

**Reply of the Internet Committee of the International Trademark Association (INTA) to  
Public Comments on the Proposed .Com Registry Agreement Renewal  
May 17, 2012**

The Internet Committee of the International Trademark Association (the Committee) takes this opportunity to reply to some of the public comments on the March 27, 2012, Discussion Draft of the .Com Registry Agreement Renewal (.Com Registry Renewal).<sup>1</sup>

**Integration of Applicable Rights Protection Measures (RPMs) in .Com Registry**

After a careful review of the comments submitted, and for reasons previously expressed in its April 26, 2012 comment, the Committee continues to urge ICANN to revise the .Com Registry Renewal to require compliance with the main trademark and consumer protection mechanisms (applicable RPMs, especially the Uniform Rapid Suspension (URS) system) that ICANN has approved as mandatory for implementation across all new gTLDs.

Contrary to the assertion of the Internet Commerce Association (ICA), the Committee believes that requiring the .Com registry to adopt the URS is consistent and congruent with its position that the UDRP should not be opened up to policy review until the gTLD launch is largely behind us and we have the benefit of experience in how the UDRP harmonizes with the URS and other new gTLD RPMs.<sup>2</sup>

We believe that the raising of this alleged “inconsistency” may divert attention from the real issue, namely the glaring exclusion of the .Com Registry from the RPMs that will apply to all new gTLDs. To recap and clarify, the Committee warned that opening up the UDRP to revisions *at this time* of the broadest introduction of new gTLDs in history would lend an element of unnecessary instability and uncertainty. The Committee clearly stated that the reason it believed that an overall review of the UDRP was inadvisable during the introduction of the new gTLDs was because, “the UDRP has proved to be a time-tested method for avoiding litigation over domain names, which serves the interest of ALL parties, including trademark owners, registrants and registries.” The Committee still supports that statement and it does not believe that there is a need to initiate a PDP to review the UDRP at this time.

The position of maintaining the status quo with the only existing dispute resolution mechanism is consistent with the notion that the .Com Registry should implement the same RPMs that

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<sup>1</sup> The public comments are available on the Internet Corporation for Assigned Names and Numbers (ICANN) website at: <http://www.icann.org/en/news/public-comment/com-renewal-27mar12-en.htm>

<sup>2</sup> For example, this Committee submitted comments on the UDRP in the context of a review of the “Preliminary GNSO Issue Report on the Current State of the Uniform Dispute Resolution Policy” submitted on July 15, 2011.

ICANN has extended to all new gTLDs. It is also consistent in requesting that the largest legacy Registry, .Com, be compelled to come into line with the requirements of all new gTLDs without simultaneously subjecting the existing UDRP mechanism to evaluation and revisions. Once the RPMs are implemented in the new gTLDs and running smoothly, and once all existing registries have also been brought into the fold of these new procedures, then it may be appropriate to look at all existing dispute resolution procedures and evaluate them as a whole.

Nor has the Committee suggested haste or that the RPMs/URS be implemented in .Com immediately, only that the renewal contract be amended to provide for a timely and reasonable transition to incorporate them. It is one thing to defer the evaluation and potential revision of the UDRP until after the implementation of new gTLDs to see if the new gTLD roll out, and implementation of the new RPMs, might have bearing on future modifications to the UDRP. But it is an entirely different proposition to suggest that the largest single registry should be wholly contractually exempt – for the next 6 years – from the RPMs/URS that ICANN has deemed necessary to require of every new gTLD.

## **Conclusion**

ICANN states it is introducing new gTLDs to promote competition with the .COM Registry. Unfortunately, contrary to this stated goal, the “Discussion Draft of the .Com Registry Agreement Renewal” provides the .COM Registry with a long-term advantage over the new gTLDs by not requiring a reasonable transition to the new RPMs. ICANN’s commitment to the implementation of a smoothly functioning and robust set of RPMs for the new gTLDs should be cemented by a commitment of expansion of those RPMs to encompass all existing gTLDs in a measured and timely fashion. This will put all gTLDs on a level playing field, ensure equal application of all dispute resolution procedures across all gTLDs, and help promote consumer trust in the domain name system.

Thank you for considering our views on these important issues. If you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio DiGangi at: [cdigangi@inta.org](mailto:cdigangi@inta.org).

## **About INTA & the Internet Committee**

The International Trademark Association (INTA) is a more than 133-year-old global organization with members in over 190 countries. One of INTA’s key goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last decade, INTA has served as a leading voice for trademark owners in the development of cyberspace, including as a founding member of ICANN’s Intellectual Property Constituency (IPC).

INTA’s Internet Committee is a group of over two hundred trademark owners and professionals

from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.