada, is a speaker.

Given the concentration of lobbyists in the nation’s capital, a session that should be of particular interest is Doing the D.C. Shuffle: How Do The Trademark Attorney, Lobbying and Ethics Mix? Berman says it’s a topic for inside and outside counsel, whether or not they’re based in Washington. “It does have broad appeal to everyone because we’ve seen the passage of a number of different acts—the DMCA, the Federal Trademark Dilution Act, the Anti-Counterfeiting Trade Agreement,” she adds. “All of these things happened in Washington, but they affect people very broadly.”

Finally, make sure you leave time for networking. With members from around the world in attendance, the co-chairs say it’s the perfect opportunity to meet people. First-timers especially should take advantage of the 235 table topics planned. Table topics are moderated discussions of small groups on issues ranging from the use of trademarks in virtual reality to character and product merchandising post-Betty Boop and the Louboutin red sole.
The biggest filer in 2011, with 125 applications.

The total number of contracting parties to the Madrid System.

The Austrian environmental company filed the 1 millionth Madrid registration in 2009.

The total number of contracting parties to the Madrid System.

Members boost their mediation skills

A multinational group of trademark professionals met yesterday to hone their mediation skills by working through a series of role plays. But they were taken out of their comfort zone with dispute scenarios where brand names weren’t at stake.

“The fact patterns aren’t trademark-related,” explained INTA’s Char Clark. “If they were, the tendency would be for lawyers to get into their own headsets.”

Instead, the 36 INTA members on the two and a half-day basic mediation course worked their way through three scenarios, including one focused on breaches of conflict and employee non-compete clauses. Obliging trademark professionals to work through disputes outside of their day-to-day work is designed to sharpen the skills they need to mediate disputes in any areas of the law. “It’s a great idea,” said William H. Frankel of Brinks Hofer Gilson & Lione, one of the participants in the course.

“Much of mediation is exploring the parties’ issues. They can be very divergent, even in trademark issues, although the techniques are the same.”

Day one saw a group of experienced mediators, led by Sandra A. Sellers of Technology Mediation Services, talk the 36 participants through mediation theory and act out some scenarios. On days two and three they got a chance to put theory into practice with interactive exercises and coached role plays, working in groups of six that were each assisted by an experienced mediator.

“Being a mediator comes naturally to some people but this training is invaluable in honing the skills you need,” said Kristin J. Achterhof of Katten Muchin Rosenman, another of the participants.

Achterhof and her fellow team members were enthusiastic about the benefits mediation offers to clients: It’s cost effective; enables the parties to develop creative solutions that the courts may not be in a position to provide; helps the parties to avoid the publicity that can accompany a lawsuit; offers them the ability to control when the dispute is resolved and a higher degree of certainty over the outcome; and its non-binding nature empowers the participants in a way that litigation cannot.

“Africa has lots of infrastructure and other investment projects but doesn’t always have very strong legal institutions. We need flexible tools to give businesses the confidence to invest. Mediation can be a very effective tool.”

INTA has produced a video introducing mediation and explaining why it encourages members to use it to resolve their disputes. The video, with contributions from members including J. Scott Evans of Yahoo! and Toe Su Aung of BATMark, seeks to provide answers to eight questions: what is mediation; what is the difference between voluntary and mandatory mediation; why recommend mediation; is mediation a sign of weakness; when is the best time to mediate; what is the best way to choose a mediator; how much does mediation cost; and what to do when it fails. You can watch the video at www.inta.org/Mediation/Pages/Mediation.aspx.
Round the world in two days

The Academic Course is a series of introductions to basic trademark law and practice around the world. But that doesn’t mean everyone in the audience is a novice. “I’ve been practicing law since 1978, but I still found the briefings useful. So many things change in so many countries—it’s impossible to keep up,” said Bill Coughlin, President and CEO of Ford Global Technologies, during the lunch break yesterday: “The range of countries and sessions is always spot on, and updated every year.”

The Academic Course started yesterday and continues today. Among subjects covered on Saturday were the Americas, international treaties, Europe and Australasia. Jeffrey L. Van Hoosear of Knobbe Martens gave the talk on international treaties. “I emphasize that most of the systems I only know from a practical point of view—how they have affected me in my practice,” said Van Hoosear. “But some were launched in the 26 years I have been practicing. My strongest memories are of OHIM opening in Europe. It’s so successful now, but at the start it was really only the small, entrepreneurial companies that were willing to risk the new system. That’s usually the case with these treaties—big companies have too much to lose.”

