

Is it Bye-Bye to .com and .net?

New generic top-level domains (gTLDs) provide brand expansion opportunities and allow businesses to create their own online identities

Businesses and brand owners must be vigilant to ensure that their intellectual property rights are protected.

If you have any questions about domain names or how the new generic top-level domains may impact your business, please contact the following, or your Vorys relationship attorney:

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A plan proposed by the Internet Corporation for Assigned Names and Numbers (ICANN), the organization that administers the internet's domain name system, will allow the creation of an unlimited number of generic top-level domains (gTLDs). A gTLD is the familiar extension at the end of a domain name such as ".com" or ".net." There are 21 generic top-level domains in existence but many have not been widely adopted and are unfamiliar to the public.

ICANN's plan will significantly expand the gTLDs available to companies and consumers. The new gTLD program will allow businesses to use their own name or trademark as a top-level domain, for example, Ford Motor Company might establish a ".ford" domain. Instead of using www.ford.com it could use www.mustang.ford. Similarly, Microsoft Corp. could create a ".windows" top-level domain and use the internet address www.microsoft.windows.

The new gTLDs may also incorporate generic terms such as ".auto" or ".flowers" or geographic names like ".ohio" or ".columbus." The operator of the new top-level domain could then offer second-level domains within the new gTLD to businesses or organizations in the relevant field or geographic area such

as www.corvetteclub.auto or www.joespizza.ohio. It is likely that entrepreneurs will find new and unexpected applications for the new gTLDs that no one has yet considered.

Whatever form the use of the new top-level domains takes, it will open up opportunities for businesses to expand their online presence and create unique online identifiers that resonate with customers and clients. As with any innovations in the domain name system, however, we have to assume that bad actors will attempt to profit from a company's name, trademarks and goodwill. Businesses and brand owners must be vigilant to ensure that their intellectual property rights are protected.

ICANN will shortly issue a draft proposal with further details on how it will allocate the new gTLDs, application and technical requirements, costs and mechanisms for trademark owners to object to conflicting names. A final proposal is expected in the first quarter of 2009 with plans to begin the application process in the second quarter of 2009.

Vorys continues to monitor these issues and will send a detailed update when ICANN releases its draft guidelines.

This client alert is for general information purposes and should not be regarded as legal advice.