The New Top Level Domains

Presented to Cyberspace 2001 – INTA – Chicago – October 2001

Jeffrey H. Kaufman
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
Arlington, Virginia



Overview: Seven New Domains

Seven new top level domains (TLDs) were approved and announced by ICANN in November 2000.

Sponsored

.aero

.coop

.museum

Unsponsored

.biz

.info

.name

.pro

Overview: Current Status

- info: some domain names functional; real-time registration started Oct. 1
- biz: group I resolved Oct. 1; group II resolves and real-time registration begins Oct. 23
- .name: application details expected soon
- .museum: negotiations complete; accepting requests for domain names
- .pro, .coop, .aero: registry-ICANN negotiations ongoing



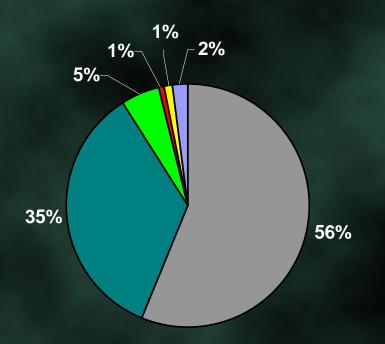
.INFO: General Information

- Registry: Afilias at http://www.afilias.info
- Registry Agreement: signed May 11, 2001 http://www.icann.org/tlds/agreements/info/
- Restrictions: none
- Trademark protection: Sunrise Registrations
- Current status:
 - sunrise domain name registrations: resolving
 - first landrush application results announced Sept. 27
 - Oct. 1, 2001: real-time registration begins

.INFO: Sunrise Registrations



Geographical Distribution:



- Europe 56%
- North America 35%
- Asia 5%
- Australia 1%
- Latin America 1%
- Other Regions 2%

INFO: Protections for Trademark Owners

- Sunrise Registrations
 - eligibility and requirements
 - owners of current trademark registrations with national effect, registered prior to October 2, 2000
 - limited to domain names that are identical to the ASCII text portion of the mark
 - accepted and awarded prior to August 27, 2001
 - open to challenge until December 26, 2001
 - over 250 challenges have been filed

INFO: Dispute Policies

- Sunrise Registration Challenge Policy
 - who may file: anyone
 - applies to sunrise registrations
 - last day to file is December 26, 2001
 - dispute resolution provider: WIPO
- Uniform Domain Name Dispute Resolution Policy (UDRP)

.INFO: Sunrise Challenges

- remedies: cancellation or transfer (a 10 day period within which to register the domain name, and challenger must satisfy sunrise requirements)
- grounds for cancellation or transfer
 - trademark registration was: not current; not of national effect; or not issued prior to Oct. 2, 2000
 - the domain name is not identical to the mark
- multiple challenger situations: special procedures
- ■fees: each party pays \$295
 - possibility of partial or full reimbursement

.INFO: Summary of Current Status

- Current status
 - sunrise registrations are live
 - STOP proceedings in process
 - Oct. 1: Start-Up (landrush) registrations begin to resolve; live registration commences
- Controversies
 - "clerical" errors during landrush: registrars should have opportunity to correct?
 - abuse of the sunrise process: Afilias to conduct initial screening?



.BIZ: General Information

- Registry: Neulevel at http://www.nic.biz
- Registry Agreement: signed May 11, 2001 http://www.icann.org/tlds/agreements/biz/
- Restriction: "bona fide business or commercial use"
- Trademark protection: IP Claims
- Current Status:
 - group I goes live Oct. 1; group II to be assigned after Oct. 10, goes live Oct. 23
 - real-time registration begins Oct. 23

.BIZ: Protections for Trademark Owners

■ IP Claims

- filed by Aug. 8, 2001 by trademark owners to cover domain names identical to their mark
- when a landrush domain name application matches an IP claim, Neulevel will
 - confirm that the applicant still wishes to proceed with the application
 - places the domain name on hold
 - notify the IP claimant who then has 20 days to file a STOP proceeding
- must file separate domain name registration application

.BIZ: Dispute Policies

- Start-up Trademark Opposition Policy ("STOP")
 - IP Claimants may file against a registrant who has registered a domain name identical to the IP Claim
 - Complaint is due 20 days from notification
- Restrictions Dispute Resolution Policy ("RDRP")
 - enforcement of "bona fide business or commercial use" requirement
- Uniform Domain Name Dispute Resolution Policy (UDRP)

.BIZ: STOP Proceedings

- Who may file: IP Claimants
- Remedy: transfer
- Deadline: 20 days from notification
- Grounds: same as UDRP but:
 - domain name and IP claim must be identical
 - need to show only bad faith registration OR bad faith use
- Arbitration providers: WIPO, NAF, eResolution
- Fees: same as UDRP
- Multiple complainants: random priority

