

Stuart Lawley, CEO  
ICM Registry LLC  
PO Box 30129  
Palm Beach Gardens, FL 33420

Dear Mr. Lawley,

We write to you on behalf of (COMPANY NAME), Inc. in your capacity as CEO of ICM registry (ICM) and the registry operator of the .XXX top level domain. We seek your cooperation in preventing trademark infringement and related intellectual property concerns, as well as unfair and anti-competitive business practices.

(COMPANY NAME), is the owner and user of numerous registered trademarks and unique brand names, namely \_\_LIST TRADEMARKS\_\_. The value of these brands and trademarks is the product of considerable effort and marketplace success. [Provide specific examples of such success, such as awards, ALEXA ratings, etc.]

(COMPANY NAME) owns and operates numerous websites through which it distributes sells and promotes its content to consumers under its well known brand names. As a result, (COMPANY NAME) has invested substantial resources to register, maintain and police (NUMBER OF DOMAIN NAMES) primarily within the .com TLD, including domain names corresponding to its valuable trademarks. (COMPANY NAME) spends (AMOUNT EXPENDED) each year simply to maintain these domain names, and it spends much more promoting them. In order to protect this investment, (COMPANY NAME) has registered many of its trademarks with the United States Patent and Trademark Office and has proactively resolved domain name disputes with other adult companies. A list of (COMPANY NAME)'s trademarks and domain names is attached hereto as Exhibit A. Each of these trademarks and domain names is used in worldwide commerce in connection with the sale of goods and/or services.

It is indisputable that the .XXX top level domain [TLD] has a commercial purpose. This letter is intended to put you and ICM on notice that should the implementation of the .XXX TLD allow for the registration and use by third parties of domain names corresponding to the valuable trademarks and brands owned and used by (COMPANY NAME), substantial costs will be incurred by (COMPANY NAME) to protect these assets. That is, (COMPANY NAME) will be forced to choose between purchasing unwanted domain names from ICM which have little or no inherent value to (COMPANY NAME) in a defensive posture, and engaging in legal claims against the numerous third parties likely to use the .XXX TLD to infringe upon the intellectual property rights of (COMPANY NAME).

The so-called “sunrise” period, which provides intellectual property owners the opportunity to pay ICM for the dubious privilege of protecting from infringement upon that which (COMPANY NAME) already owns, is wholly inadequate. It certainly does not relieve ICM of its potential liability. ICM has created a business model apparently designed to profit from creating fear of infringement by legitimate intellectual property owners. Unlike other TLDs which are not content-specific, any third party that purchases domain names associated with (COMPANY NAME)’s valuable trademarks and brands inherently infringes upon (COMPANY NAME) because the purchase of the .XXX domain name definitively positions the third party to compete against (COMPANY NAME) in the same arena of commerce.

In contrast, if the holder of a trademark engages in selling specific products and services, a third party purchasing a domain identical to the trademark in a generic TLD, such as .NET or .BIZ only improperly competes against the trademark holder if the use of the domain name is directly in competition with the holder’s area of business.

Because ICM is offering services where trademark infringement is predictable, it is obliged to

prevent illegal activity when it knows such activity is occurring. In contrast to its obligations, ICM offers to prevent infringement only when the revenue from infringement is replaced by income from the intellectual property holder. As you know, ICM has no legal right to profit from ABCDE's valuable intellectual property. It is irrelevant whether that profit comes from the infringer or from the trademark holder.

Additionally, ICM's intention to offer for sale to third parties the unlimited right to purchase (COMPANY NAME)'s trademarks and other valuable brands is certain to contribute to trademark infringement. Any attempt by any entity other than (COMPANY NAME) to register a .XXX domain name that is identical or substantially similar to one of the trademarks or domain names listed on Exhibit A would, per se, infringe upon (COMPANY NAME)'s intellectual property rights and give rise to numerous claims, including claims for cybersquatting and trademark infringement.

ICM is now on notice that the registration of any domain name using the .XXX extension that is identical or confusingly similar to one of the trademarks or domains listed on Exhibit A will violate (COMPANY NAME)'s intellectual property rights and constitute an unfair business practice. ICM must take steps to prevent such activity before it can occur. Failure to take affirmative steps to prevent this conduct will establish ICM's substantial liability.

(COMPANY NAME) welcomes the opportunity to engage in meaningful dialogue with ICM, should ICM choose to resolve these matters other than through litigation.