

THE EFFECT OF INTELLECTUAL PROPERTY AND PRICING OF CCTLDs ON THE INTRODUCTION OF THE NEW GTLDs DELEGATED

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ABSTRACT

This study examined intellectual property implications, and pricing disparities between generic top-level domains (gTLDs) and country code top-level domains (ccTLDs). Introducing new gTLDs provided businesses with expanded options for domain names, allowing for more vital branding and localisation strategies; however, the proliferation of gTLDs presented challenges for trademark owners, particularly regarding brand protection and the distinction between domain names and trademarks. The study compared the pricing structures of ccTLDs and gTLDs, focusing on specific examples, such as .uk and South African geo top-level domains (TLDs) (.capetown, .durban, .joburg) while excluding second-level registration costs. The study also analysed the effect of new gTLDs on trademark protection, emphasising the complexities and potential conflicts in the online marketplace. The findings reveal variations in pricing models and their influence on intellectual property rights. The study provides recommendations to enhance the domain name ecosystem. This study underscores the advantages and challenges associated with gTLDs, emphasises the affordability and limited choices of ccTLDs compared to gTLDs, and discourses the evolving landscape of intellectual property in the digital realm.

Keywords: generic top-level domains (gTLDs); benefits; trademark; intellectual property; and pricing

1 INTRODUCTION

Generic top-level domains (gTLDs) offer numerous benefits to enterprises and organisations. They enable businesses to align their domain name with their industry or target audience, creating a solid online brand presence. Using memorable gTLDs improves brand recognition and differentiation; gTLDs facilitate website categorisation, simplifying the process for users to determine their purpose or content. For several years, the number of gTLDs was limited to twenty-two. Examples of gTLDs are listed below.

- .com** Initially intended for commercial Organisations, but now widely used for various purposes.
- .net** Initially intended for network infrastructure but is now used by various entities.

- .org** Originally designated for nonprofit organisations.
- .edu** Restricted to accredited educational institutions.
- .gov** Reserved for United States government entities.
- .mil** Exclusive to the United States military.
- .int** Reserved for international organisations.

With the expansion of gTLD options beyond the traditional ones, businesses now experience a broader selection of domain names to choose from, ensuring availability and increasing their likelihood of finding a suitable and memorable domain.

GTLDs facilitate localisation and niche market targeting,

allowing businesses to tailor their online presence to specific geographic regions or industries. In the online landscape, gTLDs offer versatility, memorability, and enhanced branding opportunities.

This study clarifies a gTLD, its history, and the intellectual and pricing effect with the limited comparison with domains, such as .uk and South African Geo TLDs, such as .capetown, .durban, and .joburg; therefore, it emphasises comparing the pricing benchmarks of ccTLDs and gTLDs, explicitly excluding the costs associated with second-level registration.

2 HISTORY OF GTLDS

It is vital to understand the TLDs to gain an improved understanding of gTLDs, which are at the top of the Domain Name System (DNS). The Internet Corporation manages this for Assigned Names and Numbers (ICANN).

Domain names allow users to find a location on the Internet. The two types of TLDs are: generic TLDs (gTLDs) and ccTLDs, designated countries and territories, such as .za for South Africa, .br for Brazil, and .ua for Ukraine.

In 2005, ICANN's Generic Names Supporting Organization (GNSO) began a policy development process to consider the introduction of new gTLDs, based on the results of trial rounds conducted in 2000 and 2003. The GNSO is the main policymaking body for gTLDs and encourages global participation in Internet technical management. In 2012, ICANN launched the new gTLD programme, opening up the DNS beyond this number of 22 gTLDs.¹ Under the new programme, any organisation could apply for a new gTLD if it complied with ICANN's criteria.² The issuing of new generic TLDs (gTLDs) began in 2013.³ This programme expanded the DNS beyond traditional gTLDs, such as .com, .net, and .org.

The first new gTLDs from the programme were delegated and provided on the Internet in late 2013. Since then, numerous new gTLDs have been introduced, covering several categories, such as .tech, .online, .shop, .blog, and others.⁴

3 THE EFFECT OF NEW TTLDs ON TRADEMARK

Introducing gTLDs can positively and negatively affect trademarks, including brand protection challenges; trademark owners encounter increased challenges in protecting their brands. It must be clarified if the gTLDs will protect trademark owners.⁵

Introducing gTLDs further confuses the distinctions between

domain names and trademarks. Domain names can serve similar purposes as trademarks. In contrast to trademarks, domain names are unrestricted to specific goods and services. Domain names can be descriptive or generic. In contrast to trademarks, which may be cancelled if not used in the registered product or service category, a domain name remains registered if remaining valid and renewed.⁶

Boroughf remarks that trademark law allows identical marks to coexist when rival use does not create a likelihood of confusion. For example, Apple, Inc., and Apple Vacations own the mark "apple". However, Apple, Inc. cannot prevent Apple Vacations from using "Apple" because Apple Vacations uses the mark for holiday travel services, which is different from the computer and electronics market.⁷

Conversely, identical trademarks need help coexisting online because trademark law observes the Internet as a single marketplace.

Initially, gTLDs were intended to be registered and used by specific types of entities, as mentioned in the introduction.

During the ICANN formation, commentators contended that even though "businesses must have confidence that their trademarks can be protected" in cyberspace, the DNS must "provide trademark holders with the same rights they have in the physical world".⁸ This ideology has been lost over time as domain names are registered throughout the space because of a lack of enforcement. The domain name remains registered if it remains valid and is renewed.⁹

4 CCTLD AGAINST GTLDS PRICING

4.1 Country code TLD pricing

Some ccTLDs have various pricing frameworks, indicating premium and general domain names. Premium domain names are defined as fully-qualified domain names comprising less than three or four characters, indicating short character strings. General domain names comprise over four characters.

