

CLIENT ALERT

Sunrise Period Opens Today for .sucks Top Level Domain

March 30, 2015

Qualified trademark owners now have until May 29 to decide whether to pay the hefty price of \$2,499 per year to purchase their own mark as a domain name in the controversial new ".sucks" top level domain—*e.g. yourbrand.sucks*—or run the risk that their marks will be purchased by someone who may not have their best interests at heart when they become generally available for purchase on June 1. The decision is not an easy one.

The new .sucks domain is one of the most controversial of the hundreds of new top level domains now being introduced on the Internet. The registry that administers .sucks, Vox Populi—Latin for "Voice of the People"—posits that .sucks domain names will be used for valuable criticism and essentially serve as a "central town square," or they could even be used by corporations as an "essential part" of their "customer relationship management program." Not surprisingly, many trademark owners may be wary of this proposition that a former U.S. Senator once described as "little more than a predatory shakedown scheme."

For a two-month "sunrise period" from March 30, 2015 until May 29, 2015, trademark owners who have already registered their marks with ICANN's Trademark Clearinghouse will have the exclusive right to register those exact marks as second level domain names in .sucks. The sunrise period is similar to those available with other newly-launched, top level domains, but with one big exception: the annual \$2,499 price tag. The decision facing trademark owners involves weighing the balance between the uncertain risks and possible embarrassment involved in not purchasing the marks, as well as the costs and other implications of participation. As a practical matter, a trademark owner can never be completely protected, as the purchase of *yourbrand.sucks* would not prevent someone from purchasing *yourbrandreally.sucks* or other variations, or, for that matter, *yourbrandsucks.com*.

After June 1, 2015, registration for .sucks domain names will be open to the general public, and *yourbrand.sucks* will be available for purchase by anyone. The exact prices for specific domains will vary and remain somewhat unclear. There will be a "standard price" of \$249, but there will also be higher pricing for certain "Premium Names," which will likely include the registered trademarks of established, well-known companies that have not already bought their own marks.

In a last-minute development on March 27, the Intellectual Property Constituency (IPC), in a letter, formally asked ICANN—the organization responsible for the new top level domains—to halt the rollout of the .sucks domain name, calling the pricing plan "predatory, exploitative, and coercive" and making allegations about the contract between Vox Populi and ICANN. As of this moment, ICANN has not taken any action.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Preetha Chakrabarti

Partner – New York

Phone: +1 212.895.4327

Email: pchakrabarti@crowell.com