The second day of the course will look at Asia and Africa, but also include some non-geographic topics, such as famous trademarks and the UDRP system. “The country panels are usually fairly consistent, but we try to insert some more topical discussions every year,” says Dee Henderson of Broadcom, who has helped organize the program for the past four years. It evolved out of a course at John Marshall Law School in Chicago, when someone looked at the attendees and found out more were taking the course for CLE credit than college credit. “In California you have to do 13 hours of CLE every year, but it is looked at on a three-year basis. So if you’ve done nothing for three years and need to get it all in one hit—this is the course you come on!” said Van Hoosear.

The country-by-country analysis is clearly more than just CLE credit to the 55 registrants, however, most of whom were frantically scribbling notes as Van Hoosear explained the importance of the Paris Convention, Community trade mark and Madrid System. He only started doing the session last year as a last-minute replacement. “I love doing it now though, I love being involved with INTA” he said, agreeing that one advantage is the presentation doesn’t change much from year to year. “The questions are fairly similar too—everyone wants to know about money. What are the cost savings, what are the efficiencies, what can I file myself directly?” he added.

The second day of the Academic Course takes place today in Room 154AB.
How the USPTO tackles trademarks

Deborah Cohn became the USPTO’s Commissioner for Trademarks in 2011. She spoke with Eileen McDermott about her priorities for the Office, both at home and abroad.

You came straight to the USPTO out of law school in 1983. What did you like so much about the job that you stayed for 30 years?

The subject matter; trademark law has always been really interesting to me. It was my favorite in law school as well, even though when I was in law school there were only very basic trademark courses. I thought it was so fascinating, and I also really enjoy government service and have always loved working at the USPTO.

What has changed most over the last 30 years?

The biggest change has been moving from a heavily paper-based process to an almost entirely paperless one. The level of quality in examination has also gone up tremendously. Examiner training is one big reason for that. When I started there was very little formal training. Now we have a classroom training program and a mentoring program. The expectations have also risen now. We’ve always attracted high quality people here, but the widespread availability of resources, thanks to the Internet, means there is so much information readily available at our fingertips.

What are your top priorities right now for the Office from an administrative perspective?

One big one is revamping our electronic systems to provide maximum capability and flexibility for our customers. The latest version of the Trademark Electronic Application System (TEAS) was released in November 2011 and included changes such as allowing sound and multimedia files to be included as part of the form, rather than sent separately, the ability to retain attachments on saved forms, and many other enhancements.

Another priority is outreach. We want to get information from our customers and stakeholders to get a better idea of their priorities, so we’re planning to enhance our outreach efforts. One of the big questions we’ve been trying to answer is why people don’t use e-filing. More than 98% of users file electronically at first, but not everyone files their additional submissions electronically, even though it’s a lot more accurate and cheaper to do so. In addition, not everyone authorizes the USPTO to communicate with them via e-mail. We want to get people on the bandwagon with that, so we’ve already made some simple changes.

What kind of comments did you receive?

In some cases, people weren’t aware of the availability of e-filing. Others wanted to get their notice of publication three weeks in advance on paper, rather than getting it on the same day electronically. So we started mailing out something in writing three weeks early for e-com municators, which was a simple fix. Another big concern for people was that they were afraid they would miss something due to spam filters, which could mean a loss of rights. So we just changed our e-form to allow multiple email addresses to be included and people have reacted very favorably to that. About 75% of users file everything electronically from beginning to end, but we’d still like to get that number up.

We have also started a trademark educational outreach program directed toward SMEs, students and other non-professionals to increase awareness and knowledge about trademarks. This grew out of the trademark litigation study we conducted and submitted a report to Congress on in April of 2011. In our recommendations, we suggested that people need to find out more about policing. It’s one thing to accuse people of being overly aggressive, but when it comes time to enforce your own rights you’re going to want those mechanisms available to you. We realized that the general public isn’t always aware of how to protect trademark rights. We have about 15 to 20 programs set up already with schools and small business associations.

