

The Global Name Registry, Limited
Report due May 15, 2002 pursuant to
Appendix U to the .name TLD Registry Agreement

This report presents the information required by Appendix U to the .name TLD Registry Agreement (the “Agreement”) between the Internet Corporation for Assigned Names and Numbers (“ICANN”) and The Global Name Registry, Limited (“Global Name Registry”). The information set forth below is required 120 days after the Commencement of Service Date (15 January 2002). All information is correct as of 1 May 2002.

This report sets out the following information:

- The Agreement reference, concept and description of required information.
- Response from Global Name Registry.

§2. *Concept: Procedures for Minimizing Abusive Domain-Name Registration Practices*

- 2.1 *Provide a written report detailing the effectiveness of Phase I Defensive Registrations in limiting abusive registration practices. Include such items as lessons learned and methods of improvement.*

Since December 2001, Global Name Registry has sold a total of 1,192 Phase I Defensive Registrations (“Phase I DRs”). Such Phase I DRs have been effective at limiting abusive registration practices by protecting nationally registered trademarks. Although we are aware of certain cybersquatting activities within the .name space, there has been little, if any, cybersquatting to the extent trademark owners have protected their intellectual property sufficiently.

We have found that the best protection comes from trademark owners buying multiple Phase I DRs to protect one mark. For example, trademark owners have purchased, with respect to a singular mark, Standard Defensive Registrations (“SDRs”), as well as Premium Defensive Registrations (“PDRs”) to ensure that no illegitimate registration that conflicts with their mark can be registered. The more walls that trademark owners build around their trademarks, the more difficult it is for abusive practices to occur.

If owners opt only to purchase SDRs, they leave themselves exposed to cybersquatting on variations of their trademark. For example, one registrant registered a SDR on harley.davidson.name, but did not register either harley-davidson.collector.name (with its corresponding service harley-davidson@collector.name) or harley-davidson.owner.name (with its corresponding service harley-davidson@owner.name). Thus, an individual in Japan, with no apparent rights to Harley-Davidson, was able to register the .name registrations described above. Had the SDR registrant also registered a PDR on Harley-Davidson, the .name registrations would have been denied.

Registrars have indicated to us that the costs for a trademark owner to protect its intellectual property have been a bit excessive. At costs to the registrars of \$1,000 per PDR and \$150 per SDR (each for a term of 10 years), our Phase I DRS are perceived by trademark owners as too expensive for this namespace. Registrars have suggested that we decrease our cost to the registrars to \$500-600, so that they are able to sell Phase I DRs to their consumers for a more reasonable price (rather than at \$2,000 per registration).

Given that we have extended the sale of Phase I DRs through the rest of 2002, we suspect that more trademark owners will be willing to spend money on protecting their trademarks to the extent that .name becomes a more popular and populated name space.

We have learned that consumers have not grasped completely the concept of .name – they have been confused by the third level/two dot requirement, the concept of corresponding services and email forwarding. Thus, it has been an even more challenging endeavor to get corporate entities to understand the concept of .name Defensive Registrations. We learned that a large lead-time is required to educate corporate consumers about .name as well as to convince them that it is in their interest to purchase protective registrations in order to prevent cybersquatting on their intellectual property. It is crucial that sales of Phase I DRs be accompanied by substantial support from Global Name Registry to the registrars. We have found that how-to guides for Phase I DRs, as well as one-on-one attention and even participation by Global Name Registry representatives on calls or meetings with end consumers have been necessary to effect significant sales of Phase I DRs.

Sales of Phase I DRs require longer lead-time and substantial preparedness, including long-term marketing plans. We have seen that it is unreasonable to think that given a selling period of four to six weeks, registrars will be successful in sales of Phase I DRs.

One crucial component of Phase I DRs is the concept of consent, which concept must be explained in vivid detail to registrars as well as sometimes to end users.

2.2 *Provide a written report detailing the effectiveness of the NameWatch Service in limiting abusive registration practices. Include such items as lessons learned and methods of improvement.*

The NameWatch Service has been effective in allowing trademark owners in particular to protect their intellectual property. Trademark owners who wish to purchase only a limited number of Phase I DRs, for example, are still able to track the .name space for cybersquatting activities.

In the case of Harley-Davidson described above, the registrations by the individual in Japan came to light because the NameWatch Service notified the NameWatch subscriber (the owner of the Harley-Davidson trademark) that these registrations had resolved. Once the Harley-Davidson owner received notice of such registrations, an opportunity arose for that owner to induce

transfer of the names registered by pointing out to the individual his lack of compliance with the Eligibility Requirements (and therefore the probability that he would lose in an ERDRP challenge and be required to pay) or to initiate an ERDRP challenge against the Japanese individual for those names.

While the NameWatch Service did not prevent the actual registrations of the Harley-Davidson names, the NameWatch subscriber in this case should not be unduly burdened in trying to retrieve the names or to require their cancellation. The Japanese individual who owns these names will likely realize that he will lose in an ERDRP challenge and will therefore not want to risk losing and paying for an ERDRP challenge.

Without notice via the NameWatch Service, the Harley-Davidson owner probably would not be aware of the cybersquatting activities on its trademarks, thereby allowing for abusive practices. The NameWatch Service provides a catch-all opportunity for trademark owners, as names which have not been covered by Phase I DRs that they might have bought and which would otherwise abuse their intellectual property would be caught.

