



Dot Confusion: Enforcement issues in the DNS

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My perspective

ICANN accredited registrar working only with IP owners
(not retail)

Member of ICANN's IRT & leadership of IPC

Editor of The Perfect Sunrise

Co-ordinator of not-for-profit .London bid

MD of consultancy Valideus working with brands on
applications



Agenda

Changing Environment

The New gTLDs

The ccTLDs

IDNS

An over-arching issue



Change is coming

2010: 253 ccTLDs

21 gTLDs

- 195 million registered under gTLD & ccTLD
- 28 domain names per 1,000 people if global population is 6.7 billion

2012: 260 ccTLDs, 100 with IDNs

450 gTLDs



gTLDs v. ccTLDs

gTLDs

- Governed by ICANN
- Bound by ICANN consensus policy
- Registrar Accreditation Agreement (RAA)
- UDRP mandatory
- Contract with ICANN
- Payments to ICANN required

ccTLDs

- Not governed by ICANN
- Not bound by consensus policy
- No RAA
- UDRP (or relevant policy) voluntary
- No contract with ICANN
- Payments to ICANN voluntary



Domain Abuse across New gTLDs, ccTLDs & IDNs

Pay Per Click (PPC) / Monetisation continues

Proxy registrations mask Bad Actors

Serial infringers linked to Bad Actor Registrars

Shadowing mergers

Slamming

Selection of jurisdiction

No decrease in Phishing & Malware

Cybersquatters escape with punishment



Part One

The New gTLDs



New gTLD Program Highlights

Open to entities around the world

Applications to take place in rounds

IDN and Latin (ASCII) characters launched simultaneously

Cost-based application process (today set at \$185K)

Annual registry fee of \$25k for first 50,000 domains

After 50,000 domains, fee of \$0.25c per name per year to ICANN

Striving for predictable application process

Applicants assessed on financial, technical & operational grounds

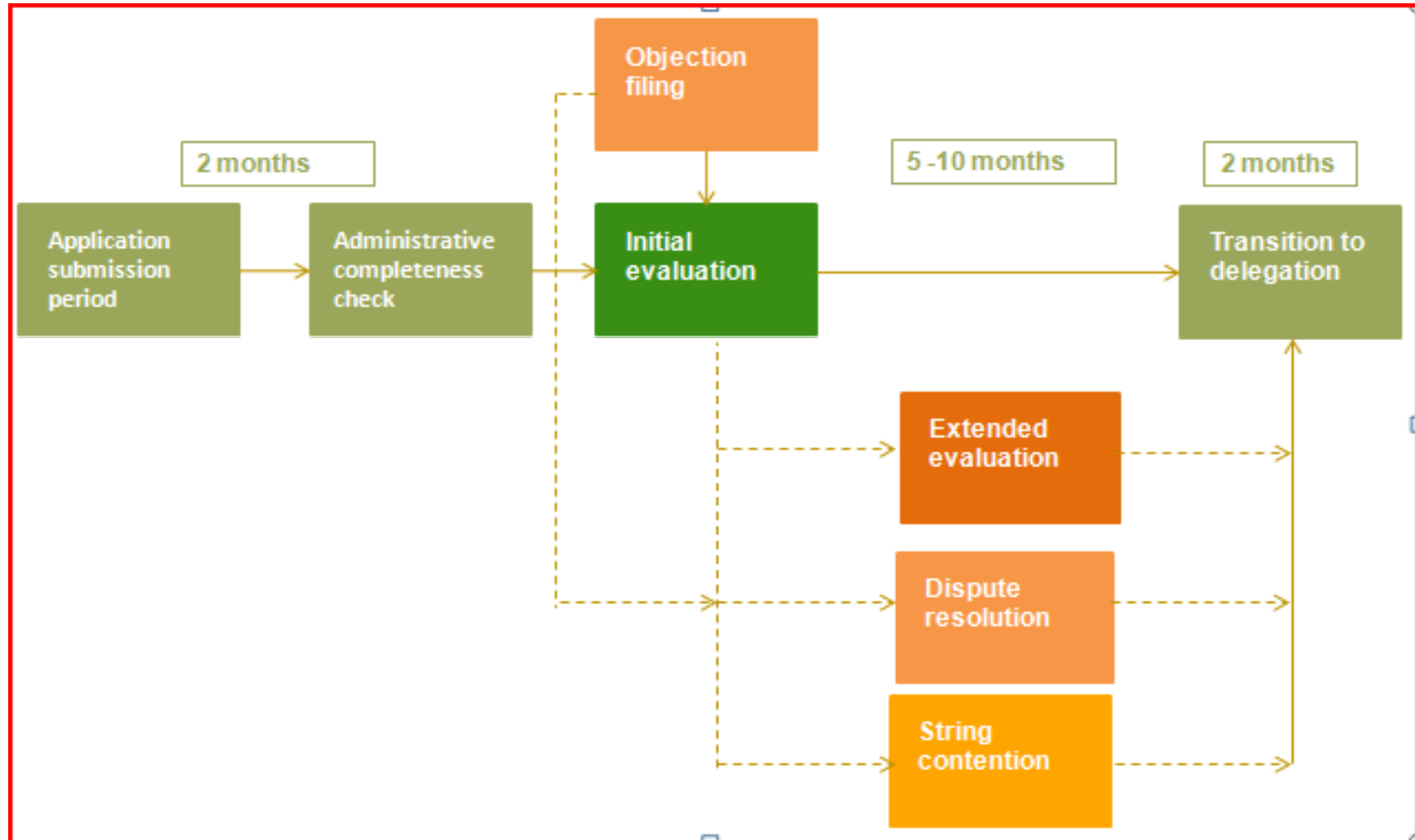
50 questions, some scored e.g. 14 out of 16 points technical