We have also formed a working group with IN TA and the American Bar Association to better educate non-trade mark attorneys and to provide low cost, pro bono representation.

Our seminar on May 7th during INTA

- IPAD trademark assignment dispute in China (9am-10am)
- EPR liability in Trademark infringement (10am-12am)
- China’s Cumulative Protection of Product Shapes (2pm-3pm)
- Trademark squatting in China (3:30pm-4:30pm)

Meeting Room 15, Renaissance Washington DC, 999 9th Street NW, Washington, DC 20001
Will there be any trademark examiners in the USPTO’s new Detroit office?

We don’t see a reason to be part of that office right now; 90% of our examiners work from home full time so there would be no real benefit.

On the policy side, what has been the USPTO’s role in the new gTLD process, and how will it potentially affect the Office?

We have representatives on ICANN’s Government Advisory Committee that work on those issues. The National Telecommunications and Information Administration has done most of the work on gTLDs, but we work very closely with them. We’re concerned for trademark owners about their rights and how they will protect them, but we’re working to make sure there will be protections in place.

Is there any fear that the Office might be bombarded with new applications as a result of the expansion?

That’s very possible.

What international priorities are you working on?

We’re part of the Trademark Trilateral, which the US hosted last on December 2011. China and Korea were invited to join for the first time, and since then they’ve both come on board, so now it’s become the Trademark 5. We’re working on a number of projects, such as collaborating to make data more easily available among those offices. It’s difficult to harmonize because trademark laws are so different, but we’re trying to make global examination easier for applicants in those five countries.

What work are you doing with INTA?

The INTA-USPTO subcommittee has been really responsive and always gives us the best possible information to make good decisions. We’re also holding roundtables co-sponsored by INTA around the country, which will give people who are not on that subcommittee a chance to talk with us.

Deborah Cohn will be speaking during tomorrow’s Academic Day, in room 144C, at noon.
**World Vision kit contents**

- 10 bars of antibacterial soap
- 1 container of petroleum jelly
- 1 box of disposable latex gloves
- 1 tube of antifungal cream
- 1 bag of cotton balls (200-count)
- 4 colored washcloths
- 1 notebook and 4 pens
- 1 LED flashlight with batteries
- 1 bottle of acetylsalicylic acid
- 10 oral rehydration salt sachets
- 12 water purification packets
- 1 regular kit or refill pack
- 1 handwritten note to the caregiver

For more information, visit the Caregiver Kit website at www.worldvision.org/carekits, or email World Vision at kits@worldvision.org

Since 2006, the Caregiver Kit program has assembled about 317,000 kits sent around the world. The kits treat those living with AIDS and protect an estimated 77,000 community-based volunteer caregivers.

World Vision coordinates the bulk purchase of kit contents. Once complete, the kits are sent to World Vision’s global distribution centers, where a team determines where to send them. Most likely, the kits from today will go to Zambia, Uganda, Swaziland or Zimbabwe.

This year seemed the perfect time to host a kit-building event at the Annual Meeting, says Fields. “Here, we know we’re going to be touching multiple companies … At the least, we can get somebody interested and have them be a champion for us.”
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From classroom to courtroom

In a world of silos and ivory towers, INTA’s Academic Day aims to bridge the gap between professors and practitioners, providing both with plenty of opportunities to learn from each other. Emma Barraclough reports.

Tomorrow sees a packed day of sessions that range from high-level discussions of cutting-edge legal research to low-downs on networking and landing a job in trademarks.

This year’s professor track kicks off with a session entitled Exploring the Outer Limits of Trademark Law. “In previous years professors have talked about the limits on trademarks where, for example, trademarks come up against free speech concerns,” says David C. Berry, a professor at Thomas C. Cooley Law School and vice-chair of the Academic Committee. “The idea here was to look at areas where trademark law is actually expanding. The panelists will be talking about how rights are being recognized in new areas, such as the growth of nontraditional marks.”

Megan M. Carpenter of the Texas Wesleyan School of Law will chair the session. She says the three panelists will also consider the future of trademark rights in a variety of contexts. Rebecca Tushnet of Georgetown University Law Center will discuss the materiality of assumptions about sponsorship and affiliation to consumer purchasing claims. Robert Burrell of the TC Beirne School of Law at the University of Queensland will talk about the impact of decisions by the Court of Justice of the EU to extend trademark protection in cases such as L’Oréal. Christine Farley of American University, Washington College of Law, will address the expansion of trademark law in subject matter, such as trademark protection for concepts, and the expansion of content.

