

Recommendations on Policy Development for introduction of new gTLDs

Rahul Goel¹ & Ashutosh Mehta²

1. *Should new generic top-level domain names be introduced?*

Like other technological innovations, the Internet represents another watershed in the history of the mankind, and has a huge say in the future of communication and knowledge sharing in the world. Internet's reach and influence can be gauged from the fact that the number of internet users worldwide as on December, 2005 stood at 1.01 billion, representing a growth of 182% over a period of five years from 2000-2005.³ Thus, Internet today presents an opportunity that individuals and companies desirous of reaching out to people beyond geographical boundaries, cannot afford to overlook.

Currently, there exist gTLDs like .COM, .NET, .ORG, amongst others with several TLDs like .xxx, .tel under consideration. While, the introduction of new gTLDs is always a matter of debate amongst the Internet community, on account of the security and regulatory issues that the process entails, there does however exist a case for measured introduction of additional gTLDs. The biggest advantage that would accrue from such an introduction is that it makes available to the users more choices regarding the identity that they may wish project online. Such users

¹ Mr. Rahul Goel is licensed to practice as an Advocate in India and is presently associated with Seth Dua & Associates, Solicitors & Advocates, New Delhi, India. Mr. Goel qualified as a software engineer before going onto undertake further studies in law. He has also completed his LL.M in Information Technology, Media and E-Commerce laws at the University of Essex (UK). **E-mail: rahul@goel.co.in**

² Mr. Ashutosh Mehta is an Advocate, practicing at the Delhi High Court, India. **E-mail: ashutosh.mehta@gmail.com**

³ Refer <http://www.internetworldstats.com/stats.htm> viewed on January 30, 06.

may want the domain name, either as an email addresses or web site URL, to make a particular kind of statement.

The introduction of new gTLDs would also add to the ease of use of Internet, an Internet user can merely by looking at the TLD string determine the nature of activity undertaken by the owner of the website. Thus, for example an internet user can merely by looking at the TLD string .EDU ascertain that the TLD string user is engaged in business relating to education. The ability to determine the nature of the activity undertaken by the entity can be particularly advantageous. To illustrate the introduction of TLD string .xxx for pornographic content can play an important role in monitoring the and effectively checking the surfing and viewing of pornographic content on the internet. The same may help countries with specific legislations on pornography and nudity to monitor the usage and restrict the service providers from making the website available in related country.

In this regard, it is suggested that the possibility of introduction of various gTLDs depending upon the business sector/ market may be introduced. For example .FILM for the companies or individuals engaged in Film production and Distribution, .MFR for manufacturing units, .MED for units engaged in medical services/ sector, .MNC for multinational companies operating in various countries etc. The possibilities are endless, may be explored by analyzing the potential user base.

It may be noted that most of the domains have already been booked by individuals/ companies from developed countries, thereby leaving fewer possibilities for individuals from developing countries to register domain name resembling the name of his business entity. Further, cyber squatting and

domain grabbing has also worsened the position. The same has affected both companies and individuals, irrespective of their geographical presence.

It may further be noted that, today, the world trade in electronic commerce is estimated to be at USD 2-3 trillion. The exponential growth in internet subscribers, especially in developing countries, is expected to provide further impetus to the growing electronic commerce. To be a part of this pool of business medium, one need to have a web presence and the same is not possible without a domain name. Large multinational companies and big corporates have registered multiple domain names across all major TLDs to protect their IP rights and web presence. Such registration for the protection of IP rights may be justified on one hand, but on the other hand the same unnecessarily restricts a bonafide user with a similar name from using the said domain name. Domain names, unlike trademarks are not confined to a particular territory but are can be accessed throughout the world at a click of a mouse. Therefore, it is suggested that more gTLDs be introduced, with a policy of "ONE COMPANY - ONE TLD," under which

1. a company holding a domain name under an existing gTLD may be allowed to give up its existing domain name and migrate to the newly introduced/ available gTLD; and
2. a company already holding a domain name and not choosing to migrate to a new gTLD, may not be allowed to buy/ register another domain name in any other gTLD.

This may provide non-registered users a possibility to register a domain name, most of whom are located/ resident in under-developed countries.

2. Selection Criteria for New Top-Level Domains

Traditionally the selection in the previous ICANN TLD assignment processes largely falls under four heads namely, Technical; Financial and Business; Legal and Regulatory; and Community expectations. While the existing selection criteria are comprehensive in scope, there is however a need to undertake additional work to address the concerns of many intellectual property (IP) owners who have voiced their concern about, or opposition to, the introduction of new gTLDs as they fear that such further expansion of the domain name space will provide additional room for abusive domain name registrations. While, from a purely IP perspective, it can be argued that the best way to protect IP rights is to totally refrain from introduction of additional gTLDs, the answer however lies elsewhere and steps need to be taken to determine ways and means to curb such abuse rather than imposing a total moratorium upon introduction of new gTLDs.