Straightforward for most applications...

...with objection mechanisms *prior* to awarding name

Applicants self-select Standard or Community-based

ICANN's process





Timelines

ICANN finalising timing. We anticipate:

September	ICANN Board retreat on gTLDs
November	Guidebook & Application Forms released
December	Announcement of timetable by Boar
April/May 2011	Applications open

If applications open April 2011, new gTLD registries open from Dec 2011.



Who will apply?

Geographical & Linguistic incl. IDNs

- Arabs for بيرع., Londoners for .london

Keyword speculators

- To dominate an industry sector: .movie, .music.

Global brand owners

- Natural Born Applicants : Apple, eBay, Facebook, Twitter?
- IP owners who compete for a key term: Polo?
- Innovators seeking new model of distribution: NHL?
- The infringed to signpost authenticity to consumers : Danske?

Not for Profits

- To strengthen trust and label authorised representatives



Geographical applications

.berlin

.bcn

DOT LONDON
A DOMAIN FOR LONDON

.ROMA

dot HAMBURG

. köln M

Die Top-Level-Domain für Köln

.paris
l'identité capitale

dot pdx
greater portland's local domain

.nyc

.ottawa
A City Top-Level Domain for the Ottawa Region

SFO

.tokyo

DOTBKK
Bangkok's domain name

.sydney

Keyword applications





Global brand owners

Canon Global › Site Map

[Corporate Info](#) | [Investor Relations](#) | [Environmental Activities](#) | **[News / Press Releases](#)**

[HOME](#) > [News / Press Release](#)

News / Press Releases

March 16, 2010
Canon Inc.

Canon to begin acquisition of the ".canon" Top-Level Domain name

.canon

TOKYO, March 16, 2010—Canon Inc. announced today that it will begin the acquisition process for the top-level domain name ".canon," based on the new generic Top Level Domain (gTLD) registration system.



Not for Profits



Taking the long view, as time goes on a name such as www.donations.unicef and www.cards.unicef will become more intuitive in a more crowded Internet, and thus more valuable because the name reflects exactly that of our organization and declares what it does.



How will the Internet change?

When web surfers adopt **direct navigation**, typing brand name into a browser, how long before “old” addressing is forgotten?

Search engines to put new gTLDs into algorithms

Consumers to **trust** email or websites with .brand domains because infringers locked out

ccTLDs incl. **.dk** to diminish in importance?

New **marketing strategies** & revenue models built around gTLD registries

Rights owners face **increased burden** to protect customers



10 issues with new gTLDs

1. Is it necessary to apply for your own gTLD (at the Top Level) to protect your rights? What happens if your peers apply and rise above you in the search engines or if you don't apply and a 3rd party with legitimate interests **locks you** out?
2. Will you have to file your key marks at the Second Level in every Open new gTLD? How will you amend your **registration strategy**? How do you budget for this?
3. Will the **Clearinghouse** be effective?
4. Will the **IP Claims** service work? It was not very effective for .biz



10 Issues with New gTLDs

5. There is a only a 45 day window for mounting an **Objection**: what can you do now to identify possible 3rd party applicants? Will you rely on a Panellist or go to the courts?
6. Is ICANN investing enough in **registry compliance**? Could we see bad actor registry owners as we see bad actor registrars & registrants?
7. Are there some terms that should be protected in the **public interest** - .health, .food, .children etc? Should there be a special application process for Terms of Public Interest?



