

April 8, 2011

## New Domain Names for Adult Entertainment Industry Have Unsavory Implications for Your Trademarks

The registration authority for Internet domain names recently approved the “.xxx” domain name extension for use exclusively in connection with pornographic web sites. This controversial decision may have a materially adverse impact on your business for the following reason:

Registration and use of a domain name that includes one of your trademarks or service marks along with the “.xxx” domain name extension in connection with a pornographic web site (*e.g.*, in the form yourmark.xxx) likely will create in the minds of consumers an undesirable association between your business (and the goods and services that it offers) and the pornographic web site and its contents. Such an association can dilute or otherwise severely undermine the goodwill that you have worked hard to establish and cultivate in connection with use of your marks. The good news is that there are preventative steps you can take now to lessen the likelihood of such an impact.

ICM Registry (“ICM”), the entity administering “.xxx” domain names, has established a procedure, known as “Sunrise B,” whereby trademark owners that are not in the adult entertainment industry can reserve “.xxx” domain names that include their marks so as to preclude such domain names from use in connection with pornographic web sites. The intent here is to stave off the undesirable association described above before it has a chance to develop.

The Sunrise B procedure is scheduled to take effect within 30 days after launch of the “.xxx” domain name extension, which is expected to occur in the second quarter of 2011. Domain names that are reserved through Sunrise B will be blocked from live use, which means that users entering one of the reserved domain names on a web browser will be directed to a plain standard page indicating that the domain name is reserved from use through ICM’s rights protection program. Under Sunrise B, a one-time fee will cover the submission, processing and validation of the relevant right that will result in reservation of the domain name in the registry for an indefinite period.

**If you have questions or we can be of further assistance, please contact one of the members of our trademark team:**

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**WHAT YOU CAN DO NOW:** ICM is offering an opportunity to pre-reserve “.xxx” domain names prior to the Sunrise B procedure taking effect. This pre-reservation service is available now, and, for the reasons described above, we recommend that you take advantage of it. The ICM name reservation service can be found at: <https://domains.icmregistry.com/reserve.html>. The process for pre-reserving “.xxx” domain names is fairly straightforward; however, we stand ready to assist you as needed in connection with this process.

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