BIZ: RDRP

- Who may file: anyone
- Remedies: transfer, cancellation or other
- Grounds: the respondent is not using the domain name primarily for a *bona fide* business or commercial use
- Arbitration providers & fees: TBA
- UDRP Rules apply: with additional requirement that Complainant address the failure to make a *bona fide* business or commercial use

.BIZ: bona fide business or commercial use

Defined in the RDRP as:

- to exchange goods, services, or property of any kind
- in the ordinary course of trade or business; or
- to facilitate the exchange of goods, services, information or property of any kind, or the ordinary course of trade or business

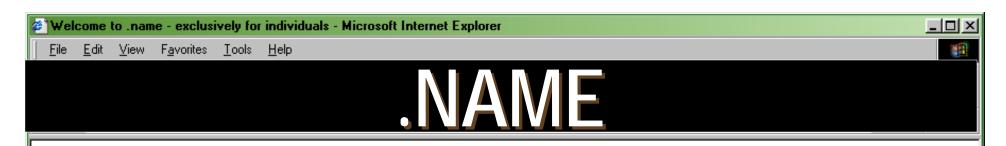
- selling/trading/leasing the domain name
- unsolicited offer to sell/trade or lease
- exclusively for personal non-commercial use
- exclusively for expression of ideas (e.g. criticism)

.BIZ: Current Status

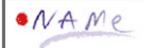
- Group I domain names go live Oct. 1
- Group II domain names scheduled to go live Oct.
 23; assignment of group II domain names on hold pending Oct. 10 court hearing
- Real-time registration commences Oct. 23
- Dates may change subject to pending litigation

.BIZ: Litigation

- Smiley v. Neulevel et al (Cal. Super. Ct. L.A. County)
 - claim: illegal lottery
 - September 26 hearing on preliminary injunction: denied as to Group I names, follow-up hearing regarding group II names scheduled for Oct. 10
- ePrize v. Neulevel et al (Cal. Super. Ct. L.A. County)
- Neulevel v. Amazon.com (E.D. Va.)
 - action for declaratory judgment that Neulevel is not conducting an illegal lottery
 - Oct. 5, hearing on Amazon's motion to dismiss







a .NAME for

everyone



WHAT IS .NAME?

LAUNCH PHASES

ABOUT US

CONTACT US

PRESS CENTER

FAQS

MAILING LIST

CAREERS

SITE MAP

Welcome to Global Name Registry, the company that brings you the .name domain.

The domain that's exclusively for you

When you buy your **.name**, you're buying an Internet address as individual as you. You'll be able to create your own website and use your **.name** as an address through which you can have all your email forwarded. But these services are just the beginning. Your **.name** can soon become a single contact point and storage place for personal information that you can access anywhere, anytime.





.name Presentation

Accredited By



What's in a .name?

A .name domain has three 'levels'. The first level is the actual '.name' suffix and the second and third levels are your first and last name. So a .name web address will look like this: First name.Last name.name or Last name.First name.name.Your email address will be easy to remember too: First name@Last name.name or Last name@First name.name.

Intellectual Property Protection Products available soon

Just because **.name** is meant for personal communication doesn't mean that trademarks and brands do not deserve protection against abuse. Global Name Registry has created two products — NameWatch and Defensive Registration - which will monitor and protect your invaluable intellectual assets.

These products will soon be offered through Global Name Registry's official providers. To be alerted when they are available, sign up here.





.NAME: General Information

- Registry: Global Name Registry http://www.nic.name
- Registry Agreement: signed Aug. 1, 2001 http://www.icann.org/tlds/agreements/name/
- Restrictions: personal names
- Trademark protection: Defensive Registrations
- Current status:
 - details expected soon
 - Defensive Registrations due Nov. 12 (subj. to change)
 - scheduled to begin resolving Dec. 13 (subj. to change)

.NAME:Requirements and Restrictions

- Domain Names:
 - format: FirstName.LastName.name or LastName.FirstName.name
 - limited to: legal name, name by which you are commonly known, your name + numeric characters, or a name in which you have trademark rights
- 2d level domain e-mail addresses ("SLD e-mail")
 - format: FirstName@LastName.name or LastName@FirstName.name
 - requires additional fee

.NAME:Protections for Trademark Owners

- Defensive Registrations ("DR")
 - Phase I DRs
 - according to the current timetable, due by Nov. 12, 2001
 - must be identical to the textual or word elements of a valid and enforceable mark, having national effect, issued prior to April 16, 2001
 - limited protection
 - Phase II DRs
 - no eligibility requirements
 - applicable for DRs filed during the Live SRS phase
- NameWatch Service

