



# The Perfect Sunrise

ccTLD Conference: Sofia, Bulgaria, September 2008



# Background

ICANN Paris July 2008: IPC of ICANN with sponsorship from MARQUES launches booklet

Editorial team included attorneys from Yahoo!, Richemont (Cartier), CAC plus law firms in London, Buenos Aires & Washington plus one registrar



European Association  
of Trade Mark  
Owners





# Aim of the booklet

To assist potential new gTLD applicants to identify and assess pre-launch Rights Protection Mechanisms (RPM)

To demonstrate that protecting the rights of others & successful registry operations go hand in hand during a launch



# Aim of this presentation

What are the lessons for the ccTLD community represented here?

Could there perhaps be Best Practice pre-launch RPM for European and CIS ccTLDs ?

(Note: not about UDRP or DRS schemes which are Post-Launch RPM, applicable after a TLD has opened)



# Is there RPM Best Practice?

ICANN Working Group 2007 seeking consensus on “an approved model Rights Protection Mechanism” .

No agreement : too many conflicting parties and political interests

However, maybe ICANN was wrong: as Best Practice is emerging for technical and operational issues around a TLD launch so it is emerging for RPM

- A menu of pre-launch RPM activities not a prescriptive list
- Selected items from this menu suitable for every different type of registry



# What do rights owners think?

Views of 10 leading brand owners

Between them owning over 100,000 registered domain names

Are there common themes in their outlook?



# The Sara Lee view

“My ideal Sunrise features:

- First Come First Served for owners and licensees of current registered trade marks
- The validation of all rights
- A Sunrise whois open to everyone so I can see who is registering what
- An amendment process in case of a minor error during application
- A mechanism so we can challenge Sunrise registrations that are fraudulent cheaply and quickly: we are good at policing our own marks

That’s not too much to ask for, is it?”

*Dee van der Schalk, Global Brand Protection, Sara Lee*



# The Syngenta view

“My ideal Sunrise does not have First Come First Served. I don’t like the pressure to be first in a queue or the need to rush around to several registrars. I prefer it when all applications in a Sunrise are deemed to have arrived at the same time. I am happy to compete with other rights owners in an auction provided I get the chance to verify their eligibility” .

*Jane Collins, General Trademark Counsel for Syngenta, Chairman of Marques*



# The PartyGaming view

“I am not a fan of the introduction of hundreds of new gTLDs. However, if we must have them, it is vital that the Rights Protection Mechanisms they operate are affordable and well-managed. Applications must be validated with full the details of registrants published. A fast-track challenge process administered by a neutral expert agency for Sunrise or charter infringement is also a good idea”.

*James Elliott, General Counsel, PartyGaming PLC*



## The EMI view

“The validation of rights is vital. We can supply documentation in support of an application if we need to though it is not too difficult for a registry to check online at an official trade mark registry. We also think more registries should reserve the right to ask for proof of usage if they have doubts about the validity of an application, especially for a term with a generic meaning”

*Frances Harding, Trade Mark Attorney, EMI Group*



# The Cheapflights view

“I love the registries that strictly enforce both their Charters and their Terms & Conditions of registration. A fast, reasonably priced mechanism for challenging charter abuse is a great comfort”

*Simon Bicket, Director of Finance, CheapFlights*



# The AstraZeneca View

“What I don’t like is the rush and panic that accompanies Sunrise launches. It is really helpful when the registry operator publishes the Rules and Policies well in advance - I mean at least two months to give me time to consult with all parts of the business, explain the benefits of registration, the eligibility criteria and to get the budget together to apply for the names we want” .

*Helen Asker, Trade Mark Attorney, Global Intellectual Property, AstraZeneca*



## Benefits of a well-planned launch with good RPM

Registration by leading brand owners representing an international endorsement of the registry

Significant early high-quality revenues for the registry:  
RPM pay for themselves

Fair allocation of desirable terms between local & international applicants

Potential for abuse by infringers limited

Understood by registrars

Credibility with backers including government agencies



# Risks of a badly planned launch

## Legal Risk / Challenges to the registry operators

.biz launch, August 2001: NeuLevel Inc, 60 of its registrars and ICANN sued when method of allocating domains between competing parties was construed an illegal lottery. Costs: \$1.7 million in refunds, \$1.2 million in attorney fees, 18 months of delays.

Low take up = low revenues

Infringers diminish reputation of the registry

Confusion for natural/local internet community:

forced to buy high price names on secondary market  
or compete with speculators

Speculators abandon names at unpopular registries so  
low renewal rates



# What are Pre-Launch RPM?

Some RPM:

Sunrise schemes

Challenge mechanisms

Name Allocation  
Systems

- 1<sup>st</sup> come 1<sup>st</sup> served
- Auctions
- Landrush

Premium Name schemes

Not UDRP or DRS: these  
are Post-Launch RPM

Some Ingredients:

Amendments

Charter enforcement

Community IDs

Eligibility Cut Off dates

Name string notification

Reconsiderations

Usage requirements

Validation

Whois



# An offer from MARQUES

To meet with any ccTLD registry represented here considering a launch to talk about pre-launch RPM and discuss options

To run a seminar on Pre-Launch RPM for ccTLD operators



# Questions?

To see the booklet in PDF form, go to:

[http://www.comlaude.com/A\\_Perfect\\_Sunrise.pdf](http://www.comlaude.com/A_Perfect_Sunrise.pdf)



# Domain name management without compromise

Nick.wood@comlaude.com  
Lorna.gradden@comlaude.com

Com Laude  
116 Long Acre  
London  
WC2E 9SU  
T: +44 20 7189 5505

[www.comlaude.com](http://www.comlaude.com)