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April 13, 2009

VIA FEDEX AND EMAIL (2gtld-guide@icann.org)

Mr. Peter Dengate Thrush, Chairman of the Board of Directors and
Dr. Paul Twomey, President and CEO
ICANN
4676 Admiralty Way, Suite 330
Marina del Ray, California 90292

**Re: Request for Public Comment on Revised
New gTLD Draft Applicant Guidebook**

Dear Mr. Dengate Thrush and Dr. Twomey:

Verizon Communications Inc. and its subsidiaries (collectively “Verizon”) appreciate the opportunity to provide comments to the second version of the Draft Application Guidebook (“DAG”). By way of background, Verizon is among the world’s leading providers of communications and entertainment products and services. Verizon Wireless owns and operates the nation’s largest wireless network, serving more than 80 million voice and data customers. Verizon’s wireline operations include Verizon Business, which delivers innovative business solutions to customers over a global IP footprint covering 150 countries across six continents, serves over 70,000 customers, including 98 percent of the Fortune 500, and Verizon Telecom, which brings customers the benefits of converged communications and entertainment products and services over the nation’s most advanced fiber-optic network.

Verizon spends many millions of dollars to protect its brands and domain names and to promote VERIZON and its other trademarks in the United States and throughout the world. Given the proliferation of cybersquatting, domain name tasting and kiting over the past number of years, Verizon has expended substantial effort and expense in protecting its valuable intellectual property rights in federal court actions and under the Uniform Domain Name Dispute Resolution Policy (“UDRP”). Many of these enforcement actions have been taken against ICANN accredited registrars.

We are troubled that despite the widespread concerns articulated in response to the first version of the DAG, ICANN has nevertheless introduced a second version of the DAG in an effort to push the process along. Verizon previously endorsed a number of comments submitted in response to the DAG Version 1, including those of the International Trademark Association, MarkMonitor, the National Association of Manufacturers, the US Chamber, CADNA, USCIB and the Internet Commerce Coalition, to name just a few. We will be supporting the detailed comments that many

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business organizations will be submitting to ICANN in response to the latest DAG. But because of our continued concerns about the threshold substantive concerns not addressed in the DAG, we are submitting the following brief comments on our own.

We strongly encourage ICANN to delay any further versions of the DAG and delay its timeline to introduce new gTLDs until fundamental threshold concerns are addressed, including (1) completing an impartial economic study with comprehensive empirical evidence to support the need for new TLDs; (2) addressing concerns about the safety and stability of the Internet; (3) protecting against malware, phishing and fraud; and (4) establishing a comprehensive set of protections to curb trademark abuse at all stages of the new TLD process. Until all these issues are adequately resolved, ICANN should limit any new rollout to perhaps a few select International Domain Names (IDNs) on a trial basis.

We understand that the newly created Implementation Recommendation Team (IRT) will work to develop and propose solutions to the overarching issue of trademark rights protection in connection with the introduction of new gTLDs. In doing so, the IRT must recommend policies, processes and requirements to improve trademark rights that reflect the views of the trademark community at large. Because the introduction of potentially thousands of new TLDs creates a comprehensive set of infringement and enforcement problems for trademark owners at all stages of the process, it is critical that the IRT's recommendations supply trademark owners with low or no cost remedies that scale in the new TLD system. This bundle of recommended protections should be available at both the pre and post-delegation phases and apply to both first and second level domains. ICANN should also accord significant deference to the collective package of recommendations from the trademark community. Trademark owners are best situated to assess which solutions provide realistic brand protection in a future that may include potentially thousands of new TLDs. ICANN should adopt the broad set of solutions and should not view the trademark community's recommendations as a negotiation where critical remedies are tossed aside. Rights protection measures must be no-cost or lowest-cost based, and should not be leveraged into further opportunities for monetization by registries and registrars at the expense of the trademark community.

Some of the most fundamental rights protection measures needed to address trademark concerns should include:

1. Expedited Suspension Mechanism

Verizon supports the idea, building upon the discussion draft submitted by WIPO, for an Expedited Suspension Mechanism to address rampant cybersquatting in the new TLDs. Given the cybersquatting epidemic that continues to flourish in the existing TLD space, we expect the introduction of new TLDs to result in millions of new infringements for brand holders. Cybersquatting will continue to include both identical uses of well-known trademarks as well as countless typosquatted variations of trademarks either alone or in combination with other words that consumers use to reach a trusted source online.

