



Toward A Three-Regime Domain Registration: Generic, Idea, IP

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Introduction

The current first-come, first-served approach to domain name registration has been the only viable mechanism to date and has served its purpose. However, with the current trend in domain-tasting registrations, it is time to move to a more efficient allocation mechanism via auctions.

Auctions, when combined with elimination of the five-day registration grace period, would increase market thickness¹ and reduce bad tasting.² Implementation can be financed through a small portion of the proceeds from ICANN's proposed sale of single-character domain names.³

We divide domain names into three classes and examine their registration viability via auctions. We conclude with a recommendation for an integrated allocation venue of auctions for generic names, the implementation of an alternative IP ownership regime, and the retention of the first-come, first served venue for "idea" domains.

Sources of Domain Value

To a registrant, the value of a new domain name has two components: a creative idea and intrinsic value. Intrinsic value reflects the domain name's expected economic benefits from its best use, which is driven in part by the idea. The value of the idea component is significant when a name is hard to duplicate by an automated system. When such a name is registered, the registrant must be able to keep the name secret or else get compensation if it is revealed.

¹ See Alex Tajirian, "[Network Solutions - Domain Name Registrations via Auctions?](#)" DomainMart.

² See Alex Tajirian, "[Every Domainer Is Subsidizing Tasting ... Abolish Registration Grace Period,](#)" CircleID.

³ <http://www.icann.org/announcements/announcement-16oct07.htm>.

Current Mechanism

The current registration mechanism does not allow for dynamic pricing. Prices are fixed in the range of \$6-8 per year, with the registration rights granted on a first-come, first-served basis. The fixed-price approach does not necessarily make for efficient allocation, but using auctions instead would cause problems for certain classes of domain names because registrants of such names would not be able to capture the value of the idea component. Yet auctions are a natural mechanism for matching well-defined assets with their best use. The fixed pricing mechanism has worked well so far, but given the current domain-tasting transactions that dominate the market, it is time to move to a more efficient allocation.

Proposed Three-Regime Allocation Mechanism

We divide domain names into three mutually exclusive classes based on the viability of the registration mechanism: generic dictionary words (including single-letter and single-digit names), IP-related words (trademarks and brand names), and creative ideas.

1. Idea domains will have to be registered on a first-come, first served basis because otherwise there would be no incentive to register such a domain name. The failure of auctions for this class is due to the fact that, when using them, the registrant would have to make the idea public before having an ownership guarantee, hence losing its private information value.
2. Using auctions for IP-related names has two major obstacles. First, without properly defined IP ownership rights with regard to domain names, it is difficult to *a priori* determine the legitimacy of an IP violation claim. Thus, it is difficult to automatically block the use of such words in a domain name. Second, the IP claimant has no idea for what purpose the registrant might use the domain name, making it hard to estimate potential damage from its use and leaving the claimant unable to devise a viable bidding strategy.⁴ Moreover, when a claimant loses the auction, we would be back to square one in terms of protection of IP-dilution risk. Thus, under this class, an auction would not be a viable registration-allocation mechanism.

A necessary condition for a viable mechanism under this class is that the IP claimants can control the use of domain names. Control can be achieved through designing a new IP-protection regime, whereby the registrant is obligated to monetize the domain name through preapproved service providers⁵ or forfeit the rights to the domain name. Moreover, this regime should not encompass registrations when multiple entities have a trademark on words being used in the domain name. This would maintain the class' first-come, first-served principle and minimize the risk of IP abuse.

⁴ Use of the domain to promote pornography, to disseminate false information about the associated products, or to sell fake brands and dilute brand value.

⁵ For the drivers of such a regime, see Alex Tajirian, "[Don't Litigate, Open Them Up!](#)," DomainMart.

To reduce the risk of potential IP violations, the registration process should automatically check for IP ownership. This is a benefit for legitimate IP-conscious registrants, as well as the IP owners. Nevertheless, for such a regime to be effective it must be sanctioned by ICANN and enforced at the registry level.

3. Generic names can be more efficiently registered through auctions, as they are driven by automated bootstrap methods that do not involve ideas or IP issues.

It can be argued that, even with generic domain names, the registrant incurs cost associated with predicting the domain name's revenue potential. Thus, under this argument, the registrant would face the same private information problem as with idea domains. However, this potential problem can be corrected by compensating the registrant if outbid. The compensation can be a fixed amount or based on a more complicated valuation model. Such a valuation is a much easier task than estimating potential damage under the IP class. Moreover, this complexity in the auction design is not significant enough to kill the viability of auctions, as the tasters are sophisticated and also have the option to increase their bid.⁶

Concluding Remarks

We demonstrate that although auctions are not viable for all classes of domain names, they are viable for generic names, which account for most of today's domain registration volume. Besides being a more efficient allocation mechanism, auctions act to curb domain tasting and increase market thickness.

The proposed registration process integrates the three classes. Thus, when a user inputs a domain name for registration, the system parses it into words (which is not a trivial task but is technically feasible), determines its class, and provides the appropriate registration venue. ■

⁶ To prevent riskless arbitrage, the bid over that of the first applicant has to incorporate the compensation.