

## Act Soon to Prevent Your Company's Trademarks from Becoming X-Rated!

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A new class of domain names is being created for the adult entertainment industry – the “.xxx” top-level domain name. In order to prevent your company's name and/or trademarks from being associated with the adult entertainment industry, e.g., “www.yourcompany.xxx”, you need to take action soon.

The creation of a new top level domain (other top level domains are, for example, .com, .org and .net) for the adult entertainment industry – the .xxx top level domain – was recently approved, and on August 3, 2011, the organization administering the .xxx domain names, ICM Registry, announced the policies and procedures for obtaining the new domain names. Prior to the availability of the .xxx domain names, it will be possible for you to block your company's trademarks from being registered as a .xxx domain name.

There is a “sunrise period” running **from September 7, 2011 to October 28, 2011** during which trademark owners can apply to “block” their company's trademarks from being registered as a .xxx domain name. If you file a “Reservation Request” that meets the requirements described below, along with a one-time fee (expected to be in the range of \$200 – \$350 per mark), your company's trademark will be “reserved” for a period of at least ten years and will not be available to be registered as a .xxx domain name by a member of the adult entertainment industry. If someone navigates to the reserved domain name, it will “resolve,” or lead to, a general information page maintained by ICM Registry indicating that the domain name is reserved. The Whois information for the reserved domain name will not list your company's name, rather it will indicate that ICM Registry is the owner of the domain name.

In order to be eligible to reserve a .xxx domain name, you must own a trademark registration corresponding to the name issued by the United States Patent and Trademark Office (“USPTO”) on or before September 1, 2011. Pending trademark applications, state trademark registrations, registrations on the Supplemental Register of the USPTO, and Secretary of State company name registrations are not eligible. The trademark registration must correspond exactly to the .xxx domain name sought to be reserved. However, if the registered mark includes one or more spaces between words, the spaces may be removed or replaced with a hyphen; and, if the registered mark includes special characters (such as “-,” “@,” “!,” “%,” “.” or “&”), the characters may be eliminated entirely from the name, transcribed, or replaced with a hyphen. You may also eliminate references to a company type, such as “Inc.,” “Co.,” “LLC,” “LLP” or “Ltd.”

There is also a separate sunrise period running during the same period to allow members of the adult entertainment industry to register .xxx domain names. If during the sunrise periods, the same domain name is requested by a member of the adult entertainment industry and a trademark owner, the member of the adult entertainment industry will be given an opportunity to withdraw its request. If the member of the adult entertainment industry does not withdraw its request, priority will be given to the member of the adult entertainment industry and it will be issued the .xxx domain name. The trademark owner can later bring an action against the use of the domain name by the member of the adult entertainment industry under the Uniform Domain Name Dispute Resolution Policy (the “UDRP”) or by filing an infringement claim in court.

If you miss the sunrise period to register your company name or trademark, or if you do not own a USPTO registration corresponding to your company name or trademark, you can still register it after the .xxx domain names become available after December 6, 2011 on a first-come, first-served basis.

If you're interested in preventing your company's trademarks from being associated with a .xxx domain name, we can assist with the process of filing a request to reserve the name. For more information, please contact:

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