

name.space, inc.

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Before the Senate Committee on Commerce, Science, and Transportation: ICANN's Expansion of Top Level Domains

Hearing Date: December 8, 2011

Thank you for this opportunity to present the views of Name.Space and its board of directors to the Committee on Commerce's hearing on ICANN and the expansion of Top Level Domains.

I am Paul Garrin, the founder of Name.Space, a first mover in the Internet Top Level Domain registry field, working to bring our original generic TLDs to market since 1996, predating ICANN by two years.

Name.Space recognizes the concerns of intellectual property holders, and we believe that we have a constructive and workable solution for policy and practice that will satisfy all parties, and welcome this opportunity to present our views to the Committee on Commerce at this December 8, 2011 hearing.

This testimony is intended to serve the committee members and parties concerned about the positive impact of new generic Top Level Domains by raising awareness of our position and vision for a constructive approach to bringing generic Top Level Domains to market in a way that protects intellectual property owners, and creates new opportunities for branding, consumer choice and confidence, and free expression.

Historically, the commercialization of the Domain Name System has been plagued with ill-will. Cyber-squatting, domain name speculation, and fraud cost legitimate publishers, content creators, and brand owners millions of dollars in settling disputes, paying inflated prices from domain auctioneers and speculators, and in defensive domain name registrations. There are many conditions that led to this cascade of malfeasance resulting in defensive actions, un-budgeted costs, and damages to intellectual property and brand owners, and consumers. Foremost, is the lack of competition in the commercial TLD registry space. The incumbent registries, through their aggressive practices have done nothing but fuel the feeding frenzy on unmitigated domain name speculation in order to maximize their profits without regard to the negative consequences against brand owners and the overall utility of the DNS. ICANN's own policies only partially address brand protection through the (optional) sunrise period that precedes the launch of a new gTLD to the general public, and the trademark and brand clearing house.

Name.Space, in its year 2000 application to ICANN, presented its policy and business practices that we believe are the most equitable in protecting the interests of intellectual property and brand owners, and free speech. Our business model is based not on exuberance over a particular string, but on a balanced portfolio of gTLDs that represents opportunities to create strong new brands, essential for new businesses and products, as well as for less popular community, cultural, and free expression purposes. Our model establishes an economy of scale that supports both commercially valuable gTLDs, and less-profitable gTLDs that serve smaller communities, and free expression, at a stable and affordable price point.

In the upcoming 2012 gTLD round, Name.Space will re-assert its policies and responsible business practices for the fair delegation of domain names under its gTLDs, as well as work with IP interests and ICANN to develop new methods that better serve the proactive and preemptive protections necessary for the protection of intellectual property and brands in all of the gTLDs that we own and operate.

Some of Name.Space's IP protections include:

- 1) Registered trademark name clearing house and preemptive famous names filter.
- 2) Sunrise period reserved for registered brands and intellectual property at a fixed wholesale cost.
- 3) Whois "lockout" that prevents registered brands from becoming available to the general public.
- 4) Wholesale registrar access with volume discounts to associations who serve intellectual property constituents.
- 5) Full cooperation with organizations such as the ANA, IPO, WIPO, INTA, MPAA, and others to develop technologies, policies, and business practices for operating our gTLDs that protect existing brands, and develop new opportunities to use gTLDs to create strong new brands, and to present owners with innovative ways to protect and serve their content online.
- 6) Restrictions on registering domain names for the sole purpose of resale.

Name.Space had applied for 118 of its original generic Top Level Domains (including such gTLDs as .ART, .BOOKS, .MUSIC, .NOW, .SHOP, .SPACE, .SUCKS) in the first gTLD round held by ICANN in 2000. Although our application was accepted under ICANN's rules, and selected in the top 10 picks of "strong candidates", it was not advanced toward delegation, and thus remains pending. Our year 2000 ICANN application had the support of then Chair Esther Dyson, who stated that Name.Space represents diversity, free speech, and is likely to be a successful business that supports both commerce and free expression.

Name.Space, whose business has a potential value of over 1 billion dollars, has been deprived the opportunity to fully launch and operate its portfolio of gTLD properties under what we believe is the most responsible, fair, and ethical practices yet to be employed in the commercial domain name industry. ICANN's approval of Name.Space's gTLDs will increase competition and diversity in the TLD registry space, and assure that our exemplary practices will best serve the public by providing the new gTLDs and the opportunities they present for new brands, small businesses, individual publishers and content creators, and for all owners of content libraries and new services in all media. The Internet is evolving and new gTLDs are an essential part of Internet infrastructure, and its evolution.

