

July 15, 2013

Key Topics to Follow During ICANN 47

ICANN 47 in Durban, South Africa, unofficially began on Saturday, July 13, 2013, with community participants closely following a few important topics that will receive attention and develop further in Durban. This client alert provides a summary of key issues for the Durban meeting, including both developments in the new generic top-level domain (gTLD) program and discussions of Internet policy processes.

Closed Generic TLDs. The Governmental Advisory Committee (GAC) and the ICANN Board New gTLD Program Committee (NGPC) will discuss closed generic TLDs in Durban. At present, the new gTLD Registry Agreement provides that registry operators “for a generic string TLD may not impose eligibility criteria for registering names in the TLD that limit registrations exclusively to a single person or entity”—effectively freezing all closed generic TLD applications. The GAC and NGPC [met to discuss this issue](#) on Sunday, July 14, 2013, at 10:30 a.m. local time.

Singular and Plural TLDs. The NGPC has determined that “no changes are needed to existing mechanisms,” namely independent string similarity panel reviews, the string similarity algorithm and the availability of formal String Confusion Objections, “to address potential consumer confusion resulting from allowing singular and plural versions of the same string.” In other words, the NGPC punted on the permissibility of singular and plural versions of TLDs to the formal objection process and its expert string confusion panelists. The community, and no doubt the GAC, will want to discuss this decision with the Board in Durban.

Safeguard Advice (“Category 1”). GAC advice on “consumer protection, sensitive strings and regulated markets” has been deferred by the NGPC pending discussions in Durban to obtain greater clarity on this category of advice due to a vast array of problems highlighted in public comments, as well as a lack of specificity making implementation impossible at this juncture. Thus, at present, all applications for strings specifically named in Category 1 of the GAC Beijing Communiqué have been frozen. The GAC and NGPC [met to discuss this issue](#) on Sunday, July 14, 2013, at 10:30 a.m. local time.

Brand Registry Agreement. The NGPC approved the final new gTLD Registry Agreement earlier this month while noting that “ICANN is currently considering alternative provisions for .brand and closed registries, and is working with members of the community to identify appropriate alternative provisions.” Negotiations with the ICANN legal team on key provisions for .brands will continue in Durban.

URS Implementation. The National Arbitration Forum (NAF) will provide two live demonstrations for the Uniform Rapid Suspension System (URS) to walk through filing a complaint, filing a response, requesting a withdrawal or extension, and understanding the online portal and panel determinations. The [first demonstration](#) by NAF will be made to

For more information, or if you have any questions, please contact your Katten Muchin Rosenman LLP attorney or any of the following members of Katten’s **Intellectual Property Practice**.

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the Intellectual Property Constituency (IPC) on Tuesday, July 16, 2013, around 1:30 p.m. local time, and the [second demonstration](#) will be made to the entire community on Wednesday, July 17, 2013, at 1:15 p.m. local time.

Policy and Implementation Debate. Recent controversial decisions by ICANN leadership, taken to instill greater accountability within the domain name industry, have created a blowback from the Generic Names Supporting Organization (GNSO) Council and from many within the GNSO. Without a doubt, the GNSO is the engine that drives consensus policies relating to gTLDs. However, individuals spearheading this blowback would see the power and discretion of ICANN leadership, namely the board of directors and the chief executive officer, greatly curtailed in making any decisions to implement such policies. This debate and struggle will continue to play out in Durban through the further development of a “Policy and Implementation Working Group,” as well as through a pending GNSO Council motion, which would change the ICANN Bylaws to include mandatory consultations to settle any future disagreements between the Board and GNSO Council.

Brand Enforcement Considerations and Updates from Durban. The stage is set for these topics to play out during ICANN 47 in Durban, South Africa. The Trademark and Internet teams at Katten will send out invitations shortly to our post-Durban webinar titled *Brand Enforcement in the Age of New gTLDs*, which will cover updates to the new gTLD program following Durban as well as enforcement guidance for brands that want to be prepared for the imminent delegation of new gTLD extensions.

For more detailed information and analysis regarding developments during and after the Durban ICANN meeting, or to discuss how these and other Internet policy issues may affect your organization, please contact Brian Winterfeldt at brian.winterfeldt@kattenlaw.com.

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