Putting law into practice

After a morning of trademark law theory, academics will get a chance to hear how the law is applied in practice during the professor luncheon. This year’s speakers are António Camponos, President of OHIM, and Deborah Colón, USPTO Commissioner for Trademarks. “In the past we have had talks from in-house counsel—which have been wonderful because they have given the academics a real insight into commercial trademark concerns, but we couldn’t miss the opportunity of having government speakers while the Annual Meeting is in Washington DC,” says Karina Dmidjian-Lecomte of Casalonga Avocats, Chair of the Academic Committee. She adds that it is the part of the day she is looking forward to the most. “I expect great speeches and great interplay between the speakers and the professors.”

The afternoon sees academics present papers on trademark law to university peers and to practitioners on topics including the likelihood of confusion and trademark strength to trademarks and the first amendment. “It’s my favorite part of the day,” says Berry, one of the driving forces behind the introduction of the symposium into the Annual Meeting’s schedule. “It is interesting to have people who have done research come and have trademark lawyers point out things they have seen in practice. It is amazing how much their feedback can help focus and improve the research. I don’t think there is another forum like this.”

Finally, the professors get to wind down at a Happy Hour drinks reception where they can swap notes with adjunct professors, young practitioners and students. It will also give student members of INTA who have spent the day honing their career-building strategies a chance to put their new networking skills to the test.
“Every time you meet new people or catch up with friends is an opportunity to network.”

Susan Brady Blasco

Student expansion
INTA has seen its student ranks swell in recent years: now standing at 199. The challenging job market might be responsible for some of the rise, but Dimidjian-Lecomte says it also reflects the way that the Association has become more responsive to students’ needs and how it has reached out to would-be trademark specialists at law schools.

Two years ago the Association launched an ambassador program, asking for volunteers from law schools to help promote INTA’s services to students, and to feed information about what students are looking for from the Association back to INTA. The program also helps forge strong links between INTA and the IP firms that the student ambassadors ultimately join. “We hope that they will say to their new colleagues ‘hey, there’s a great trademark organisation you should consider getting involved with’,” says Dimidjian-Lecomte.

Careers advice
One of the issues that its ambassadors have told INTA that students want help with is finding more information about how to launch their trademark law careers. The Association has responded by developing a series of talks about networking, resume writing and career opportunities during the Academic Day. “We all went to law school. We know what it’s like and how it doesn’t teach you how to get a job at the end of it or ways of enhancing your career,” says Dimidjian-Lecomte.

A session on networking will see experienced members of the Academic Committee offer some dos and don’ts for expanding students’ professional networks. One of the speakers, Susan Brady Blasco of Birch, Stewart, Kolasch & Birch, says that the session will give students plenty of practical advice and is based on a workshop she and fellow speakers Karina Dimidjian-Lecomte and Kelly McCarthy of Sideman & Bancroft developed for an INTA event in Brussels last year for European students and young practitioners. “It really was one of the most rewarding things I have done,” she says. “We took a shy group of people who were barely speaking to each other through a series of exercises on meeting people and afterwards we had a cocktail party. They were networking like crazy!”

Blasco will advise the students to set goals before they attend networking events to ensure that they remain focused. “Tell yourself that you want to meet two new people, or five,” she says. They should also widen their definition of networking. “Every time you meet new people or catch up with friends is an opportunity to network.” But she says that people need to know their audience to avoid being too salesy in inappropriate situations. The session will also consider what makes a bad networker. “Avoid the pitfalls,” says Blasco. “Avoid discussing personal misfortunes, don’t get into one-upmanship and don’t gossip about people at the event!”
Meet your match

Dress your best and develop a pitch to impress if you want to make the most of a unique networking opportunity being offered at this year’s Annual Meeting.

For the second year, the INTA Annual Meeting will host Speed Networking sessions each day starting today. Last year’s sessions were a great success, with nearly double the expected number of participants, according to INTA membership development coordinator Laura Castle. “We originally allotted 40 participants per session, but we ended up doubling tables with walk-ons since it was so popular,” says Castle.