10 Issues with New gTLDs

8. ICANN has diluted **IPR measures** proposed by experts to the point where they are useless - e.g. Uniform Rapid Suspension Scheme:
14 days **slower** than eUDRP; 5000 word submission not pro-forma; Panellists don't need trade mark experience; Dismissal of a case if Panellist thinks defence may have been possible; De Novo review for up to 2 years; fee of \$300 for Panellists; no transfer of property; loser does not pay
9. Do **Super Brands** need special protections? Should a Globally Protected Marks List be revisited?
10. ICANN is based in California. All applicants will contract under **Californian law**. Do you need to look at the possibility of court action against them to protect your rights?



Part Two

ccTLDs

Cybersquatters abound

The screenshot shows a website with the URL **morgastanleycard.co.uk**. At the top, there are navigation links for **Related Searches**, **Credit Cards**, **Visa Card**, **Business Credit Cards**, **0 APR Credit Cards**, and **Instant Credit Card**. Below this is a banner image featuring a calculator, a newspaper with the word 'MONEY' and the phrase 'ing toward', and a pair of glasses. The main content area is divided into three sections:

- Related Searches:** A vertical list of links with right-pointing chevrons: Credit Cards, Visa Card, Business Credit Cards, 0 APR Credit Cards, Instant Credit Card, Barclaycard Platinum, Discover Visa, HSBC Rewards, Ocob Credit, Rewards Visa Cards, Platinum Visa, and Mastercard Offers.
- Sponsored Listings:** A section with a blue arrow icon and three entries:
 - CHASE® (Official Site):** Great Credit? Choose Chase Ink(SM) Business Card And Pick Your Reward. CHASECreditCards.com/Ink
 - Capital One® Credit Card:** 2% Cash Back on Gas & Groceries Redeem anytime. Apply now! www.CapitalOne.com
 - Instant Credit Cards:** Instant Approval Credit Card Offers Compare Offers & Apply Online. www.CreditCards.com
- Search:** A search bar with a 'Search' button and an image of a stack of gold coins.

At the bottom right, there is another **Related Searches** section with links: Credit Cards, Visa Card, Business Credit Cards, 0 APR Credit Cards, and Instant Credit Card.



Fake Whois

Registrant:

Mrs Jello, LLC Trading as: Mrs Jello, LLC

Registrant type:

Non-UK Corporation

Registrant's address:

PO BOX 120

Livingston

07039-0120

United States

Registrar:

eNom, Inc. [Tag = ENOM]

URL: <http://www.enom.com>

Relevant dates:

Registered on: 17-May-2004

Renewal date: 17-May-2012

Last updated: 16-May-2010

Registration status:

Registered until renewal

Name servers:

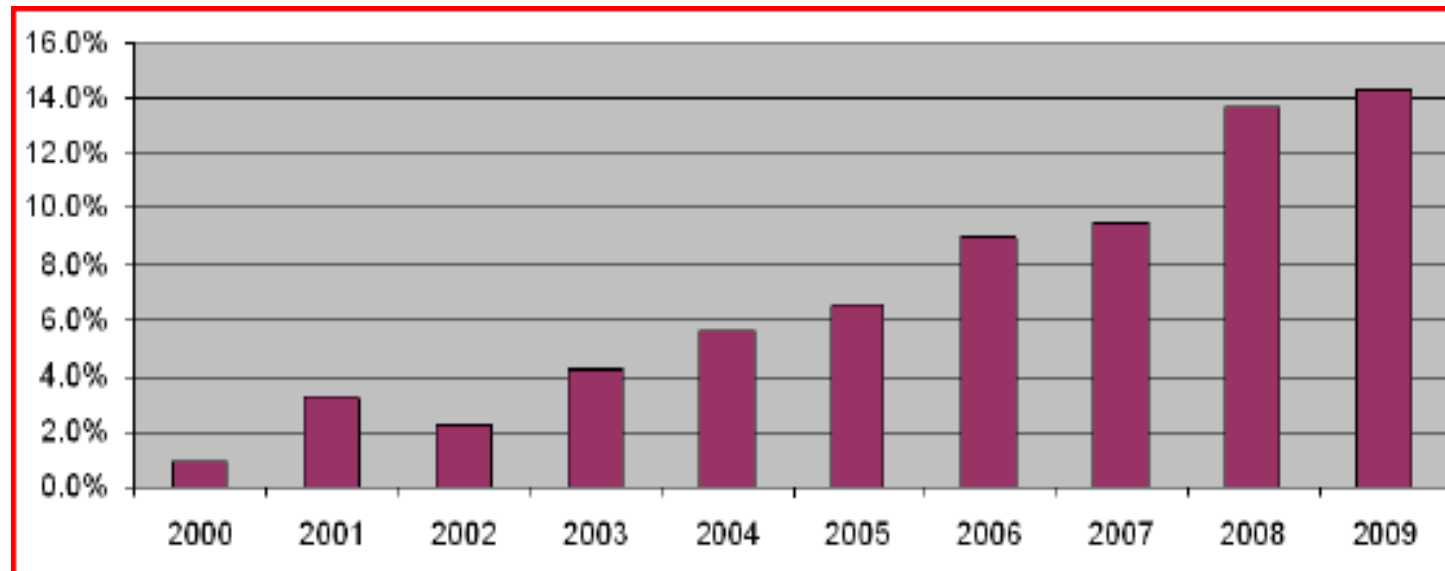
ns1.parkingspa.com

ns2.parkingspa.com



Royalbank.org.uk

ccTLD UDRP Filings 2000 - 2009



“Parties based in 114 countries were named in WIPO cases in 2009, up 10% on the previous year” Francis Gurry, WIPO Director, March 2010



ccTLD Own Dispute Processes

.EU

- Loosely based on UDRP
- Elements of a claim:
 - ✓ Domain is identical or confusingly similar to a *prior right* owned by claimant
 - ✓ Registrant has no rights or legitimate interest in the domain;
or
 - ✓ Domain was registered or is being used in bad faith


.UK

- Two week mediation period – resolves 55% of cases
- Single expert panelist
- Elements of a claim:
 - ✓ Domain is identical to a prior right owned by claimant;
 - ✓ Domain was registered, acquired or used in a manner which takes unfair advantage of or is detrimental to Complainant's prior rights



ccTLDs as gTLDs

home | about .ME | whois .ME | contact us | policies | Registrar Area



.Me is about YOU!

WHOIS / DOMAIN SEARCH

.ME

> Register a .ME | > News | > Events | > Premium Domains | > FAQs

Email this page | Print this page

What can you do with **.Me**?

.Me is a true phenomenon among TLDs. With its unforgettable meaning and limitless word combination possibilities, .Me gives a truly personal tone to your domain name. If you are looking for a name that speaks for itself .Me is your best choice. Let .Me speak for your online business or personal blog.

.Me potential is enormous and it simply asks for you to be creative and coin the name that suits you best. If you have a great, original idea for a domain name, register .Me before it's taken. To check out other ideas - [Explore the world of .Me](#).

Love .ME, Share .ME

Develop .ME

We started with non-auction allocation of premium domains
[learn more](#)

Why .ME?

[learn more](#)

News Releases

04.05.2010 [Get Your "Call-To-Action" .Me Domain At Auction Today](#)
42 Unique Domain Names Available via Moniker & SnapNames Showcase Auction Series
[View all releases](#)

Latest Registrations

thevault.me
alexandramarie.me
alsok.me
yodobashi.me
sankeysลาสvegas.me
dividi.me

Registrars

.ME Domains can only be registered through .ME accredited registrars. Any company can become an accredited .ME Registrar as long as they go through the regular Application Process and fulfill all requirements.
[learn more](#)

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ccTLDs as gTLDs

The screenshot shows the homepage of the .tv domain registrar. At the top is a navigation bar with links for HOME, ABOUT .TV, GET .TV, .TV SHOWCASE, and CONTACT US. The main content area features a large banner with the text "IF YOUR WEBSITE HAS A PLAY BUTTON you need .tv" and a "Get started" button. Below this is a carousel of video thumbnails. To the right, there are social media icons for YouTube, Facebook, and Twitter. A quote from Patrick Mahoney, Senior Vice President of Digital Media at Entertainment Studios, Inc., is displayed. Further down, there are sections for ".tv Websites to Watch" (featuring Blip.tv and Hollywood.tv), "Follow .tv on Twitter", and "Read the .tv blog" with a list of recent articles.



