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**Used new gTLD for sale, one careful owner
International - Hogan Lovells International LLP**

gTLDs

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The [Internet Corporation for Assigned Names and Numbers](#) (ICANN) launched the application process for new generic top-level domains (gTLDs) in January 2012. The new gTLD programme will result in an unprecedented expansion of the Domain Name System from the existing 22 TLDs, such as '.com' and '.org', to over 1,400 TLDs.

At the time of writing over 300 new gTLDs have been delegated to the root and over 100 of these are now offering domain name registrations to the general public. As such, ICANN's new gTLD programme would appear to be a success.

However, while a handful of new gTLDs appear to be showing reasonable growth of domain name registrations, the volume of domain name registrations across the new gTLD name space overall is far from impressive. Across all of the newly launched gTLDs, the total number of domain name registrations is just over 1,281,000, and only 26 of the available new gTLD registries have 10,000 or more domain names under management.

This is a far cry from the volumes of domain name registration that TLDs launched prior to ICANN's new gTLD programme experienced. For example, in 2010 the launch of '.co' (the country-code TLD for Colombia) saw over 500,000 domain names under management within two months of domain names being available to the general public. More impressively, the 2006 launch of '.eu' saw over 1,600,000 domain names under management at the end of the first month of domain names being available to the general public.

Put into this context, it appears that the registration volumes under the new gTLDs have fallen woefully short of the mark of other previous TLD launches.

There are several possible explanations behind this lacklustre performance of the new gTLDs. Some commentators have pointed to poor marketing by registry operators of their respective gTLDs. Others have raised the fact that so many gTLDs are coming to market at the same time that the target audience is experiencing TLD launch fatigue. An alternative argument, and one that has been levelled by many critics of ICANN's new gTLD programme, is that the majority of the applied for gTLDs are unattractive, junk strings and were always destined to fail.

Whatever the explanation for the slow growth of domain name registrations across the new gTLDs, it seems that some new gTLD registry operators will have to revise their forecasts of the potential revenues from operating a new gTLD registry. Some registry operators had forecast multi-million US dollar revenues from their first year of operation, based upon significant volumes of domain name registrations during the sunrise and landrush periods.

Experience has shown that this is not the case and that such forecasts may in fact be wildly optimistic.

It now appears that some new gTLD registry operators may be seeking to implement an exit strategy in order to cut their losses and to cash out sooner rather than later. While it was always anticipated that some new gTLD registries would be sold at some point in the future, it was not expected that this would be happening so soon in the evolution of the new gTLD name space. As such, a new aftermarket for new gTLD registries appears to be emerging. Consolidation may be about to start and it seems likely that the sale and purchase of new gTLD registries will be conducted via auction.

Auctions have proven to be the preferred mechanism in the new gTLD environment for the resolution of contention sets, where two or more applicants have applied for the same new gTLD, or applied for confusingly similar new gTLDs. Applicants who have found themselves in a contention set have had the choice of waiting for the ICANN auction, which is referred to as a "mechanism of last resort" for resolving contention sets, or entering into private auctions amongst themselves in order to determine who will prevail.

The private auction solution has proved very popular amongst applicants - so much so that one auction services provider, Innovative Auctions, has successfully resolved 53 new gTLD contention sets via private auction.

Recently, Innovative Auctions has contacted new gTLD applicants informing them that, due to interest from third parties in purchasing new gTLD registries (be they either delegated and fully operational or still undergoing the ICANN new gTLD evaluation processes), they intend to start offering a new service whereby

World Trademark Review *Daily*

new gTLD registry operators can sell their new gTLDs via auction. Whether this will prompt other auction services providers to come forward and also offer similar services remains to be seen.

However, it is possible that, even though the new gTLD name space is still in its infancy, we may already start to see consolidation of ownership of the new gTLD registries into the hands of a few industry players. Whether such consolidation of ownership was quite what ICANN envisioned when creating the new gTLD programme is open to debate, but it does seem somewhat at odds with ICANN's stated objectives of promoting "competition and choice in the domain name marketplace."

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