The 2012 ICANN round is the first opportunity for gTLD selection since 2000, and we have very patiently been waiting for this time to arrive so that our business can reach its full potential. We don't believe that our responsible and ethical approach to operating our gTLDs will harm intellectual property and brand owners, but will in fact protect them and offer new opportunities. Any further delay in launching our business will do nothing but cause further distress to my struggling business, and prevent us from creating jobs and contributing to the economy. We ask that there be no delay in the ICANN 2012 gTLD round, and that ICANN honor our year 2000 application for the portfolio of gTLDs that Name.Space originated since

1996, operated in commerce, and that we reserve our rights to. Name.Space is committed to the principles and practices stated here, and we believe that our gTLD policies are fair and exemplary, and welcome the cooperation of ICANN and the intellectual property associations to work with us in the most constructive and reasonable way so that our gTLDs become available on the global Internet without further delay.

I look forward to questions from the members of this committee, and to the beginning of a constructive dialogue with constituencies affected by the introduction of new gTLDs to the global Internet.

Sincerely,

Paul Garrin
Founder, Name.Space
<http://about.namespace.org>

Appendix:

Name.Space has testimony on the record from hearings held by both Senate and House Commerce Committees on the subject of Top Level Domains submitted between 1997 – 2001. Name.Space is an early advocate of the shared registry system, and an advocate of a neutral non-profit organization to oversee the framework for introducing new gTLDs to the Internet, and was a participant in the IFWP process from which ICANN emerged.

Brief history:

1996 - Name.Space launched real time domain name registry service publishing its original generic TLDs

1997 - March 11, Name.Space requested Network Solutions add our gTLD data to the global root.zone file.

1997 - March 12, Network Solutions refuses to add our gTLDs to root.zone

1997 - March 20, Name.Space files antitrust suit against Network Solutions in Federal Court, Southern District NY

1997 - September 25 House Commerce Committee hearing on Internet Domains Pt 1 (Name.Space testimony on record)

1997 - September 30 House Commerce Committee hearing on Internet Domains Pt 2 (Name.Space testimony on record)

1997 - National Science Foundation joined to lawsuit on First Amendment grounds

1998 - Commerce Dept. NTIA releases "Green Paper" (Name.Space comments on record)

1998 - Commerce Dept. NTIA releases "White Paper" (Name.Space comments on record)

1998 - Commerce Dept. NTIA IFWP process (Name.Space participates)

1998 - NTIA takes over contract between NSF and NSI, and amends it (amendment 11)

1998 - Commerce Dept. NTIA contracts Internet Corporation for Assigned Names and Numbers

1999 - NTIA creates separation of TLD "registry" (wholesale) and domain name "registrar" (retail) using shared registry system. Prices drop from \$100 per 2 year registration to \$30 per year.

1999 - ICANN accredits 30 companies to serve as domain name registrars (reselling .COM); Name.Space accredited

2000 - February, Second Circuit Court of Appeals decision - immunity for Network Solutions

2000 - November - Name.Space participates in ICANN gTLD round, submits 118 gTLDs, pays \$50,000 application fee; is picked in top 10 strong applicants; support from chair Esther Dyson, opposed by other board members; application unresolved, still pending. *several ICANN board members recused themselves in connection with TLD applications that were selected.

2001 - February 8 House Commerce Committee ICANN hearing (Name.Space testimony on record)

2001 - February 14 Senate Commerce Committee ICANN hearing (Name.Space testimony on record)

2000 - Present - Name.Space business severely impacted by non-global access for its gTLDs, struggles to stay afloat. New investment enables us to participate in the 2012 round with our standing application from 2000.

Links to view video from ICANN's 2000 gTLD round:

Paul Garrin presents Name.Space to ICANN board, answers board's questions (Nov. 15, 2000):

<http://replace.tv/vid/2000-icann1115-pg-presents.mov> (approx. 8 min.)

ICANN board (sans recused members) discusses the Name.Space gTLD application:
<http://replace.tv/vid/2000-icann1116-pt02-ns-discussion.mov> (approx. 28 min.)

For more information, history, press highlights links, please see:
<http://about.namespace.org>

select press links:

<http://www.nytimes.com/library/cyber/week/032297domain.html> (Name.Space formerly known as PGP Media)
<http://timeto.freethe.net/pg/media/washpost19970706.txt>
<http://news.cnet.com/2100-1023-203408.html> (Name.Space formerly known as PG Media)
<http://timeto.freethe.net/pg/media/dot-monopoly1.jpg>
<http://timeto.freethe.net/pg/media/dot-monopoly2.jpg>
<http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2000/12/03/BU113071.DTL>
http://www.thevillager.com/villager_314/thebattleofnyc.html

Attachments:

- 1) Name.Space ICANN application from the 2000 gTLD round**
- 2) Questions and answers from ICANN to Name.Space on the 2000 application**
- 3) Name.Space business plan (2000 version as submitted to ICANN)**