

March 23, 2015

What To Do About the .SUCKS New gTLD

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In connection with its New Generic Top-Level Domain (gTLD) Program, as of March 2015, the Internet Corporation for Assigned Names and Numbers (ICANN) has delegated nearly 550 new gTLDs. This significant expansion of the Internet landscape, encompassing registries reflecting brand names, generic words, and geographic terms, has prompted many organizations to evaluate and refine their Internet brand enforcement strategies. Recently, Vox Populi Registry, operator of the new .SUCKS gTLD, announced its launch policies, reflecting a business model that will likely raise particular concerns for brand owners. In particular, trademark owners may be required to pay up to \$2,499 per year to maintain domain name registrations corresponding to their trademarks—an amount greatly exceeding most other pricing in place for domains in new gTLDs.

In addition to pricing models that may be of concern for brand owners that are already facing budgetary challenges as a result of adapting to new gTLDs, .SUCKS is also offering six registration categories, including: Sunrise; Premium; Sunrise Premium; Standard; Domain Block; and Consumer Advocacy Subsidized, with each category having its own registration criteria and timeline. The category delineations, criteria, and timelines are more complex than those associated with most new gTLDs delegated to date, resulting in further potential confusion for brand owners working to determine how to protect their brands in the .SUCKS registry.

The first phase of the .SUCKS launch will begin on March 30, 2015, after which brand owners who do not take action may have more limited opportunities for brand protection in this registry. Therefore, it is critical for brand owners to work quickly to make informed decisions as to how to protect their key trademarks in .SUCKS given that this gTLD poses a heightened opportunity for harm to brand goodwill as compared to other new gTLDs.

Summary of .SUCKS Launch Policies

.SUCKS is offering domain names for sale or reservation in six categories, each of which is described in greater detail below:

- Sunrise;
- Premium;
- Sunrise Premium;
- Standard;
- Domain Block; and
- Consumer Advocate Subsidized.

For more information, or if you have any questions, please contact your Katten attorney or the following member of Katten's **Intellectual Property practice**.

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Sunrise

All new gTLDs must operate a “Sunrise” period as the first phase of their launch. The Sunrise period is intended to provide trademark owners a priority opportunity to register domain names in the new gTLDs corresponding to their trademarks before the gTLD is opened for registrations by the general public. In order to be eligible to register during the Sunrise period, the trademark must first have been recorded in the Trademark Clearinghouse, a global database of verified trademarks created specifically in connection with the new gTLD program. (See Internet Corporation for Assigned Names and Numbers (ICANN), [Trademark Clearinghouse FAQs](#).)

.SUCKS will run its Sunrise period from March 30, 2015 to May 29, 2015, during which brand owners may register their Trademark Clearinghouse-recorded marks in .SUCKS at an MSRP of USD \$2,499 per domain name. The cost to renew the registration will remain \$2,499 per year. This price is significantly higher than Sunrise pricing seen in most new gTLDs to date. Nonetheless, the Sunrise period represents the earliest opportunity for brand owners to acquire domain names matching their trademarks in .SUCKS.

Premium

All gTLD registry operators designate certain domain names as “premium,” which reflects a subjective determination by the registry that the particular domain name is particularly valuable compared to other domain names. Historically, premium domain names are those names that exactly match a product, service or industry; are short names or acronyms; are one-word brandable names; are names with a high search volume; have high advertiser competition; or are otherwise likely to command higher than average market prices. For example, “computers.com” would be considered a premium name; “computersforsale.info” would not be considered premium. Premium names, therefore, are charged at higher (sometimes significantly higher) prices than other domain names that are not designated as “premium.”

Just as other registries do, .SUCKS will designate a set number of names as “Premium” names. There is no specific limitation as to what names may be designated as Premium, or how many names may be so designated.

Pricing for .SUCKS Premium names is slated to start at USD \$299 (any particular Premium name’s price could be higher), although it would seem that if any such names also match a Clearinghouse-recorded name, the name would be listed at the \$2,499 Sunrise price. As noted above, the list of Premium names is subjectively determined by the registry operator, and brand owners will not know in advance whether any of their trademarks are designated as Premium names.

.SUCKS Premium names will be available to register starting in the Sunrise period (March 30–May 29, 2015; see above) and continuing through the General Availability phase (the phase beginning after the Sunrise period ends when the gTLD is opened to the public for registrations; in the case of .SUCKS, General Availability will begin on June 1, 2015).

