



AMICA LAW LLC

## AMICA LAW UPDATE

Dear Friends, Clients and Colleagues

### OnYour.Marks Go!

When the Domain Name System was first created in the 1980s, available domain names were generally divided into two groups, generic Top Level Domains (gTLDs) such as .com, .edu, .org and .net, and country code Top Level Domains (ccTLDs) such as .uk, .sg, .ca, .jp and .hk. Until recently, there were approximately 22 gTLDs and 250 ccTLDs.

Recently, ICANN announced the launch of a system for registering generic gTLDs. Potentially any common word (e.g. .car, .football or .flower), brand or trade mark (e.g. .prada or .samsung) or geographical name (e.g. .london or .mounteverest) could be registered as a gTLD. A new gTLD can also contain diacritical or accent marks or non-Latin scripts e.g. Chinese or Arabic characters.

While the possibility of acquiring a gTLD for your brand name or trade mark may seem attractive, there are some features about this scheme that may prove daunting for some companies and businesses. In particular, as the registration of a new gTLD would create a new registry for that gTLD, any interested applicant must be able to demonstrate that it has the financial and technological capability to operate such a registry. Further,

- Any applicant wishing to apply for a new gTLD must submit an application to ICANN and pay an evaluation fee of USD\$185,000. Together with the application, the applicant must answer a series of questions to provide general information on the applicant and to demonstrate the financial capability as well as its technical and operational capability to use, manage and maintain the proposed gTLD. Supporting documents to show that applicant's incorporation or business status, financial health and technical capabilities must also be submitted.
- The application will be checked for administrative compliance. Thereafter, the application will undergo an evaluation process which will go through several stages. In the course of the evaluation process, the applicant may be required to pay additional fees if specialized tests have to be conducted. Partial refunds may be possible if the application is withdrawn or aborted in the course of the evaluation process.
- If the proposed gTLD passes the initial evaluation stage, the proposed gTLD will then enter the objections phase of the process. During this part of the process, any third party can object to the proposed new gTLD on any one of four grounds.
- If the application passes the evaluation and objections phases, ICANN will then consider if there are parties holding valid applications for the same or similar gTLD string. If so, parties are encouraged to reach an agreement on the use and registration of any proposed gTLD but in the event that an agreement cannot be reached, an auction will be conducted for the gTLD in contention.

If the application is approved and there are no objections to the new gTLD, the applicant is required to conclude an agreement with ICAAN and undergo some further technical pre-delegation tests before the new

gTLD is delegated to the root zone. On such delegation, the applicant (which will be referred to thereafter as a Registry Operator) must pay USD\$6250 per calendar quarter and a transaction fee of USD\$0.25 for the gTLD and abide by obligations and terms imposed by ICANN on any Registry Operator.

Information on the application process has been published in an [Applicant's Guidebook](#) which can be found on ICAAN's [website](#).

This note is intended for your information only and does not constitute legal advice. If you would like to discuss how the above might impact your company, please contact

Wilson Wong	+65 63036213	wilson.wong@amicalaw.com
Jason Chan	+65 63036215	jason.chan@amicalaw.com
Elaine Tan	+65 63036229	elaine.tan@amicalaw.com