



**Comments Regarding the Joint Strategic Plan:
Response to the Request from the Intellectual Property Enforcement Coordinator (IPEC)**

The Coalition Against Domain Name Abuse (CADNA) is a 501(c)(6) nonprofit organization dedicated to building awareness of and ending the systemic domain name abuses that plague the Internet today. In working toward this objective, CADNA advocates action to stop illegal and unethical infringement of brands/trademarks online, and in particular, the practice of cybersquatting. CADNA welcomes and appreciates this opportunity to submit its recommendations to the IPEC on how to improve the U.S. government's intellectual property enforcement efforts.

Cybersquatting is the act of registering domain names, especially those identical or confusingly similar to existing trademarks, with the intention of reselling them at an inflated price or otherwise profiting from them in bad faith. This practice represents one of the most prominent forms of IP theft online, costing brand owners worldwide over \$1 billion U.S. dollars every year as a result of diverted traffic, the loss of hard-earned trust and goodwill, and the increasing enforcement expense of protecting consumers from Internet-based fraud. Depending on the industry, the total impact of cybersquatting on a single brand could be tens of millions of U.S. dollars when factoring in the value of lost leads and sales, costs of brand dilution, consumer confusion, poor customer experiences and millions of lost unique visitor impressions each week.

A Need for More Effective U.S. Legislation

Although Congress passed the Anti-Cybersquatting Consumer Protection Act in 1999 in order to combat some forms of domain name abuse, cybersquatting remains an underestimated and largely unmitigated threat. Unfortunately, when ACPA was passed, the most common scheme associated with cybersquatting was the use of registered domain names to extort exorbitant sums from trademark holders in exchange for the names. The practice has evolved drastically: cybersquatters harm both IP owners and consumers through spam, spyware, malware, phishing, and the sale of unwanted counterfeit goods. The old laws have not been able to keep up as both



the Internet and cybersquatting continue to grow and evolve. For this reason, CADNA strongly urges the IPEC to pursue stronger, updated legislation that will create an effective deterrent to cybersquatting as it exists today.

A Need for Cooperation and Coordination with Other Governments

In addition to U.S. legislation, CADNA feels that the IPEC should seek to work with other countries to develop an international policy designed to curb instances of cybersquatting and other forms of online infringement around the world. CADNA has found that a significant number of infringements that U.S. IP owners suffer are at the hands of individuals from outside of the country. Given the global nature of the Internet, it is crucial for countries to work together to take a unified stance on online crime and IP infringement. Otherwise, there will be no way of effectively preventing such malicious practices in the long term.

A Need to Address the Policies of ICANN, the Regulator of the Internet

The Internet Corporation for Assigned Names and Numbers (ICANN), the organization charged with the top-level coordination of the Internet's naming system, has chronically failed to develop effective policies to protect IP owners and, by extension, consumers. It currently stands as a captured regulator that acts in the interests of its contracted parties. ICANN has inadequately addressed such issues as inaccurate WHOIS data, which obstructs the pursuit of cybersquatters who are exploiting brands and their consumers online. ICANN is also currently planning an initiative that will allow for the rapid launch of an unlimited number of generic Top-Level Domains (gTLDs), the extensions that get appended to the end of domain names (.COM is the most popular example). The launch of new gTLDs will exponentially increase the size of the Internet's domain name space and, as a result, the opportunities for cybersquatting and other forms of online IP infringement.

ICANN is able to implement policy into the Internet's root servers as a result of the Internet Assigned Numbers Authority (IANA) contract with the Department of Commerce. It is also



connected to the US government through an Affirmation of Commitments (AOC) that says it will work in the best interest of Internet users. For some time, CADNA has been working with governments to push for reform of ICANN and to develop regulation mechanisms that will hold the Corporation to its mission and ensure that it does its due diligence in protecting IP online. The IPEC could be a powerful force in this effort. CADNA recommends that the IPEC work towards influencing ICANN in such a way that will improve the organization's ability to protect IP and prevent continuing infringement.

CADNA proposes the formation of an ICANN Commission. This presidentially-appointed commission would be established for the purpose of reviewing United States policy towards the ICANN and to suspend any of ICANN's current or future policy initiatives until the review is complete. Over a one-year period the Commission would examine ICANN's internal operational structure and external relations to inform the development of a new U.S. government policy towards ICANN. It would also make recommendations for improvements to ICANN.

The ICANN Commission's mission is to:

- Conduct a thorough review of ICANN's internal operations to determine if all Internet user communities are appropriately represented;
- Solicit and review input from foreign governments and the international community at large regarding ICANN;
- Review the AOC and make recommendations if necessary for modifications;
- Determine if ICANN should remain independent or if the United States and other governments should have greater oversight over ICANN; and
- Publish a report with findings and recommendations 180 days after the establishment of the Commission.

CADNA would like to thank the IPEC for considering these recommendations, and appreciates the opportunity to contribute to the ongoing efforts to improve IP protection.