

# Second Application Window for New gTLDs "Reaffirmed" By ICANN

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## VIEWPOINT TOPICS

- Trademark & Copyright

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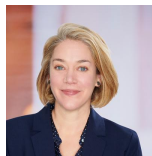
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Last week, during a special meeting of the ICANN Board of Directors, the ICANN Board approved a **resolution** that contained a "reaffirmation" that ICANN will open a second application window for the gTLD program "as expeditiously as possible." The first application window, which opened on January 12, 2012, is scheduled to close on April 12, 2012. Because ICANN has not announced when a second application period would be conducted, there has been growing concern that the potential applicants may miss out on the opportunity to apply for their .BRAND in the new gTLD program if they did not participate in this first application round (or, if they did not have the **\$185,000 application fee** available at the moment).

So what does this mean? Well, ICANN may have reaffirmed its commitment to conduct another application phase, but the details remain unclear. ICANN did not say *when* such a window would be opened again. Will it be in 2012? Next year? The year after that? ICANN says that the timing of the second round will be determined, in part, by how many applications it processes during this initial application phase (which it will not know until April 12, 2012). Moreover, the timing of the second application window is also dependent upon ICANN's ability to address recommendations of the Governmental Advisory Committee requirements for the assessment of trademark protections and root zone operation as a result of the first round.

Speaking of trademark protection measures, ICANN is currently seeking public comment on one such issue: the "perception" by trademark owners of the need for "defensive" applications for new gTLDs (i.e., you may need to apply for your trademark as a new gTLD simply to prevent another from doing so, even though you don't really want to). ICANN has pledged to review all submitted comments, analyze, and take steps that could remediate and alleviate the concerns on "defensive" gTLD applications. The comment period is open through February 27, 2012. The comment period may not be enough to appease trademark owners. The Association of National Advertisers/Coalition for Responsible Internet Domain Oversight, for example, is advocating that ICANN allow all NGOs, IGOs and commercial stakeholders concerned about protecting their brands in the new gTLD scheme to register those brands, without cost, on a temporary "Do Not Sell" list to be maintained by ICANN. No word from ICANN on this proposal.

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