We therefore support the idea of a no or low cost and expedited suspension mechanism. We note that such a procedure would differ considerably from the Digital Millennium Copyright Act's ("DMCA") "notice and take down" procedure in several important respects. First, a registry or registrar must put in place a formal and written notification procedure to address trademark abuse so that trademark owners may notify the registry (and provide the necessary proof of trademark rights and a declaration under penalty of perjury) of a domain name infringement and use in bad faith. Unlike the DMCA's take down procedure, upon receipt of such a notice, the registry or registrar would not automatically remove the domain name, but would initially lock that domain to ensure it could not be transferred. The registrar or registry would provide notification to the registrant and provide the registrant with time to respond. If the registrant fails to respond, the domain name would either be placed on a reserved list or transferred to the trademark owner, based on the trademark owner's preference. If the registrant does respond and objects, both parties would proceed to a dispute resolution procedure administered by qualified organizations (such as WIPO) to determine whether to approve the expedited suspension. Verizon would support such procedure be based on a "loser pays" model. The loser pays model would add to the appropriate checks and balances in the process and discourage abusive uses of both the Expedited Suspension Mechanism or the counter-notification process.

Registrants who are continually found to be subject to the Expedited Suspension Mechanism might be subject to a more expedited form of suspension for future abuses based on the history of their prior misconduct. Likewise, a trademark owner who is found to wrongfully use the process on a continual basis might also be barred from using the procedure in the future.

Such a mechanism must be administered on a cost-recovery basis only and should not be used as an opportunity by the contracting parties as yet another avenue for monetization at the expense of the trademark community. Registrars and registries are not qualified to provide dispute resolution services and should not have any financial stake in the provision of such services. The mechanism must be able to address quickly the thousands of instances of cybersquatting that will inevitably occur in the new TLDs and work as a deterrent rather than a loophole that merely encourages more abuse. A variation of the Expedited Suspension Mechanism could be considered as a solution phishing, frauds and other abuses, but would need to be conducted more quickly to prevent criminal activity.

2. Creation of a gTLD Reserved List ("White List")

ICANN should also consider the creation of a Reserved or White List for global trademark owners both for the names of new gTLDs as well as at the second level within each new gTLD. This kind of solution would, at a minimum, prevent the registration of one's identical valuable global trademark in each new TLDs. We support many of the criteria proposed in prior comments to determine when a trademark would be placed on the Reserved List and look forward to the recommendations of the IRT in this regard. We support INTA's concern that the Reserved List be available to many global trademark owners who can prove that their marks have historically been subject to cybersquatting and not turn the list into a famous or well-known mark list. The

implementation of such a list will minimize, if not remove, the need for defensive registrations of key trademarks.

3. Post-Delegation Dispute Resolution Procedures

Trademark abuses will likely occur, intentionally or unintentionally, in the post-delegation phase. ICANN should therefore support the adoption of the post-delegation dispute resolution procedures proposed by WIPO. See <http://www.wipo.int/export/sites/www/amc/en/docs/icann130309.pdf>. We believe this procedure should be applied to both registries and registrars. Given the scarce resources available to ICANN today to address registrar compliance abuses (including violation of the “compliance with laws” section of the RAA), the availability of a self-help mechanism such as that proposed by WIPO, will be an essential tool. Adherence to this policy should be required by ICANN under each new Registry and Registrar Agreement. In such proceedings, as in the Expedited Suspension Mechanism, a loser pays model could help deter abuses of the process.

These are only some of the important rights protections mechanisms that could be invaluable to trademark owners, and we look forward to a discussion of the fuller list of mechanisms after completion of the work by the IRT.

We also identify below a number of other important concerns that have yet to be addressed regarding both the pre-delegation and post-delegation stages of the new TLD process:

1. Applicant Restrictions & Investigations

It is important that a thorough investigation be conducted of all applicants to ensure that each applicant (including current and past business entities, affiliates or shell companies or those individuals who partner with or invest in each applicant) has not engaged in any unlawful activities, whether criminal or civil, including cybersquatting. In particular, known registrants and registrars who have been subject to injunctive orders from federal courts or been subject to multiple UDRP decisions for engaging in cybersquatting must be excluded from the application process.

2. TLD Justification Requirement

Each applicant must provide a detailed analysis justifying a request to establish a new TLD. Such an analysis should identify any risks to the health and safety of consumers, the impact on the stability of the Internet, as well as any economic benefit offered by the proposed TLD. The current global economic recession should be treated as a presumption that strongly weighs against any widespread introduction of new gTLDs.

