

# ICM Registry Offers Owners of Registered Trademarks the Opportunity to Opt Out of .xxx Top Level Domain Names

October 4, 2011

In March 2011, the Internet Corporation for Assigned Names and Numbers (ICANN) approved the .xxx sponsored top level domain (sTLD) designed for use by the adult entertainment industry. Domain names that previously were unavailable as .com, .net, or .org will now be available as .xxx. The .xxx sTLD has caused concern among trademark owners who do not want their registered trademarks associated with the adult entertainment industry. Between September 7 and October 28, 2011, owners of registered trademarks can block their marks from use by others in the .xxx domain.

ICM Registry, the company that administers the .xxx domains, is providing several phases of registration. During the "Sunrise A" phase (until October 28, 2011), owners of trademark registrations who are part of the adult entertainment industry can apply for .xxx domain names. During the "Sunrise B" phase (also until October 28, 2011), owners of registered trademarks who are not part of the adult entertainment industry can "block" their registered trademarks from the .xxx domain name pool. During the "Landrush" phase, which runs for 18 days starting on November 8, 2011, those who do not qualify for Sunrise A because they do not own a registered trademark but are part of the adult entertainment industry can register a .xxx domain while avoiding the General Availability phase. During the "General Availability" phase, which begins on December 6, 2011, .xxx domain names will be allocated on a first come, first served basis.

In the Sunrise B phase, trademark owners who are not part of the adult entertainment industry can "block" registered trademarks from the .xxx domain name pool. If an application is submitted during the Sunrise B period and approved, that name will be removed from the pool of .xxx names available to others. Attempts to register the blocked .xxx domain name will direct users to a standard informational page displaying the status of the domain name as not available for registration.

To block a .xxx domain name under Sunrise B, a trademark owner must own a valid federal or other national trademark registration issued prior to September 1, 2011. As indicated above, the Sunrise B phase expires on October 28, 2011. After the Sunrise B period ends, a trademark owner can no longer block a .xxx domain name, but can obtain a defensive .xxx domain registration during the General Availability phase (on a first come, first served basis).

The one-time cost associated with blocking a .xxx domain name will vary depending on the Registrar used, but is expected to be no more than \$500 per mark, not including attorney time. Once the Sunrise B application is approved, there are no other costs associated with maintaining the blocked .xxx domain name. This one-time fee is in contrast to the renewal fees associated with obtaining a defensive .xxx domain registration during the General Availability phase.

You should consider using the Sunrise B period to block a domain name for a registered mark(s) if you are concerned about your registered mark(s) being associated with a .xxx domain name and tarnishing it/them. The initial cost to block a domain name for a registered mark is relatively inexpensive and can avoid the need to register defensive .xxx domains.