

Client Update

September 2006

.mobi – Top Level Domain Name Sunrise Registration Period Ends September 22, Ends Soon

The internet has become an everyday part of life and business. For several years, the top level domain name (“tld”) ending with .com has been the primary domain name registration for businesses on the internet. With the growth of mobile computing devices (cell phones, handheld Blackberry-type devices), a new tld domain name ending in “.mobi” is about to come on-line. The hope is that .mobi will aid in accessing the mobile device user. Trademark owners may want companion .mobi websites to their .com websites as part of their long-term strategies. Rollout of the .mobi tld involves registration procedures that allow owners of registered trademarks an exclusive period to secure the .mobi tld before the registration opens to the public. *The exclusive “Sunrise Registration Period” will end on September 22, 2006.*

.mobi is the first tld formulated exclusively for delivering the internet to portable devices. Sales of portable devices has exploded (currently a \$130 billion per year business, exceeding sales of personal computers by about 4 to 1). Unfortunately, mobile devices have not been used widely to access the internet due to their slowness, small screen size, and other limitations. With the .mobi tld, websites may be optimized for mobile users, allowing those devices to be more effective internet tools. This new tld is expected to allow companies to access users of those devices as a way to drive business. Just think about being able to effectively search for restaurants, or the nearest coffee boutique while out running errands.

The procedure for registering a .mobi tld is straight-forward. Remember, only qualified trademark owners can register prior to September 22, 2006. “Qualified” trademark owners are those with a national trademark registration that was the result of an application filed before July 11, 2005 and granted registration prior to the filing of the .mobi application. The .mobi registration can be registered by any accredited registrar. For a list of registrars go to <http://pc.mtld.mobi/switched/findaregistrar.html>.

The registration application includes the following:

- 1) a trademark/servicemark of 3 to 63 characters;
- 2) the date of the original trademark application (must be before July 11, 2005);
- 3) the registration number;
- 4) the date on which the trademark registration was granted; and
- 5) the country in which the trademark was registered.

If you wish to preserve your priority to use the .mobi domain name, then you must register prior to September 22, 2006. After that period, the general public will be permitted to register .mobi domain names on first-come, first-serve basis - another round of internet “land rush” where opportunistic “cybersquatters” may jump in to secure your mark using the .mobi tld. This may unleash a period of disputes as legitimate trademark owners seek to gain control of their .mobi tld. The cost and delays of such actions can be avoided by acting now to preserve your desired .mobi tld, along with any similar formulations that you may want to control.

There will be a very tight timeframe to challenge domain names improperly registered by others during the Sunrise Registration Period. Through the World Intellectual Property Organization Arbitration and Mediation Center, the holder of a registered trademark can follow the Sunrise Challenge Rules and Sunrise Challenge Policy to chal-

lenge a registered .mobi tld that infringes the trademark. This procedure will not apply to any .mobi domain names registered by the general public after September 22, 2006. This challenge period only extends until December 15, 2006. After that, the exclusive right to challenge any registered .mobi domain names will reside with the Mobile Top Level Domain, Ltd. (the sponsoring organization of the new .mobi tld names), and it is expected to use similar procedures to those applied to resolving .com disputes. A challenge to a “cybersquatter” (that tried to register during the Sunrise Registration Period) can seek a cancellation of an improperly registered .mobi tld; however, a challenger that wants an offending .mobi tld transferred to it must prove that it had itself complied with the Sunrise Registration requirements – namely, that it had registered during the Sunrise Registration Period. Therefore, another benefit of registering now is that you may have the option of seeking ownership of the offending .mobi tld, in addition to cancellation of it.

We are advising our clients to act quickly. It is inevitable that access to mobile devices will become more valuable. We suggest that you determine whether reserving your .mobi tld now will be worth the cost – currently approximately \$250 for a 2-year registration. Registering now may avoid greater cost and aggravation later. Even if your present business plan does not involve accessing mobile users, we counsel clients to think about long-term growth and the opportunities that they may want to explore later.

Please feel free to contact Michael Radin at 617.218.2035 with any questions or for additional information.



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