In this regard, given the importance of Internet for businesses and the potential for abuse, the prime concern of the IP owners and in particular the trademark community relates to the abusive practices in the existing open gTLDs where domain name registrations are granted purely on a "first come first served" basis as a result of there exists a danger of abusive registration. The problem is further compounded by the relative low cost of obtaining a domain name registration especially for the residents of the developed countries, and, on the other hand, the potential economic value of the damage that can be done as a result of an abusive registration which may require the intellectual property to seek recourse to law which may be slow and time consuming. In this regard, proper policy needs to be evolved wherein prior to assigning the gTLD the right to use the identifier should be established and verified by setting minimum conditions as to the extent or duration of use and registration. The concept of setting-up 'sun rise period' for registration of domain names for the registered bodies and IP holders,

wherever implemented, has proved effective. Very recently European Union while introducing .EU TLD introduced a sun rise period for protection of IP rights of relevant owners. The same has proved successful in countries like India.

The ICANN can also prescribe differential registration fees for registration of domain names. Such fee can be based on the average per capita income of a country. Thus, ICANN can prescribe lower registration fee for countries with low per capita incomes thereby promoting greater number of registrations and hence widening the user base of Internet in developing and least developed countries.

Present IP address allocation mechanism is based on Regional Internet Registries (RIRs). ICANN, in its IANA function, allocates a pool of IP address to the RIRs. RIRs in turn allocate the IP address blocks to the ISPs/Users. This results in non-contiguous allocation of IP address to a single SP/users/country leading to huge routing tables that consumes precious resources in the Network elements leaving fewer resources for traffic. Internet is currently based on IPv4 but is moving towards use of IPv6 addresses. It is proposed that allocation of IPv6 addresses should be country based taking into account the country's population, level of development and potential. Institution at National level of respective countries may take responsibility of allotting contiguous IP address to the ISPs/users. This may facilitate simple and efficient routing, monitoring, policy enforcement etc. There is a need for equitable distribution of address space based on the need and future requirement.

It is also pertinent to mention that presently there are thirteen root servers, out of which ten are located in USA, two in Europe and one in Japan. This may not be the optimal in the interest of utilization of internet resources. To obviate these shortcomings, it is strongly recommended that root servers should be placed

region wise rather than concentrating the same within a single geographical location/ region. Regional dispersion of root DNS may help address ICANNs security and stability concerns and may further give boost to the Internet usage and electronic commerce in that particular region.

3. Allocation Methods for New Top-Level Domains

A number of allocation methods are available for selecting top level domain such as sequential or first come/first served basis, random selections in the form of ballots or lotteries, auctions models and comparative evaluations, commonly known as beauty contests. We shall discuss each method in detail:

- (i) *Sequential or first come/first served basis*: This method is not recommended for allocation of top-level domain names for the reason that this method does not consider whether the applicant fulfills the minimum necessary technical, financial and legal and regulatory criterion, The method merely awards an applicant most prompt in spotting a business opportunity by applying for the top-level domain name.

- (ii) *Random selections in the form of ballots*: This method is arbitrary as it does not consider the applicant's suitability vis-a vis the minimum necessary technical, financial and necessary legal and regulatory criterions that an applicant must possess prior to the grant of top level domain name.

- (iii) *Auctions models*: Auction model gives due weightage to the applicant's suitability vis-a vis the minimum necessary technical, financial and

necessary legal and regulatory criteria that an applicant must possess in order for it to be granted the top-level domain name as in such a case the allocation of a top-level domain name is conditional upon fulfillment of the minimum criteria. This method does however suffer from two infirmities and as such may not prove useful in a case where the total number of applicants is lesser than the number of available slots in which case all applicants, subject to the fulfillment of the minimum criterion, stand to be chosen. The method is also not useful as to the determination with regard to fulfillment of minimum conditions as any applicant, even though technically not as competent as others, may be awarded contract purely on the basis of submitting the highest bid.

- (iv) *Comparative evaluations:* Comparative evaluation method gives due consideration to the applicants' suitability and the applications are short-listed only after ascertaining that they fulfill the minimum criterion. The applications are then prioritized on the basis of stability and price. The best suited applicant on the basis of technical capability/experience and price is assigned the operations. The said model is the most appropriate allocation method.

However, it is suggested that in the event the number of applicants fulfilling the technical, financial and legal and regulatory criterion, turn out to be less than the number of available slots, fresh applications be invited till there are at least two qualified applicants for each slot.

Further, comparative evaluation model may ensure the simultaneous achievement of the twin objectives of fostering competition and also ensure quality among the applicants for top-level domain names. ICANN can ensure that

the Registry's further use the same allocation method to foster competition at the registry service providers level.

4. Policy to Guide Contractual Conditions for New Top-Level Domains

As stated above, a contractual condition may be introduced, wherein the sponsors/ registrar may be required to verify identity of the user so as to protect IP rights of the legitimate owner and register the domain name for a temporary period to be converted to permanent period, if no objection/ opposition is received from any other interested party within a predetermined time period. Any party substantiating its claim over IP rights may be granted registration. Therefore, the concept of setting-up 'sun rise period' for registration of domain names for the registered bodies and IP holders should be made mandatory for the grant of all new TLDs.

RAHUL GOEL & ASHUTOSH MEHTA

NEW DELHI. INDIA.

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