

Comments of the INTA Internet Committee on the Review of the .AU Policy Framework  
2010 Names Policy Panel Draft Recommendations  
June 10, 2011

The Internet Committee of the International Trademark Association (INTA) is pleased to provide the following comments on the Review of .AU Policy Framework 2010 Names Policy Draft Recommendations.

**Issue: 1. Domain Name Eligibility and Allocation Policy Rules for the Open 2LDs (2008-05) and Guidelines for Accredited Registrars on the Interpretation of Policy Rules for Open 2LDs (2008-06)**

1A: Registrants must be Australian (or registered to trade in Australia)

**1A DRAFT RECOMMENDATION**

The Panel recommends that the requirement for registrants to be Australian (or registered to trade in Australia) should remain in place.

Internet Committee response: We believe this is acceptable, as long the Policy is clear that a foreign company can base its domain name application on a pending trademark application. The current wording of 1.2 is not clear that this is acceptable as it states "...or if they are the applicant for...an Australian registered trade mark...".

Suggested amendment:

1.2 Foreign entities are eligible to register a com.au or net.au domain name if they are registered to trade in Australia and have an ARBN (verified against the ASIC database), or if they are the applicant for an Australian trademark, or owner of an Australian registered trade mark, and have a TM number (verified against the ATMOSS database).

1B: Org.au eligibility criterion – “special interest club”

**1B DRAFT RECOMMENDATION**

The Panel recommends that the “special interest club” eligibility criterion for org.au and asn.au domain names be more clearly defined.

Internet Committee response: We support this recommendation.

1C: Policy enforcement

1C DRAFT RECOMMENDATION

The Panel recommends that auDA should publish the results of its periodic policy compliance audits.

Internet Committee response: We support this recommendation.

1D: Two year license period

1D DRAFT RECOMMENDATION

The Panel recommends that registrants should be able to license a domain name for a 1, 2, 3, 4 or 5 year period.

Internet Committee response: We support this recommendation. The one year period is useful for many companies, not just start-ups but also for other commercially time-limited actions.

1E: Leasing of .au domain names

1E DRAFT RECOMMENDATION

The Panel recommends that there should not be any express recognition of third party rights in the Policy Rules, however auDA's position on this issue should be clarified and published.

Internet Committee response: We agree. As the registration regulation specifically points out that the holder must have a related company or trademark, leasing to third parties would mainly be used to misuse these clear registration claims.

1F: Single character domain names (a-z, 0-9)

1F DRAFT RECOMMENDATION

The Panel recommends that single character domain names be released, in the absence of any compelling technical or policy reason to maintain the restriction.

Internet Committee response: We support the release of single character names with the appropriate safeguards.

1G: Registration of domain names for personal use

1G DRAFT RECOMMENDATION

The Panel recommends that the close and substantial connection rule for id.au be relaxed to include domain names that refer to personal hobbies and interests.

Internet Committee response: We do not support this change in its current form. Unfortunately, “domain names for personal use” are in fact commonly used to register someone’s trademarks in bad faith, by just adding a term that may be seen as “personal.” Relaxing this policy will increase the risk of bad faith registrations of “personal domain names” unless stringent enforcement mechanisms are in place.

1H: Direct registrations under .au

#### 1H DRAFT RECOMMENDATION

The Panel recommends that direct registrations under .au not be allowed at this time.

Internet Committee response: We have no comments on this issue.

#### **Issue: 2. Reserved List Policy (2008-03)**

#### 2 DRAFT RECOMMENDATION

The Panel recommends that the Reserved List Policy be retained, and updated as necessary to ensure consistency with Commonwealth legislation.

Internet Committee response: We agree.

#### 2 QUESTION

Which of the three options (A-C) listed should be adopted with regard to the names and abbreviations of Australian states and territories on the Reserved List?

Option A: The names and abbreviations of Australian states and territories should remain on the Reserved List, but may be released on application provided that the proposed registrant is eligible to use the name under normal policy rules, and that they have received permission from the relevant state government authority (eg. Premier or Attorney-General’s Department).

Option B: The names and abbreviations of Australian states and territories should be treated in the same way as other geographic names and released from the Reserved List; and that the process for releasing them should be determined by auDA.

Option C: The names and abbreviations of Australian states and territories should

remain on the Reserved List, and there should be no provision for registration of the names.

Internet Committee response: We believe Option A appears to be the most convenient and appropriate option.

### **Issue: 3. Domain Monetisation Policy (2008-10)**

#### 3 DRAFT RECOMMENDATION

The Panel recommends that:

- a. the Domain Monetisation Policy (2008-10) should be abolished as a separate policy;
- b. Schedules C and E of the Domain Name Eligibility and Allocation Policy Rules for Open 2LDs (2008-05) should be amended to include domain monetisation under the close and substantial connection rule for com.au and net.au domain names;
- c. the existing conditions of use on domain names registered on the basis of domain monetisation under the “close and substantial” connection rule should be retained;
- d. the definition of “domain monetisation” should be replaced with a description of permissible practice, to accommodate a range of monetisation models; and
- e. the Guidelines for Accredited Registrars on the Interpretation of Policy Rules for the Open 2LDs (2008-06) should be amended to include additional explanatory material regarding domain monetisation.

Internet Committee response: The proposed changes appear acceptable.

### **Issue: 4. Prohibition on Misspellings Policy (2008-09)**

#### 4 DRAFT RECOMMENDATION

The Panel recommends that the Prohibition on Misspellings Policy be retained in its current form.

Internet Committee response: We support retaining this policy. As we previously stated, “we believe that prohibition on misspellings should be retained, and protection is required for other than

solely identical marks, and trademark proprietors should always retain the option of approaching auDRP in the event of infringement of rights in their trademarks.”

Thank you for considering our views on these important issues. Should you have any questions regarding our submission, please contact INTA External Relations Manager, Claudio Digangi at: [cdigangi@inta.org](mailto:cdigangi@inta.org)

### **About INTA and the Internet Committee**

The International Trademark Association (INTA) is a 132-year-old not-for-profit association of more than 5,700 member organizations from over 190 countries. One of INTA’s key goals is the promotion and protection of trademarks as a primary means for consumers to make informed choices regarding the products and services they purchase. During the last decade, INTA has served as a leading voice for trademark owners in the development of cyberspace, including as a founding member of ICANN’s Intellectual Property Constituency (IPC).

INTA’s Internet Committee is a group of over 200 trademark owners and professionals from around the world charged with evaluating treaties, laws, regulations and procedures relating to domain name assignment, use of trademarks on the Internet, and unfair competition on the Internet, whose mission is to advance the balanced protection of trademarks on the Internet.