Sunrise Premium

“Sunrise Premium” names is a new category of domain names unique (so far) to .SUCKS. According to .SUCKS, Sunrise Premium names will consist of those names matching “trademarks which have been registered across new gTLDs and/or regarded to be protected by defensive registrations in existing new gTLDs.” (See TheDomains, [.Sucks Releases Pricing With “Premiums” For Trademark Holders Up To \\$2,499 A Year](#) (March 9, 2015)). Thus, in essence, .SUCKS will target brands who have been actively registering domain names matching their trademarks in previously launched new gTLDs and designating such brand names as “Sunrise Premium” names. This set of Sunrise Premium names, a subset of Premium names, will, like other Premium names, be subjectively determined by the registry operator, and brand owners will not know in advance whether any of their trademarks are designated as “Sunrise Premium” names.

Sunrise Premium names, like Sunrise names, will be listed at a price of \$2,499 (with the same annual renewal fee). Despite the title, however, Sunrise Premium names will not be available during the Sunrise period. Rather, Sunrise Premium names only will become available during the General Availability phase, which as noted above will begin on June 1, 2015.

Standard

“Standard” names are any domain names not designated as Premium or Sunrise Premium names. As the name implies, these names are the average category of domain names that will not command “premium” prices. .SUCKS Standard names will become available to register on a first-come, first-served basis in General Availability (starting June 1, 2015; see above), at an MSRP of USD \$249.

Domain Block

A Domain Block, as the name implies, is a defensive registration mechanism that will allow the registrant to reserve a domain name, preventing others from registering the name, but will not enable active use of the domain name, such as building a website. Instead, anyone attempting to go to the blocked domain will encounter an error message saying that the domain does not resolve. Because domain blocking is usually cheaper than purchasing the domain name for active use, it is a favorite tool for brand owners to prevent the domain from falling into the hands of an unauthorized third party.

A .SUCKS Domain Block will be available for any name that would otherwise be classified as “Standard”—in other words, any name not classified as “Premium” or “Sunrise Premium.” Domain Blocks will be available on a first-come, first-served basis in General Availability, at an MSRP of USD \$199, or 25 percent less than a Standard active registration. Like other registrations, Domain Blocks last for a period of one year and automatically renew annually, although Domain Blocks may be purchased for periods of up to 10 years at a time.

Consumer Advocate Subsidized

.SUCKS has created another new category of domain names, which it has termed “Consumer Advocate Subsidized” names. As the name implies, these are names that are eligible for a subsidized, reduced registration price. Certain names in certain categories identified above will be eligible for such subsidized pricing, if certain conditions are met. This subsidy program is described further below.

EVERYTHING.SUCKS, a consumer advocacy site, has contracted with .SUCKS registry to subsidize the purchase of domain names for individual consumers that wish to host a forum discussion website. These domain names will point to the EVERYTHING.SUCKS forum platform, which will provide a free hosted consumer forum for the individual domain. For example, WWW.COMPANYX. SUCKS will resolve to a website with a discussion forum on Company X. This forum will be customizable by the registrant of the domain name.

The Consumer Advocacy Subsidy will only be available for Standard names and Sunrise Premium names. In order to qualify for the Subsidy, the registrant may not be a corporation or in any way affiliated with the corporation the domain is referencing. Consumer Advocate Subsidized domains will be offered at an MSRP of USD \$9.95, and will become available starting in September 2015 (.SUCKS has not yet announced the exact date when the subsidized names will become available).

.SUCKS Launch Timeline:



Names available during the Sunrise phase will include:

- Sunrise names
- Premium names

Names available during General Availability will include:

- Sunrise names
- Premium names
- Sunrise Premium names
- Standard names
- Domain Blocks
- Consumer Advocacy Subsidized names (starting as of September 2015 only)

Analysis

Given these unusual, dubious policies, a plethora of confusing, often contradictory, advice is emerging regarding brand protection in the .SUCKS gTLD. Some sources are even providing advice to domain speculators as to how to avoid liability under the UDRP for .SUCKS registrations. (See DomainIncite, [Could you survive a .sucks UDRP?](#) (March 17, 2015).) At the outset, it is important to understand that an appropriate course of conduct for protecting your brand hinges upon whether your key trademarks appear on Vox Populi's subjective list of "Sunrise Premium" or "Premium" names, or are available as a "Standard" name.

Ultimately, organizations will likely want to assess very carefully whether a domain name in the .SUCKS new gTLD will ever be worth a \$2,499 annual registration/renewal fee—especially given the myriad variations or typo-squatted names that are possible and would also be available for registration. That said, whether or not to register at that significant price is a business decision that must be made in connection with each particular brand. Nonetheless, as the first phase of .SUCKS registration is scheduled to begin shortly, on March 30, 2015, it is critical to quickly devise a strategy for protecting the integrity of your brands in this gTLD.

We hope you find this summary and analysis helpful and informative. If you have any questions or concerns regarding our analysis, or if you wish to discuss this or any other brand protection or ICANN advocacy matters in greater detail, please contact your Katten IP counsel.

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