



European Communities Trade Mark Association

13 June 2017

ECTA POSITION PAPER ON THE REVISION OF .EU REGULATIONS

I. INTRODUCTION

The .eu Regulations on the implementation of the .eu Top Level Domain (Regulation 733/2002) and on laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration (Regulation 874/2004) are currently under revision. EURid is the actual .eu Registry and the new regulation would be vital to address user's needs as well as to provide the .eu Registrar with the appropriate tool to cope with the several challenges we have to face now and those upcoming in the near future.

After many years of growth, during the last two years we have seen a decrease in new .eu registrations. However, the rate of renewals continues to be very high and even one of the highest in the domain name business: almost 80% of .eu are renewed while the average renewal rate in the business is around 70-75%.

II. COMMENTS

ECTA sees some of the reasons for said minimal decrease in the following. ECTA considers it likely that these reasons will be shared by many ccTLDs in the future and so would like to change the .eu Regulation in order to meet the future needs of citizens and users at large. ECTA considers the following issues important:

1. Vertical integration
2. European identity
3. Trust and security on the web
4. Young people and social media

- 1) Vertical integration

It is important for the new Regulation to introduce vertical integration, in other words the limitation of the existing .eu Regulation according to which EURid can sell registrations only through Registrars should be removed. All users should have the possibility to register their .eu domain names directly before EURid. Of course, Registrars will maintain their role in providing not only domain name registrations but also a wide range of services (such as e-mail service and so on). However, Vertical integration will give the .eu Registry more flexible and effective ways to approach the market for example in relation to price policy and marketing tools that would thus mainly be directly to the benefit of end users.

2) European identity

When revising the .eu Regulation the issue of European identity is important and ECTA believes it should be considered whether the present demand for owners of .eu domain names to be EU citizens or having an EU residence should be amended or even eliminated. ECTA considers an open discussion of this topic necessary and reflects the opinions of many members. ECTA has therefore chosen not to give a specific recommendation, but would rather like to set out the main arguments pro et contra:

Arguments in favour of eliminating the demand for European identity

While most ccTLDs face the issue of geographical identity, only few of these have restrictions as to the identity or business seat of the owner. If comparison is made with the .asia domain such restriction does not apply. In light of this, it is a relevant question if such restrictions should apply to .eu domain names.

A further concern with keeping the restriction is that the territoriality of the physical world is not necessarily relevant in the digital sphere. It could be argued that the restriction of European identity is outdated in a global and digital world.

The TLD .eu has during the later years not seen as many new registrations as could be wished for and a liberalization of the claim for European identity might make the .eu more competitive compared with other TLDs, not least the many new TLDs, and thus increase the number of registrations.

The concern that a liberalization would be met with increased cybersquatting can be reasonably prevented. EURid already has in place efficient ways to challenge possible infringing domain names and is making an effort in testing and removing domain names with false information. If a revision of the Regulation would ensure that false information will lead to ex officio removal of a domain name by EURid and an address of service within the EU would be a requirement for registering a .eu domain name, the tools to prevent cybersquatting and ensure trust in the .eu domain name would be efficient.

Arguments in favour of maintaining the European identity

The .eu domain name is seen very much as a European institution, which contributes to and improves the identification for the EU e-commerce and digital single market and safeguards being European as a geographic origin.

The number of registrations of .eu domain names reflects the business needs and liberalizing and opening up to other registrants may limit the possibilities for obtaining a .eu domain name for those which are actually seated within the EU.

There is a risk that liberalizing the .eu domain name would lead to more cybersquatting, which is a real concern when comparing with other TLDs.

In case of cybersquatting having owners with addresses outside the EU would be burdensome to EU businesses when trying to solve such conflict in terms of establishing the real identity, the real address of service and an efficient negotiation or conflict process.

3) Trust and security on the web

Since 2005, EURid has developed several collaborations and projects: more particularly with EUROPOL and EUIPO. The idea is to make the .eu environment secure and trustworthy where trademarks and other intellectual property rights are protected and this can be done by increasing the exchange of data in order to eliminate or reduce cybersquatting to any possible extent. With EUROPOL, the exchange of data improves understanding and fights cybercrime. EURid has been working to improve security in internet by introducing projects like the Domain Name System Security Extension (DNSSEC) chain of trust since 2009. EURid, on its turn, has been currently deleting thousands of domain names with false information such as fake addresses and telephone numbers. This of course has adversely affected numbers but has - at the same time - increased trust. It is important that this be recognized and encouraged in the eu. Regulation. As a non-profit organization, the .eu Registry should make its best effort to improve users' environment rather than increase numbers. EURid during these years has certainly improved trust amongst users.

In this respect, ECTA supports that the .eu Dispute Resolution Policy (DRP) be maintained. However, the procedure could be amended to include ADR or mediation. It would be important to offer a meditation service to parties following the complainant's reply to the registrant's response to the complaint. This mediation would allow a number of disputes to be settled without the need for the complaint to be determined by the expert or panel. Offering this option under the .eu DRP may increase willingness to file complaints, as well as willingness to respond by registrants.

4) Young people and social media

The perception of .eu should be one of the main consequences of the new .eu Regulation especially amongst young people. They use social media also as domain names because they are free but often do not take into due consideration the problems (privacy and continuity) connected to those e-mail addresses. An educational campaign on these topics should be considered by the EU Institutions. Therefore, publicity of the .eu domain name system, even though it cannot be established in the new text of the Regulation, is a must to re-launch the .eu especially among young people and for SMEs.

III. CONCLUSION

ECTA is very much looking forward to participating in the process of modernisation of .eu Regulations and would welcome any invitation to provide input and participate in this process going forward.

ECTA

European Communities Trade Mark Association

ECTA, which was formed in 1980, is an organisation concerned primarily with trade marks and designs. ECTA has approximately 1,500 members, coming from all the Member States of the EU, with associate Members from more than 50 other countries throughout the world. ECTA brings together those practicing in the field of IP, in particular, trade marks, designs, geographical indications, copyright and related matters. These professionals are lawyers, trade mark and patent attorneys, in-house lawyers concerned with IP matters, and other specialists in these fields. ECTA does not have any direct or indirect links to, and is not funded by, any section of the tobacco industry.



The extensive work carried out by the Association, following the above guidelines, combined with the high degree of professionalism and recognised technical capabilities of its members, has established ECTA at the highest level and has allowed the Association to achieve the status of a recognised expert spokesman on all questions related to the protection and use of trade marks, designs and domain names in and throughout the European Union, and for example, in the following areas:

- Harmonization of the national laws of the EU member countries;
- European Union Trade Mark Regulation and Directive;
- Community Design Regulation and Directive;
- Organisation and practice of the EUIPO.

In addition to having close links with the European Commission and the European Union Intellectual Property Office (EUIPO), ECTA is recognised by WIPO as a non-Government Organisation (NGO).

ECTA does also take into consideration all questions arising from the new framework affecting trade marks, including the globalization of markets, the explosion of the Internet and the changes in the world economy.