

Trademark & Copyright Advisory

From the Buchanan Ingersoll & Rooney Intellectual Property Group

Buchanan Ingersoll & Rooney PC
Attorneys & Government Relations Professionals

August 2011

Deadline Looming to Protect Your Marks From Being Used In Adult Entertainment Websites

A new sponsored top-level domain is on the horizon. The International Foundation for Online Responsibility and the ICM Registry have sponsored the new .XXX top-level domain for adult related content and the adult entertainment industry. Approved by the Internet Corporation for Assigned Names and Numbers (ICANN), the .XXX (also known as "dot triple-X") domain was proposed as a tool for dealing with the conflict between those who wish to provide and access sexually explicit and adult-related content on the Internet and those who wish to prevent access to it.

While this is potentially good news for the adult industry, trademark owners in industries operating outside the adult industry may wish to protect their brands from being registered by others in the new .XXX domain. This protection, or "blocking program," will enable brand owners from outside the adult entertainment industry to pay a one-time fee to block the registration of strings exactly matching their existing trademarks but will not block the registration of a domain name that is a misspelling of their trademarks. The names will remain blocked for at least the next 10 years, the agreed upon time that ICM Registry will be responsible for maintaining the extension. One added bonus of the blocking program is that even though the trademark is blocked, the trademark owner will not be identified as the owner of a .XXX website.

To that end, **a sunrise period has been created for non-members of the adult entertainment industry who wish to protect their brands by removing their marks from the pool of available domain names in the .XXX domain.** Referred to as Sunrise B, this period will launch on September 7, 2011 and will last for 50 days until October 28, 2011. In order to qualify for the Sunrise B program, the brand owner must own a registration for the mark granted anywhere in the world. While the sunrise protection extends only to "exact string" matches and is not available to prevent "typosquatting" and "combosquatting" variations of registered trademarks, the Uniform Dispute Resolution Policy (UDRP) will remain in effect for post-launch domain name registrations in the .XXX domain and other new generic top-level domains to follow, and a "Uniform Rapid Suspension" (URS) mechanism is currently in development.

For additional information on ICANN's new top-level domain registrations, please contact Buchanan Ingersoll & Rooney PC. For commentary by one of our trademark attorneys on the state of Internet governance, [read his article](#), published in the current edition of the *World Trademark Review*.

For more information, email the author(s) at ipadvisory@bipc.com.

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