ccTLDs as gTLDs

A screenshot of the .CO domain registry website. The page features a navigation bar with links for "ABOUT US", "ALL ABOUT .CO", "GLOBAL RESPONSIBILITY", and "REGISTRARS". A main banner area contains a large black rectangle and several news snippets, including "A new era is coming", "Introducing the .CO Founders Program", and "Transitions Lenses launches getlighted.co". A prominent announcement states "GENERAL AVAILABILITY BEGINS ON July 20, 2010". Below this, there are sections for "What the press is saying" (with links to Forbes, Business Week, and EON), "What .CO is saying" (with tweets and a blog post), and "Documents for download" (including "Letter to Brand Owners" and ".CO Launch & Registration Rules"). An "Upcoming events" section lists "May 22-26 2010" (INTA), "May 24-26" (TechCrunch), and "Jun 7-14 2010" (Internet Week). The footer includes a "LAUNCH SCHEDULE" section, a search bar, and social media links for Twitter, Facebook, and Share.



10 issues with ccTLDs

1. Uneven **formalities**
2. Uneven patchwork of **DRS** support (62 use UDRP, about 50 their own DRS, over 100 offer no support)
3. Accuracy of **whois** - concerns for data privacy can impair enforcement efforts
4. Local companies and contacts **favoured**
5. **Underfunded** and under regulated so continually searching for revenues: ccTLDs as pseudo gTLDs; launch of new second level domains

10 issues with ccTLDs

6. **Efficiency** of the staff and processes: accidental lapses, registry downtime
7. No **understanding** of intellectual property, no in-house legal advisor
8. By **Royal** Command
9. **Close** (unhealthy) relationship between local registrars and registry
10. Release of **short** (1 & 2 character) domains



Part Three

IDNs



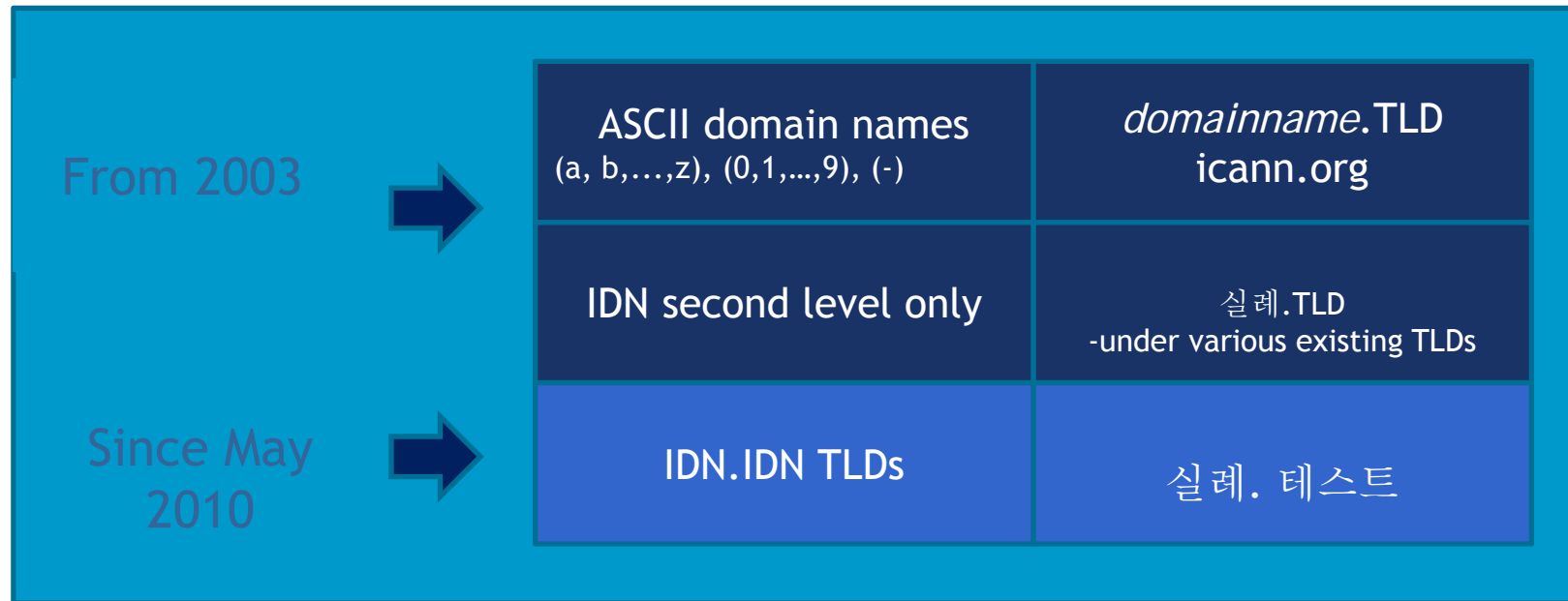
Internationalized Domain Names

IDNs have existed at Second Level since 2003

- 音乐.com; [xn--fjq180p.com]

