



Domain Name Markets

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Last Revision: March 2005

Abstract

This paper sheds some light on the primary, secondary, and leasing domain name markets: sources of demand and supply, players, institutions, and governance.

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1 INTRODUCTION

A market is not just a location where exchange between buyers and sellers takes place. It includes governing institutions and regulations for its efficient functioning.

Section 2 provides a general overview of markets and exchange mechanisms and their roles and types. Section 3 outlines the sources of demand for domain names. Section 4 takes you through the domain name creation and registration experience. Section 5 details the after-registration markets or secondary and leasing markets. Section 6 highlights the major market rules and regulatory institutions. Appendix A deals with technical issues related to domain name auctions, Appendix B outlines the Consumer Buying Behavior (CBB) model, and Appendix C is a glossary of terms.

2 EXCHANGE MECHANISMS

2.1 Overview

An exchange between buyers and sellers involves six tasks: (1) determining the list of potential buyers (or sellers); (2) finding the best exchange mechanism;¹ (3) finding the best exchange partner; (4) structuring the deal and agreeing on a common price; (5) implementing the agreement, which involves payment, delivery, and possibly designing a customized exchange mechanism; and (6) monitoring performance and service. The “best” exchange partner is not only based on the price, but also trustworthiness, reliability, and the prospects of repeated interactions.

There are two ways to find exchange partners: by locating the marketplace or by locating the exchange partners themselves. Exchange partners can be found in settings analogous to a souk or bazaar; this can be a physical place, like the New York Stock Exchange, or an electronic auction house, such as eBay.

The tasks associated with exchange come with a price tag: (1) the search cost that is associated with finding exchange partners and finding the best exchange; (2) the negotiation cost that is associated with finding the best partner and structuring the deal; (3) the opportunity cost of time and effort that is associated with curbing any opportunistic behavior from partners; (4) the costs that are associated with implementing the agreement; and (5) the cost of monitoring performance.

Negotiations need not be based on “expert” analysis, such as using a game-theoretic or a decision-tree framework, whereby each participant analyzes his or her own and the opponents’ set of possible actions and payoffs. Rather, in a large number of exchanges, or human interactions in general, decisions are based on “pattern recognition.”

An example of this kind of pattern recognition is the typical experience at the Khan el-Khalil souk in Cairo. Here you will be instantly invited to discuss the items on display,

¹ Best mechanism refers to benefits to exchange parties, not from a social allocative efficiency perspective.

confidentially off course, perhaps over a cup of tea. You will always be offered a “special deal,” but there is no reason to believe that it is a “good deal.” The offer is based on what the seller feels to be your budget, experience, and motivation.

With any exchange, one party may walk away with a lion’s share of the benefits of the deal, but both sides will be convinced that they are doing better than they might do dealing with someone else.

In market-based exchanges, an item is sold to the party that is willing to pay the most for it. The decision to pay a high price can be based on an item’s intrinsic value, personal sentimental valuation, or “irrational exuberance.” There is strong evidence that markets can sometimes reflect, and even magnify, collective optimism or pessimism over the value of certain items. However, a market cannot continue to attract participants if only the irrational win, there must be some rational value in the items being sold.

2.2 Classes of Markets

Primary market refers to the creation and sale of new assets, whether financial, stocks and bonds, or intangible, trademarks and domain names. In contrast, *secondary market*² refers to a market in which the ownership of existing assets is exchanged between buyers and sellers.

2.3 Role

The seller is typically uncertain of the value that potential buyers attach to the item being sold, i.e., the maximum price each buyer is willing to pay. Otherwise, the seller could simply offer the item to the buyer with the highest willingness to pay at or just below the price this buyer is willing to pay. Thus, a mechanism is needed to determine price. An exchange is a mechanism to determine the market price of an item at a particular point in time.³

2.4 Types

2.4.1 Haggling

This is an exchange mechanism where only one buyer and one seller bargain, or haggle, to reach an agreed-upon price.

2.4.2 Fixed-price Mechanism

This mechanism allows the seller to set the price, the buy price, at which the item may be purchased at any time while the item is listed for sale on a website. At the buy price, the seller typically commits to selling one unit. But sellers can also specify the number of available units and volume discounts, if any.

² The New York Stock Exchange and Nasdaq are examples of secondary markets.

³ See A. Tajirian (2004), [HAuctions, Haggling, and Fixed Prices: A Survey of Recent Literature](#)H.

A merchant selling his or her own products/services as well as online listing stores such as eBay Stores use this format.⁴

2.4.3 Auctions

2.4.3.1 Historical Background

Auctions have been used for thousands of years to determine the value of a variety of items. They were used circa 500 B.C. to sell wives in ancient Babylon and the Roman emperor's crown in 193 A.D.⁵

The word auction is derived from the Latin *auctus*, which means increasing (incrementing).

To analyze auctions, the auction forms and the valuation environment must be taken into account. See Appendix A as it applies to domain names.

2.4.3.2 Common Auction Forms

Auctions are classified according to the method of the submission of bids, the method used in deciding who the winner is, and the final price paid by the winner.

