

David Weslow Comments on Top-Level Domain Registry Suit

Financial Times' Policy and Regulatory Report
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David Weslow, a partner in Wiley Rein's Intellectual Property Practice, was interviewed by *Financial Times' Policy and Regulatory Report* after a federal judge in California allowed a suit to proceed against the top-level domain registry operator for the '.XXX' registry and the Internet Corporation for Assigned Names and Numbers (ICANN).

Mr. Weslow, who represents a range of companies in relation to domain name issues, told the *Policy and Regulatory Report* that the antitrust suit has implications for the upcoming expansion of the Internet to include new generic top-level-domains (gTLDs), such as .bank. and .yoga. The article reported that "the suit against ICANN focuses on its granting of the .XXX domain to Florida-based ICM Registry. The companies allege they will be forced to register .XXX domains with ICM in order to protect their brands."

Mr. Weslow pointed out that the court noted a company cannot use a .com or other web address to block a .XXX address from being registered by a third party—a defensive or blocking .XXX registration must be obtained for this purpose. The court found that the necessity of such defensive registrations demonstrates that there is a market for defensive .XXX registrations as needed for an antitrust claim. The court's reasoning could also apply to proposed new top-level domains.

"The argument against [certain proposed new top-level domain names] is that they don't really offer any benefit to the Internet, the only reason those applications exist is because the applicant wants to make money from defensive registrations," Mr. Weslow said. "Any

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company that is seriously considering taking action...should be reviewing the ruling that came out last week."