Although there was no tracking system in place last year, Castle plans to use a scanner this year to keep count of participants. There will also be double the number of sessions this year, with 11 in total. There will be a maximum of 40 participants per session allowed and Castle expects most sessions to be at capacity.

Each session is one hour long and participants will meet at least 10 contacts in that time. That amounts to six six-minute chances to kindle a new business relationship, or perhaps just make a new friend.

“It’s just like speed dating,” said Mark Harry, senior counsel at LCS & Partners in Taipei, Taiwan, who participated last year. “If it’s someone you’re interested in, you hope they’ll get back to you.”

Registration for this year’s speed networking event—being held inside the Exhibition Hall—will be onsite only, and there is no fee to attend.

Four tips for success

So how do you prepare to make an impression in six minutes? INTA has compiled a list of tips to help you shine. Here are some highlights.

- **Develop an efficient way to introduce yourself.** Think about how you want to describe yourself effectively; consider letting the other person talk first.
- **Contribute to an effective conversation.** Don’t be afraid of “safe” questions; don’t talk too much—make sure there’s a balance in the conversation.
- **Bring and distribute your business cards.** Exchange cards up front; make sure to study and comment on the other person’s card.
- **Follow up with individuals with whom you made a connection.** Make it clear if you think there’s an opportunity to do business together; if you meet the same person twice, take the chance to expand the relationship.

**Speed Networking Hours:**

- Sunday, May 6: 2:00 pm – 3:00 pm
- Monday, May 7: 10:30–11:30 am, 12:00–1:00 pm, 1:30–2:30 pm, and 3:00–4:00 pm
- Tuesday, May 8: 10:30–11:30 am, 12:00–1:00 pm, 1:30–2:30 pm, and 3:00–4:00 pm
- Wednesday, May 9: 10:30–11:30 am and 12:00–1:00 pm

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Where were you before Rosetta Stone and how long have you been with the company?

I've been at Rosetta Stone for five and a half years as general counsel. Prior to that, I was general counsel for Teleglobe International Holdings. Prior to that, I had been in-house at another telecommunications company, Global One. It was a joint venture between Sprint, Deutsche Telekom and France Telecom. I also had practiced at two law firms—one was the predecessor to Bingham McCutchen in Washington, and before that Baker Botts in Houston, Texas.

How involved are you in IP cases and how much intellectual property do you handle?

I do have one lawyer involved 100% in intellectual property. But all of us work on intellectual property issues. It's core to Rosetta Stone, whether patents, copyrights or trademarks. We started a steering committee that meets bimonthly, and we have departments represented throughout the company. We meet on various IP issues and how we're protecting our IP. I started our antipiracy team here at Rosetta Stone, and we now have three full-time antipiracy professionals who are not lawyers. That's all they do—work on various issues to protect our IP.

What does your role entail?

It's more on a strategic level overseeing the protection of our IP. The Google case was a big issue for the company over the last few years. We're a small legal department with a total of 18 people, and we all were somehow involved in preparing for that case. It was a big part of what we were doing back in 2009 and 2010 before the case was ultimately dismissed by the Eastern District of Virginia and revived by the Fourth Circuit earlier this month.

How big is the company's trademark portfolio?

We've got about, I'd say, 30-40 marks worldwide. Our preeminent mark is the ROSETTA STONE mark. We have all these other trademarks that we filed as well for our various products and other parts of our components of our language learning offerings.

What's the biggest challenge for you?

One of the biggest challenges is third parties monetizing the value of our marks. We devoted significant resources building up the brand, and we've had third parties such as search engines sell the mark to the highest bidder including to counterfeiters. That has been a huge problem at Rosetta Stone with all of these rogue websites based overseas that are confusing American consumers by purchasing advertising space and then bidding against us for placement, including using our trademark in the actual text of the ad, and selling counterfeit product at a high enough price point that consumers believe it's some authorized channel. The rogue websites copy pages right off our website. It's highly confusing and it's been a big problem.

It's a significant problem for brand owners because you have to monitor throughout the U.S. and around the world. With geotargeting, depending on where you are and what time of day, the ads can be different. It's very difficult to police this activity. We registered complaints with search engines, and they will take it down but the damage has been done.

