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Trademarks and Domain Names

ICANN, the entity responsible for coordinating domain names, is preparing to expand the generic top level domain (or gTLD) program from its current roughly 20 possibilities (for example, .com, .org, .net) to include hundreds of other possibilities that could even include your brand. This expansion would allow you to create unlimited web addresses that end in .[your brand] – for example, [www.contests.\[your brand\]](http://www.contests.[your brand]) or [www.products.\[your brand\]](http://www.products.[your brand]). While this sounds attractive, the filing fee is more than \$185,000, the process takes more than a year, and managing your own gTLD will require some level of technical capabilities. Consequently, you won't necessarily want to rush out and apply for your own gTLD. However, you will want to watch what others are doing. Beginning March 26, 2013, trademark owners will be allowed to register their marks in a global repository. With that registration comes two key benefits: first, you would be allowed to register your marks as domain names in advance of the general public; and, second, you would be alerted during the objection period when a domain name is registered that matches the mark that you've registered in the global repository.

Restaurants/Food Allergies

A bill is currently making its way through the Maryland legislature that, if passed, would require "food establishments" in Maryland to comply with certain requirements pertaining to food allergies. Modeled after a similar Massachusetts law, the food establishment would be required to (1) include on its menus a notice to customers to "inform the server of any food allergies," (2)

display a poster in the staff area relating to food allergy awareness and the risk of allergic reactions, and (3) designate a “person in charge” who is present at and responsible for the operation of the food establishment. The designated “person in charge” would be required to be knowledgeable about relevant issues concerning food allergies and view a video that the state would produce or approve concerning food allergies. The bill is currently in committee in both the Maryland House and Senate.

International Development

In February, the European Court of Justice ruled that a post-term non-compete provision in a franchise agreement could stand under the old vertical block exemption provided under the EU Regulations only if its geographic scope is restricted to the “premises and land” from which the franchisee has operated during the term of the agreement. Deciding that the term “premises and land” required a restrictive interpretation, the ECJ ruled that the post-term non-compete could only apply to the physical space from which the franchisee sold its goods or services and not to any territory that might have been granted to the franchisee. While this decision was decided under the old vertical block exemption regulation (the vertical block exemption regulation was revised in April 2010), it will continue to be relevant since the new regulation is similar to the old on this point. Franchisors who grant franchises in the European Union will want to take note of this decision when drafting the post-term non-compete provisions of their franchise agreements.

For more information on these and other topics of interest to franchisors, please contact us.

March 2013

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