

David Weslow Discusses ICANN Letter to Lawmakers on New gTLD Trademark Protections

Bloomberg BNA

October 1, 2012

David Weslow, a partner in Wiley Rein's Intellectual Property Practice, was interviewed for a *Bloomberg BNA* article on the ramifications of a letter sent by the Internet Corporation for Assigned Names and Numbers (ICANN) to U.S. lawmakers. The letter included a statement addressing calls for an extension of the current 60-day term for the trademark claims service that is mandatory for all new generic top-level domains (gTLDs)—an extension that many experts believe would reduce the risk of infringement to brand owners. The ICANN letter responded to an August 7 letter from chairmen and ranking members of the House and Senate Judiciary Committees that addressed trademark owners' concerns about rights protections as 1,400 new top-level domain names are created.

In the letter, ICANN noted that new TLD registries may elect to include added rights protections. However, there is growing apprehension that the risks to brand owners will force them to defensively register domain names and bear dispute resolution costs and burdens. Many trademark owners support an extension of the 60-day trademark claims service that will notify would-be domain name registrants of domains that incorporate trademarks.

In response to the ICANN letter, Mr. Weslow commented that "one registry operator's decision to incorporate added rights protection does nothing for other top-level domains, where a trademark owner will face continued risks." Additionally, he remarked that the trademark claims service would notify brand owners before a domain is registered, deterring the registration of an infringing domain.

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Furthermore, Mr. Weslow observed that the ICANN letter will not curb brand owners' call for additional rights protection mechanisms, stating, "For my clients, their concerns are so great, the risks of trademark misuse are so large, and the scale of potential budgets that will be required for online brand protection is so significant that the letter is not going to quell their call for added rights protections."