My enforcement team works with customs border patrol to seize the counterfeit product that is being sold by foreign rogue websites. Our enforcement manual is on the customs border patrol's intranet site. Last year there were several hundred seizures in the U.S. The advantage is our products are produced here in the U.S. and are not imported from overseas. Customs officials know that anything being shipped from overseas is counterfeit software.

What do you like most about working in trademarks?

I do think there are so many different issues. It's very interesting to work with our marketing and business team to...
build your brand. It’s really nice to see how much value a brand can be for a company.

In which countries do you protect your marks? In approximately 40 countries—there’s an extensive list of where we file. We sell directly through the Internet so we sell throughout the world. Our key markets are Korea, Japan, Germany, the United Kingdom and here in the U.S. You can find our software around the world as well as our counterfeit software around the world, from Iraq to Afghanistan to Vietnam to China to Russia to western and eastern Europe. Employees and customers take pictures of counterfeit software being sold around the world and send them to us.

What’s unique about protecting your particular brand? I don’t know if there’s anything unique about protecting our brand, but we’re a very attractive target for counterfeiters. Because we create a premium product, these counterfeiters can sell at a high enough price point where consumers believe they are purchasing authentic software. It makes things difficult for consumers as well as the company. It’s very attractive to knock us off just like Louis Vuitton or Tiffany’s, copy our products and infringe our trademarks and copyrights.

Can you comment on the recent ruling in your case against Google? We’re quite pleased with the result. We’re deeply concerned about trademark infringement and the rampant problem of online counterfeiters engaging in theft of our intellectual property and confusing consumers regarding the products being offered for sale. This has confused our consumers. We think this is an important decision that allows us to continue our case against this infringement. We want to thank INTA for submitting an amicus brief, which focused on the errors with the opinion with respect to the application of the functionality doctrine and trademark dilution law.

Are you confident on remand? I think we have a compelling case.

What more would you like to see Google do independently to protect trademarks? I think from our perspective they should do the right thing. I think it’s much easier for them to protect upfront rather than brand owners having to monitor and then report instances of infringement. They have the software tools. It’s just whether they choose to do this or not. I believe it’s a heavy burden on brand owners to do this policing given the geotargeting available. You can buy ads targeting specific localities. I would have to have computers at every location they target around the U.S. and throughout the world to monitor whether there are counterfeiters advertising on Google at any time of the day. I think it’s very easy for them to do the policing up front and filter out counterfeit ads.

Some of those who backed Google in the case said that trademark law is still a mess after this ruling and that the court could have done more to explain the concept of trademark use in commerce online. Do you think clarification is still needed on that point, and if so, does it need a legislative fix? We have pending litigation with Google so I will not comment on this question.

Is the company usually involved in much litigation? No, we’re not a litigious company.

How is Rosetta Stone preparing for the new gTLD expansion? Can you say yet whether you’ve applied for any? We have not. I have one of my lawyers involved in monitoring the situation. We may oppose depending on continued on page 14
Continued from page 13

whether someone applies for, for example, “Rosetta Stone” as a gTLD.

Do you handle domain name disputes now? Do you have a lot of them?
We’ve had some and we’ve initiated some proceedings against domain squatters. I think we probably have to be more active given all of these rogue websites that have been out there that have registered variations of Rosetta Stone in their URLs, especially overseas. Those rogue websites are based in jurisdictions where it’s difficult to go after them. We’re a small company, so we don’t have the resources of much larger companies to litigate these issues.

What changes would you like to see made to the trademark system overall to help you to protect your brand more effectively?

I would like to see especially search engines and other online facilitators of counterfeiting some more policing up front rather than having brand owners doing the policing on the backend.

SOPA/PIPA—did the company endorse those bills, would you support new legislation, do you think it’s necessary?
We were involved in those efforts; we supported those bills. I believe that the online third party facilitators of counterfeiting should do the right thing and stop transacting with counterfeiters. Any legislation that would require online facilitators of counterfeit products to stop transacting with rogue websites based overseas is a good thing from my perspective. It’s extremely difficult for companies such as Rosetta Stone to combat this type of activity.