3. “Measures Against Abuse” Standardized

Allowing each registry to define its own policies for policing, managing and remediating abuse complaints would result in inefficiencies and confusion. Therefore, ICANN should create standard mechanisms, including adoption of the post-delegation dispute resolution procedure suggested by WIPO. In addition, outside of the de-accreditation process, ICANN should explain how it intends

to expand and improve its own internal compliance activities to deal with future registry and registrar abuses. ICANN must ensure that there are adequate means to issue sanctions and punishments to any registrar or registry that engages in unlawful activities, including cyberquatting.

4. Price Controls (Price Caps) for TLD Operators

New TLD registries could use price discrimination as a tool to harm trademark owners and consumers. The RFP process and proposed registry agreements should include provisions that would enable ICANN to prevent new registry operators from harming businesses and consumers.

The absence of price caps will not only affect the costs for trademark owners to register in the new TLDs, but will trigger a call by the large existing TLD operators to invoke the “equal treatment” clause in their registry agreements with ICANN. For example, the equal treatment clause in Verisign’s registry agreement provides as follows:

“Equitable Treatment. ICANN shall not apply standards, policies, procedures or practices arbitrarily, unjustifiably, or inequitably and shall not single out Registry Operator for disparate treatment unless justified by substantial and reasonable cause.”

If new TLD registries were permitted to operate without price caps, existing registries might claim that such disparate treatment is not “justified by substantial and reasonable cause.” Verisign should not be able to increase (either dramatically or incrementally over time) the costs for renewing important domain names owned by trademark owners, many of whom have tens of thousands of domain names in their portfolios. Because .com is still considered premier real estate, it is not a realistic option for trademark owners to fail to renew their important domain names. These domain name addresses are the equivalent of their online identities. Their .com identities are well inscribed in the minds of consumers as the first place to find their goods and services on the Internet. Nor should registries be allowed to speculate in new domains by charging costs based on the fame of the trademark or on discriminatory determinations of what they believe the market could bear.

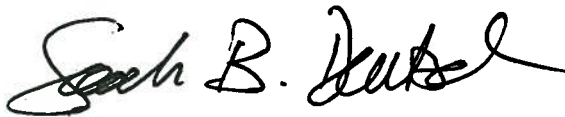
5. Put in Place a Hold on Proposed Roll Out in Late-2009:

Finally, Verizon would like to address ICANN’s firm commitment to implement its new TLD program in late-2009. There remain many unanswered questions related to whether sufficient due diligence has been conducted to evidence the demand for new TLDs, and, if so, whether now is the time to launch such a costly and expansive initiative. Until all threshold concerns have been addressed to protect global businesses and consumers effectively, ICANN should not proceed with any widespread launch of new TLDs (with the possible exception of a few select IDNs on a trial basis).

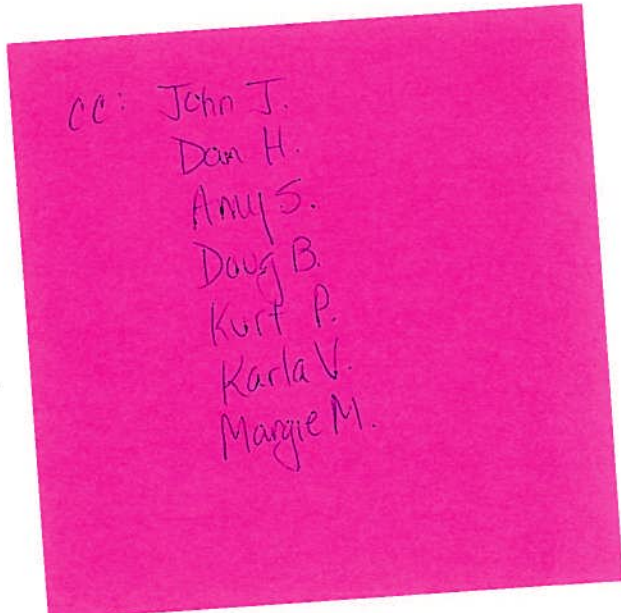
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We thank you once again for this opportunity to contribute these comments and urge ICANN to more carefully consider the effects of new TLDs before their proposed roll out in late-2009.

Very truly yours,

A handwritten signature in black ink that reads "Sarah B. Deutsch". The signature is written in a cursive, flowing style.

Sarah B. Deutsch

A rectangular pink sticky note with handwritten text in black ink. The text is a list of names, each preceded by "cc:". The names are: John J., Dan H., Amy S., Doug B., Kurt P., Karla V., and Margie M.

cc: John J.
Dan H.
Amy S.
Doug B.
Kurt P.
Karla V.
Margie M.