



**FÉDÉRATION INTERNATIONALE DES CONSEILS EN PROPRIÉTÉ INDUSTRIELLE
COMMISSION D'ÉTUDE ET DE TRAVAIL (CET)**

SUBJECT: Domain Name News: New top level domains awaiting final proposals for the protection of prior rights

PURPOSE: Article

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The 36th international public meeting of ICANN (the Internet Corporation for Assigned Names and Numbers – the global organisation responsible for the domain name system of the Internet) was held in Seoul, Korea in October 2009. The meeting was well attended with an audience of more than 1 000 participants from all over the world. Petter Rindforth, FICPI CET Special Reporter (Domain Names) attended the meeting and provided a summary to the Buenos Aires ExCo (EXCO/AR10/CET/1107).

Prior to the meeting, ICANN had posted what it called “two milestone documents for the introduction of new top-level domains”, namely i) The Proposed Final Implementation Plan for the introduction of country-code Internationalized Domain Names (IDNs) - better known as the Fast Track, and ii) the 3rd version of the draft Applicant Guidebook (“the DAG”) – the instruction manual for those requesting a generic top-level domain (gTLD).

The most discussed topic was the planned introduction of new generic Top Level Domains (gTLDs), however a conclusion of the Seoul meeting is that the introduction of new gTLDs will be further delayed. One of the reasons for this is the ongoing discussion of how to organize and facilitate trademark protection under new TLDs. ICANN has recommended that any new TLD “must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.”

One of the proposed safeguards is an early dispute resolution system, called the URS (Uniform Rapid Suspension system), another is

database for trademark owners, called the Trademark Clearinghouse – the latter aimed to assist in the collection of information needed to prove rights in sunrise systems for new TLDs.

Technically, the most important decision made at the meeting was the approval of the Internationalized Domain Name Fast Track Process. In short it will allow nations and territories to apply for Internet extensions reflecting their name – and made up of characters from their national languages, adding about 1000 000 new possible characters to the present A to Z.

In reply to a call for public comments, FICPI wrote to ICANN on November 21 and pointed out the importance of some of the proposed solutions for Rights Protection Mechanisms (RPMs) in the new gTLDs (EXCO/AR10/CET/1108). As to the Clearinghouse, FICPI urged ICANN to consider not only registered trademarks in jurisdictions with full examination, but (for example) all prior rights as specified in Article 10 (1) of the European Commission regulation 874/2004. FICPI also strongly suggested that the URS would be mandatory and not just best practice, as in the latter case there is a considerable risk that some of the new TLDs will offer no dispute resolution and thereby leave rights holders with no alternative than to take the dispute to a court in another country, with extensive costs and lengthy proceedings as result.

The next ICANN public meeting is in Nairobi, Kenya, March 7 – 12, 2010, and the 38th Meeting will be in Brussels, Belgium in June 2010.