Do you think trademarks/IP protection and enforcement generally have developed a bad name in the last year because of those bills and because of the perception that IP and internet/consumer freedom are mutually exclusive? What’s the way forward?
The opponents of SOPA/PIPA have been effective in painting it in that manner. I think the way forward from the brand owners’ perspective is to educate the public. I think one area to highlight is the harm counterfeit products do to American consumers and how easy it is for foreign counterfeiters to transact with American consumers and generate significant revenues. You have all of these third-party facilitators profiting off that activity at the expense of American consumers.

How do you go about choosing outside counsel? What are the key qualities you look for?
I think it’s important to have a comfort level with outside counsel we work with. They have to be highly responsive. I think that you can have many firms with excellent lawyers who do the same type of work and provide the same quality work, but what differentiates the firms is how they work with you on a day-to-day basis, how responsive they are and how willing they are to work with you in terms of alternative fee arrangements, which is quite important in this economic environment.

What are you looking forward to most at the INTA Annual Meeting? Have you been before?
The networking and the receptions of the various firms. It’s great to catch up with folks you haven’t seen in a year or several years. I’ve attended the Annual Meetings in Seattle and Boston.

What would you recommend attendees do in D.C.?
There’s so much to do. Obviously the Smithsonian National Air and Space Museum is fantastic. A visit to the zoo is interesting. The great thing about D.C. is that the museums are free of charge, so it’s nice for tourists to see D.C. without having to pay any entrance fee. Also, the Air and Space Museum near Dulles Airport—that’s quite interesting for folks if they’re interested in aircraft. I believe Discovery is going to be located out there.

Did you see its last flight?
I saw pictures of it. I didn’t duck out in time to see it.
What are you most looking forward to doing this week?

Patrick Li, AIP Patent, Trademark & Law Office, New Taipei City, Taiwan
I’m looking forward to making new friends. This is my fourth Annual Meeting but it’s my first time in Washington, D.C. so I’d like to see the city’s many museums.

Hifzyl Halloy, SMAS IP, Riyadh, Saudi Arabia
We’re here to make new business contacts. It seems like the attendance this year is great so we’re looking forward to it. It’s also always a pleasure to be in Washington, D.C.

Raju Bhupathiraju, Fox Mandal & Associates, Hyderabad, India
I was in Washington in 2006. It’s a nice place—the White House, Lincoln Memorial, Arlington Cemetery. Our clients file all over the world, so it’s a great place to meet them.

Dominic Smith, Thomson Reuters, London, UK
Talking with colleagues about the understanding of the shift from print to digital resources. It’s also my first time in the U.S., so I had blueberry pancakes for breakfast. We don’t eat many blueberries in the UK.

Jerome Pernet, Trademarka, Lausanne, Switzerland
I’m here to meet a few colleagues and associates on ongoing matters. This is my fourth Annual Meeting. It’s the one big meeting for trademark practitioners. You need to be here.

Melissa Mora, e-point, San Jose, Costa Rica
It’s my first time in Washington. I think the whole idea of this being the capital politically, where everything goes on, is interesting. You get to know first-hand about Washington in comparison to, say, Costa Rica or Central America.

Melanie Bosshart and Karin Hofstetter, Kikinis Law Firm, Zurich, Switzerland
We want to see the National Mall, the museums—the Holocaust Memorial Museum, National Gallery of Art, and the National Air & Space Museum. I’m looking forward to strolling around by foot.

Annette Freeman, Freeman IP, London, UK
I’ve been coming to the Annual Meeting for 15 years. I love it because I get to come back to my tribe. I’m going to table topics on using inside and outside attorneys, business development and a session on social media.

Wayne Zappia, Lavan Leal, Perth, Australia
INTA’s the place to be. The beautiful thing about IP is you network with lawyers from jurisdictions where they can’t step on your patch and you can’t step on their patch. There are lots of opportunities for simplification.

Orlando Cardoza, Obregon & Asociados, Managua, Nicaragua
I’m doing a table topic on the dos and don’ts of client development. Last year I did another topic and noticed when we got to this part, it seemed client development was everyone’s main motivation.

Alan Perry, Anderson & Anderson, Macau
I’m interested in learning about the Madrid System. It’s very convenient to use and you can do a lot of things online. You can receive information quickly from the System and you don’t need to wait.

Henrik Jørgen Ursin, Kolster Oy Ab, Helsinki, Finland
This is my sixth Annual Meeting. It’s so nice to have a face to connect to a name. There’s nothing like this. This is truly international. INTA is always INTA.