IDNs at Top Level now here

- 北京.中国; [xn--1lq90i.xn--fiQs8S]





IDN ccTLD Fast Track Status

ICANN opens process for Fast Track IDN. IDN November 2009

21 requests in 11 languages, including:

- Chinese, Arabic, Russian, Sinhalese, Tamil & Thai
- 英国优秀服装店.中国

Four now available in the world root

United Arab Emirates: امارات.

Saudi Arabia: السعودية.

Russian Federation: .рф

Egypt: مصر.

From 2011, New gTLDs allowed as IDNs

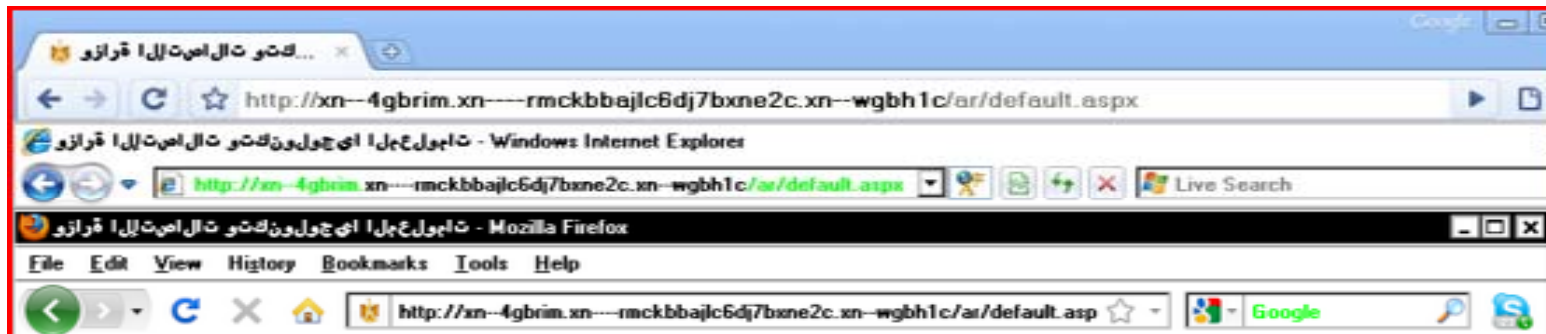


10 issues with IDNs

1. Uncertainty over launches: no **Best Practice** from ICANN
2. Will registries give priority to owners of second-level names in ASCII equivalent (**grandfathering**)?
3. Will registries **prioritise** trademarks in a local script over trade marks in Roman alphabet?
4. How to **select** your terms: Translate, transliterate, or phonetically interpret? How to verify?
5. How to search and **watch**?

10 issues with IDNs

6. **Typosquatting** & confusing similar variations to abound
7. Not universally accepted by all **browsers** and rejected by many web forms (especially right to left languages like Arabic)
8. **Variant** scripts and languages
9. **Whois** may be in local language
10. Neither instinctive, distinctive, memorable or **comprehensible** for many





Part 4

The UDRP -

The enforcement battleground



ICANN Community on UDRP

Complainants “forum shop”

Panellists should not act for complainants

Taxi Rank system for Panellist selection required

Three person panels only

Registration and use in bad faith requirement applied
“creatively”

No ICANN contract with UDRP Providers

Need for an appeals process

Changes to Provider Supplemental Rules should be
addressed instead by ICANN Policy Development Process

WIPO’s position compromised as panel provider



IP community on UDRP

Too expensive to use against large-scale cybersquatters

Complainants bear all fees: Loser should pay

Registration or use in Bad Faith

Three strikes and out

Penalties on registrars for failure to implement decisions

Fast track process for Slam-dunk cases

Universal whois from ICANN

ICANN to investigate links between serial cybersquatters and Bad Actor Registrars



Accessing ICANN Compliance

Issue

Contact

1. UDRP Enforcement Assistance

<http://www.internic.net/UDRPIntakeReportSystem.html>

2. Whois Inaccuracy Claims

<http://wdprs.internic.net/>

3. Information Regarding ICANN Accredited Registrars

<http://www.icann.org/en/registrars/accredited-list.html>



Domain name management without compromise

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