Registrars have been focused on sales of the Phase I DRs to the extent that they have focused on protective products at all. This, obviously, is attributable to the margins that they see on such products. However, one lesson to take from the Harley-Davidson example is that the NameWatch Service is an exceptional product to sell to ensure that intellectual property is protected in the utmost manner.

§10. *Concept: Registrations Restrictions Can be Implemented by a Registry Operator in a Cost Effective and Timely Manner*

10.2.1 *A statement of the total number of Eligibility Requirements Dispute Resolution Policy (“ERDRP”) Challenges filed.*

Two ERDRP challenges have been filed with the National Arbitration Forum.

10.2.2 *A tabulation of the number of names subject to multiple ERDRP challenges (i.e. x names were subject to exactly two challenges, y names were subject to exactly three challenges, etc.)*

No names have been subject to multiple ERDRP challenges.

10.2.3 *A statement of how many names sponsored by each Registrar were subject to at least one ERDRP challenge.*

The following registrars had names under their sponsorship challenged:

- Domain Processor One name challenged
- BulkRegister Two names challenged

10.2.4 *A breakdown by country of the registration offered by the domain-name holder of the number of successful and unsuccessful ERDRP challenges.*

United Kingdom: Two successful ERDRP challenges: *America Online, Inc. v. AD 2000.com aka Adrian Paul Miles* and *Donald J. Trump c/o Trump Hotels & Casino Resorts, Inc. v. Bimal Shah*.

- 10.2.5 *A statement, broken down by sponsoring Registrar, of the number of names involved in ERDRP challenges where the holder fails to submit any materials after notification of challenge.*

Domain Processor.com: one name (donald.trump.name).

- 10.2.6 *A statement, broken down by the region of the holder's address as described below, of the number of names subject to successful ERDRP challenges:*

10.2.6.1 Africa: None.

10.2.6.2 Asia Pacific: None.

10.2.6.3 Europe: Three names were subject to successful ERDRP challenges in the arbitrations *America Online, Inc. v. AD 2000.com aka Adrian Paul Miles* (aim5.instantmessenger.name and instant.messenger.name) and *Donald J. Trump c/o Trump Hotels & Casino Resorts, Inc. v. Bimal Shah* (donald.trump.name)

10.2.6.4 Latin America/Caribbean: None.

10.2.6.5 North America: None.

- 10.2.7 *A statement, broken down by the region of the successful challenger's address as described below, of the number of names subject to successful ERDRP challenges:*

10.2.7.1 Africa: None.

10.2.7.2 Asia Pacific: None.

10.2.7.3 Europe: None.

10.2.7.4 Latin America/Caribbean: None.

10.2.7.4 North America: Challenges against three names (above) from applicants in North America were successful in *America Online, Inc. v. AD 2000.com aka Adrian Paul Miles* and *Donald J. Trump c/o Trump Hotels & Casino Resorts, Inc. v. Bimal Shah*.

- 10.2.8 *A statement of the number of successful ERDRP challengers that did not register the challenged name, broken down by priority of the challenger (i.e. x first-priority challengers chose not to register the challenged name; y second priority challengers were offered the opportunity to, but did not, register the challenged name, etc.)*

The successful challenger in *America Online, Inc. v. AD 2000.com aka Adrian Paul Miles* did not ask for registration of the challenged names to be transferred from the unsuccessful applicant. It is presumed, therefore, that the successful challenger will not be registering the two names challenged.

- 10.2.9 *A statement, broken down by sponsoring Registrar, of the number of names forfeited on the basis that the name was registered solely for the purposes of (1) selling, trading or leasing the domain name for compensation, or (2) the unsolicited offering to sell, trade or lease the domain name for compensation.*

We are not aware of any names having been forfeited thus far.

- 10.2.10 *A summary of complaints received from Registrars concerning the ERDRP.*

We are not aware of any complaints from Registrars concerning the ERDRP.

- 10.2.11 *A description of significant technical difficulties in connection with the ERDRP.*

We are not aware of any significant technical difficulties that have been encountered in connection with the ERDRP.

- 10.2.12 *A written evaluation of the overall effectiveness of the ERDRP adopted for the Registry TLD.*

With so few challenges within the ERDRP, it is difficult to make a definitive statement as to what the effectiveness of the ERDRP has been. We believe the Eligibility Requirements have provided a sound foundation on which registrants, potential registrants and trademark owners can interact within the .name space. The Eligibility Requirements have set a clear standard as to what is permissible within the .name space, and when coupled with the ERDRP, will create a namespace in which it will be difficult to perpetrate serial cybersquatting and abusive practices.

- 10.2.13 *A written evaluation of the overall effectiveness of each dispute resolution policy adopted by the Registry TLD described below:*

10.2.13.1 ERDRP: The ERDRP has been effective to the extent that it has been used. In the two cases that has been processed to completion, it is clear that matters involving illegitimate registrations within .name will be resolved expediently at little or no cost to the party in the right. It is our hope that the risk of being held to pay for challenges will deter cybersquatters from registering names illegitimately within .name.

- 10.2.13.2 UDRP: At this point, since there have been no UDRP challenges filed, it is difficult to state to what extent the UDRP has been effective for .name.