The registry reserves premium domains, sold at a higher price than a general domain name registration. Some domain names are presented for auction. This is where the highest bidder acquires the domain name at a maximum price.

Registration, directly after the top-level domain, also sometimes plays a role in growth and pricing. Some ccTLDs allow for direct registration and third-level registrations. This practice presents a customer with additional options for a

string of domain names that can be registered.

4.2 South Africa (.za) ccTLD pricing

South Africa Domain Name Authority (ZADNA), the South African ccTLD manager, regulates the .za ccTLD and plays a role in determining the commercial SLDs wholesale price. The wholesale price is priced at R 63.25.

ZADNA, in consultation with the appointed registry service provider, determined the pricing at the registry level. This indicates that each respective that the registrar decides on the retail fee of each registration, whereas the registrar pays the wholesale fee to the registry.

Concerning the price of a .za, the registrar charges for a commercial domain registration, varying from R70.00 to R175.00 annually. The same fee can be expected during the renewal period.

The registration of the geographical gTLD in South Africa ranges from R150.00 to R300.00, whereas the wholesale fee was charged at R90.00 as of October 2022. This is contrary to the price of R340.00 annually upon its launch.¹⁰

4.3 United Kingdom .uk ccTLD pricing

The preceding price increase of the .uk domain name registration was in 2020; the price increased to £3.90 (R92,94) annually. This price increase followed the previous increase in 2016.¹¹

4.4 New gTLD domain price difference

In 2014, BBC News published an article on .london premium domains expected to cost up to £50 (R1191.48) annually. Over 50,000 people asked about using the .london names as an alternative to .com or .uk.¹² This is an example of how expensive the gTLDs were upon their launch.

In 2020, NOMINET's .wales and .cymru domain pricing was €1.99 (R40,64), excluding value-added tax (VAT). This price is compared to the .uk ccTLD, priced at £3.90 (R92,94) annually.

4.5 Comparison of NOMINET .uk direct registration and .za commercial SLD

In June 2014, .uk second-level domain amounted to 96 696, whereas the third-level registrations amounted to 10 439 342.¹³ In April 2023, NOMINET's .uk domain registered 1,400,040 domain names, while .co.uk had 9,102,849.

In April 2017, the second-level domain registration totalled 629 034 under .uk.¹⁴ The total registration of .uk second-level domains amounted to 9 783 983, whereas the .uk third-level registration was 1 369 913.¹⁵

5 COMPARISON ANALYSIS

The domain names' unit price determines the domain namespace's growth. It is the primary driver of the growth of the domain registration. Despite the slight increase of R10 on 1 April 2021, the .za commercial domain name registration continued to experience growth.¹⁶ The wholesale fee for .za domains increased from R45 to R55 annually, whereas the gTLD upon its launch cost was R175.00 with a renewal cost of the same amount.

A shorter domain name delegated to the consumer also influences the growth of the domain namespace. GTLD allows domain name registrations directly under the top-level domain, which makes them shorter domain names in nature, whereas the ccTLDs that do not support direct registration suffer a loss of registrations; most consumers prefer shorter domain names. This is demonstrated by .uk direct registration growing past the third-level registrations from 629 034 in 2017 to 9 783 983 by 2022.

The gTLDs are priced heavily upon their launch, and later the price drops as the number of registrations increases. Sometimes, the registries consider free registrations, which attracts more registrations. Moreso, registries usually run promotions of these gTLD registrations, which leads to an exponential growth of the gTLD namespace. For example, the registry operator for the South African gTLDs announced that the wholesale price for their gTLDs will be adjusted to be the same as that of .co.za. By then, the price of .co.za was R55.00 annually, exclusive of VAT.

6 RECOMMENDATIONS

- Assess the effect on trademark protection: Trademark owners should carefully evaluate the effect of new gTLDs on their brand protection efforts. Introducing gTLDs may present challenges and opportunities in protecting trademarks online.
- Understand pricing differences between ccTLDs and gTLDs: Businesses should know the pricing structures for ccTLDs and gTLDs. Premium domain names and auctions may affect ccTLD pricing, whereas gTLDs may have higher costs that may decrease.
- Facilitate direct domain name registration: Nominet opened the direct registration of the .uk domain name

from third-level to second-level registration in 2014.¹⁷ This initiative opened space for more choices in domain name registrations under .uk, attracting more registrations.

- ZADNA should revisit direct registration as this initiative attracts more registrations and makes the space relevant to what is happening in the current regime of the Internet domain namespace.
- Domain name authorities should promote the namespace through intentional marketing campaigns, attracting new registrations through price specials. Authorities should collaborate with accredited registrars to remove barriers to end under-pricing. Domain names should be offered at lower prices, reducing wholesale costs for the registry's infrastructure.
- With new gTLDs being delegated each time ICANN opens a registration window, authorities should secure customers to a long-term commitment of five to ten years of keeping their domain name registered. This initiative will allow for long-term retention of the domain name under the namespace.

7 CONCLUSION

Introducing new gTLDs presents advantages and challenges to the cyber world. ICANN's new gTLDs initiative allows private companies to reserve their top-level domain without relying on the ccTLD or generic TLDs, traditionally supporting anyone to register the domain names.

This initiative allows companies to brand their online presence, allowing them to represent their companies unhindered. The disadvantage of owning the gTLD emanates from the high maintenance cost of the domain name and the process it takes to complete the application and delegation; for example, the cost of a new gTLD registration was priced at \$185,000.00. Not all organisations and companies can afford this.

This price barrier prevents companies from registering gTLDs. Regarding ccTLDs, registration of domain names in this space becomes much more affordable than new gTLDs, as the operators attempt to balance their expenses against the return on investments.

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