

## Excessive sunrise fees, delay to strings and cybersquatting levels: takeaways from ICANN 49

The US government's announcement that it intends to transfer responsibility for Internet Assigned Numbers Authority functions to the internet community was one of the big talking points at ICANN 49, held in Singapore in March. However, other issues of significance for trademark owners were also discussed – not least the Trademark Clearinghouse's (TMCH) revelation that it had delivered over 500,000 claims notices as of March 25, with 95% of the queries for trademark terms that triggered claims notices not being followed through to a live registration. According to the TMCH, the fact that around 475,000 applications were dissuaded from progressing to registration was evidence that “the deterrent is working”.

The figures were interpreted in different ways. For some, they illustrated the extent of potential cybersquatting activity in the expanded online space; for others, the level of notifications reflected the amount of data mining undertaken by third parties, with such queries never likely to have progressed to registration; and a third interpretation was that the notifications deterred even those making legitimate applications.

Turning to specific strings, the ‘wine’ and ‘vin’ generic top-level domains (gTLDs) were initially given the green light, despite numerous calls for protection for geographical indications in both strings. However, the Government Advisory Committee (GAC) pointed to “at least one process violation and procedural error”

in the approval process, which put the brakes on the strings progress. Following the meeting, the New gTLD Programme Committee passed a resolution which, while it did not find a process violation or procedural error, did announce a 60-day period to allow “the relevant impacted parties additional time to try to work out their differences”.

The news that one applicant for the ‘.sucks’ TLD is planning to charge trademark owners \$25,000 for each sunrise registration was the source of intense debate in the Intellectual Property Constituency – and ICANN's ability to prevent brand owners from being held to ransom was put in doubt. Asked whether ICANN would take such fee into consideration in its decision-

making process with regard to ‘.sucks’, Krista Papac, ICANN director of registry services, explained: “We don’t get involved in pricing. We do look at policies and information and if we see things that don’t seem right we will go back to the registry and ask questions.”

Elsewhere, however, there was some good news for brands. First, ‘.brand’ applicants scored a victory with the passage of Specification 13 to the new gTLD Registry Agreement, which will remove the requirement to conduct a sunrise period as long as the string is run as a ‘.brand’ TLD.

Margie Milam, ICANN senior director of strategic initiatives, also expanded on the new central WHOIS look-up tool, which is due to launch imminently and will provide a one-stop shop for WHOIS complaints. Additionally, she noted that the WHOIS accuracy reporting system currently being developed “will proactively identify inaccurate WHOIS records and forward potentially inaccurate records to registrars for action”.