Abraham Diaz, Olivares & CIA, Mexico City, Mexico
It’s the best place for getting together with your clients. They’re especially interested in trademark and counterfeit litigation, and keeping up with Customs enforcement problems. It becomes more complicated because there are no direct criteria for in-transit seizures.

Alena Matjusenoka, Agency Tria Robil, Moscow, Russia
It’s my first time in the U.S., so it’s very good I’m visiting Washington, the capital. I really like this town. People here are really going for sports—running, jogging. I think it’s great.

Sana Shaikh Fikree, Vellani & Vellani, Karachi, Pakistan
I’m a speaker at the India-Pakistan regional update. I’m also interested in learning about pharmaceutical trademark issues and trade dress litigation. We face issues where people don’t copy the trademark, but they copy trade dress and labels.

Bidyut Bikas Tamuly, Archer & Angel, New Delhi, India
We need to refresh old relationships with clients and make new ones. I’m also looking forward to attending table topics on counterfeiting, domain name disputes in Europe, the US and China.
Today’s Schedule | Sunday, May 6, 2012

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Location</th>
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<tbody>
<tr>
<td>7:00 am - 8:00 am</td>
<td>Academic Course Networking Breakfast</td>
<td>149 AB</td>
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<tr>
<td>8:00 am - 5:00 pm</td>
<td>Academic Course on International Trademark Law—Day 2</td>
<td>154 AB</td>
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<tr>
<td>8:00 am - 5:00 pm</td>
<td>Advanced Mediation Training—Day 3</td>
<td>143 ABC</td>
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<td>8:30 am - 4:00 pm</td>
<td>Tour Booth</td>
<td>East Registration</td>
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<tr>
<td>8:30 am - 9:30 am</td>
<td>Legislation &amp; Regulation Committee Leadership</td>
<td>144 A</td>
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<tr>
<td>9:00 am - 7:00 pm</td>
<td>REGISTRATION</td>
<td>East Registration</td>
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<tr>
<td>10:00 am - 12:00 pm</td>
<td>BRUNCH TABLE TOPICS</td>
<td>150 AB</td>
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<tr>
<td>10:00 am - 12:00 pm</td>
<td>COMMITTEE MEETINGS</td>
<td>140 AB</td>
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<td>11:00 am - 1:30 pm</td>
<td>TRADMARK ADMINISTRATORS BRUNCH</td>
<td>151 AB</td>
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<tr>
<td>11:00 am - 1:30 pm</td>
<td>IN-HOUSE PRACTITIONERS LUNCHEON</td>
<td>146 B</td>
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<tr>
<td>12:00 pm - 5:00 pm</td>
<td>EXHIBITION HALL</td>
<td>Hall D</td>
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<tr>
<td>12:15 pm - 1:15 pm</td>
<td>Anticounterfeiting Committee Leadership</td>
<td>160</td>
</tr>
<tr>
<td>12:15 pm - 2:15 pm</td>
<td>COMMITTEE MEETINGS</td>
<td>140 AB</td>
</tr>
<tr>
<td>12:30 pm - 1:30 pm</td>
<td>ANNUAL MEETING ORIENTATION</td>
<td>140 AB</td>
</tr>
<tr>
<td>1:00 pm - 3:00 pm</td>
<td>LUNCHEON TABLE TOPICS</td>
<td>150 AB</td>
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<tr>
<td>1:15 pm - 2:15 pm</td>
<td>COMMITTEE MEETINGS</td>
<td>140 AB</td>
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<td>2:00 pm - 3:00 pm</td>
<td>SPEED NETWORKING</td>
<td>Hall D</td>
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<td>2:30 pm - 4:30 pm</td>
<td>COMMITTEE MEETINGS</td>
<td>106</td>
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<td>3:00 pm - 4:30 pm</td>
<td>COMMITTEE MEETINGS</td>
<td>106</td>
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<tr>
<td>3:30 pm - 4:45 pm</td>
<td>Rise and Shine: Getting the Most Out of Your Committee Participation</td>
<td>146 AB</td>
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<tr>
<td>5:00 pm - 7:00 pm</td>
<td>WELCOME RECEPTION Washington Reinvented</td>
<td>Ballroom &amp; Foyer</td>
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