.NAME:Defensive Registrations

- ■DRs may be filed for 2d or 3d level domains or both
- ■initial term for a DR is 10 years
- multiple parties may file DRs for the same string
- prevents a domain name or SLD e-mail address identical to the DR from resolving
- the DR holder may give consent to a registration
- no DR if pre-existing domain name or SLD e-mail registration (applies to Phase II)
- subject to override and/or cancellation

.NAME:DRs for Two-Word Marks

Example mark: SAMPLE MARK

Phase I

2d level _____.samplemark.name

.sample-mark.name

3d level samplemark. _____.name

sample-mark.____.name

2d & 3d level sample.mark.name

Phase II sam.plemark.name

.NAME:Limitations of DRs

- ■DRs prevent an identical domain name or SLD email address from resolving
- ■DRs do <u>not</u> prevent an eligible challenger from registering a conflicting name
- ■DRs are subject to cancellation if a challenger meets the Eligibility Requirements:
 - combined 2d and 3d level DRs: cancelled upon first successful challenge
 - 2d or 3d level DRs: cancelled upon 3d successful challenge ("three-strikes" rule)

.NAME: Name Watch Service

- monitoring service
- available through Authorized Registrars
- registration period
 - expected to begin Oct. 13, 2001 (calculated as 60 days before domain names resolve)
 - first batch of applications will be processed at least 30 days before domain names resolve

NAME: Dispute Policies

- Uniform Domain Name Dispute Resolution Policy (UDRP)
 - applies to domain name registrations
- Eligibility Requirements Dispute Resolution Policy (ERDRP)
 - applies to domain name registrations, SLD e-mail registrations, and Defensive Registrations
 - any person may file
 - arbitration providers TBA

.NAME: ERDRP Remedies

- challenges against a domain name or SLD e-mail registration
 - cancel, transfer, or other
 - challenger must meet the Eligibility Requirements for a transfer
- challenges against a DR
 - the challenger may register a domain name or SLD email address that conflicts with the DR
 - the DR may be subject to cancellation

.NAME: Current Status

- pre-registration (landrush): being accepted by some registrars; due Nov. 22
- Defensive Registrations: details TBA, due Nov. 12
- NameWatch service: details TBA
- ■Scheduled to begin resolving Dec. 13

.NAME: Potential Issues

- Enforcement of eligibility requirements through ERDRP only
 - no initial screening by registry or registrars to limit registrations to names
 - number of Defensive Registrations required for composite marks is high
 - exact match and possibility of over-ride limits effectiveness of protective measures

.MUSEUM



Home | Open Forum | FAQ | Name Requests | Document Archives | About MuseDoma Download to my handheld! | Accessibility issues

Museum Domain Management Association The .museum Registry

.museum Sponsorship Agreement

On 10 September, the Board of the Internet Corporation for Assigned Names and Numbers (ICANN) unanimously adopted a resolution empowering the ICANN President to sign the Sponsorship Agreement between ICANN and MuseDoma for the .museum TLD. The MuseDoma Board met on 26 September with its approval of the Sponsorship Agreement on the agenda and expects to take final action on 1 October. If no unforeseen difficulties are encountered in the final review of this document, it is expected to be signed during the following few days. The timetable for the subsequent start-up of the domain's operation is detailed in Attachment 8 to the Agreement. We welcome your comments on the start-up activity and any other commentary that you may have about .museum via our Open Forum.

Preliminary Name Requests Accepted

The Museum Domain Management Association (MuseDoma) is currently accepting <u>preliminary</u> requests for the reservation of subdomain names in the .museum top-level domain.

Dagistration in muscum will be restricted to muscume, muscum organizations and individua





.MUSEUM

- Sponsor: Museum Domain Management Association (MuseDoma)
 - http://www.musedoma.org
- Sponsorship Agreement: http://www.icann.org/tlds/
- Requirements and restrictions: museums
- Current status: accepting requests for registration (pre-registration offered by registrars is unauthorized and may not result in registrations)

.AERO, .COOP, .PRO

- ■ICANN and Sponsors are still negotiating
- Each agreement consists of
 - agreement
 - multiple appendices
- Agreement documents are made available at http://www.icann.org/tlds/
 as they are approved by ICANN

Upcoming Dates

Oct 5, 2001

.biz: Neulevel EDVA hearing on motion to dismiss

Oct 10, 2001

.biz: Smiley follow-up hearing on prelim. injunction

Oct 23, 2001

.biz: Group II domain names resolve; live registration

Nov 12, 2001

.name: last day to file sunrise Defensive Registrations

Nov 22, 2001

.name: last day to pre-register

Dec 13, 2001

.name: first domain names to resolve

October

November

December

The New Top Level Domains

Presented to Cyberspace 2001 – INTA – Chicago – October 2001

Jeffrey H. Kaufman
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
Arlington, Virginia