English Auction.

In an ascending bid auction – which is also called an English auction – bidders in an electronic marketplace enter⁶ ascending prices. Bidding is open for all participants to view. The winner is the highest bidder at the end of the auction period; the winner pays the bid price.

This is the most common type of auction; 121 of the 142 Internet auction sites surveyed in 1998 used this format.

Dutch Auction.

This is the descending price counterpart of the English auction. The auctioneer calls out descending prices from the opening price that is set high enough that no bid is expected. The price is lowered until a bid is made. The first bidder wins the auction and pays the bid price.

First-price Sealed Bid Auction.

Under the sealed-bid auction, each interested buyer submits a bid without knowing who else is bidding or how much. The winner is the highest bidder and the item is sold at the highest bid price.

⁴ [Hhttp://pages.ebay.com/storefronts/seller-landing.html](http://pages.ebay.com/storefronts/seller-landing.html)H.

⁵ R. Cassady (1967), *Auctions and Auctioneering*, University of California Press, Berkeley, CA.

⁶ In physical auction formats, an auctioneer “calls” prices.

Second-price Sealed Bid Auction (also known as Vickery auction).

This is a slight variation over the first-price sealed bid, whereby the price paid by the winner (with the highest bid) is that of the second-highest bid.

2.4.4 Hybrid Auctions.

This option allows sellers on auction sites to offer a hybrid of an auction format and a fixed-price format to create a new pricing structure.

eBay introduced its posted price format⁷ in 2000 under the name “Buy-it-Now” auction. It was adopted by 45% of eBay’s U.S. auctions in its first year and accounts for 29% of gross merchandise sales in 2003.

On eBay, this option commits the seller to sell the item immediately to any buyer who accepts the posted price and thus ends the auction early. When the “Buy-it-Now” option is exercised, the listing is automatically removed.⁸

eBay requires that sellers select the price only at the opening of an auction - before any bids are submitted.

3 DEMAND FOR DOMAIN NAMES

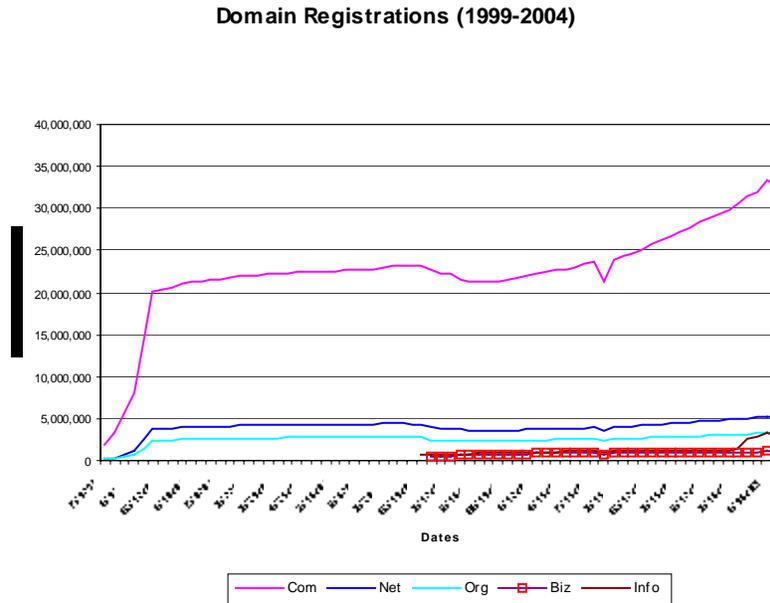
3.1 Registration Trends

As of January 2005, there were more than 65 million domain names registered worldwide.

⁷ Yahoo, which introduced this option earlier, refers to it as “Buy Now” and, unlike eBay, allows it to be added even after bidding starts.

⁸ In the Yahoo version, this option remains in effect throughout the auction.

Figure 1. Historical gTLD Registrations



The most popular domain name extension is .com, which accounts for 47 percent of all domain name registrations, followed as a group by ccTLDs (37 percent), .net (8 percent) and the alternate gTLDs, such as .org, .biz, .info and .name (9 percent, collectively). However, .net represents 58 percent of worldwide hosts and 30 percent of the world’s nameservers.⁹

Table 1 The geographical distribution of registrations under new unsponsored gTLDs (December 2003).

	Total	%	info	biz	name
United States	1006570	44.06	433772	509958	62840
Germany	349571	15.30	256822	89832	2917
United Kingdom	142419	6.23	111753	19716	10950
Netherlands	63358	2.77	44464	18223	671
France	50677	2.22	26733	22768	1176
Canada	58671	2.57	26338	27664	4669
Switzerland	43787	1.92	25294	15399	3094
Italy	45298	1.98	23534	19505	2259
Australia	54066	2.37	22071	27047	5948
Austria	30727	1.35	21920	8257	550
Spain	36587	1.60	19481	14722	2384
Japan	33196	1.45	18452	11322	3422
Sweden	31171	1.36	17461	13092	618

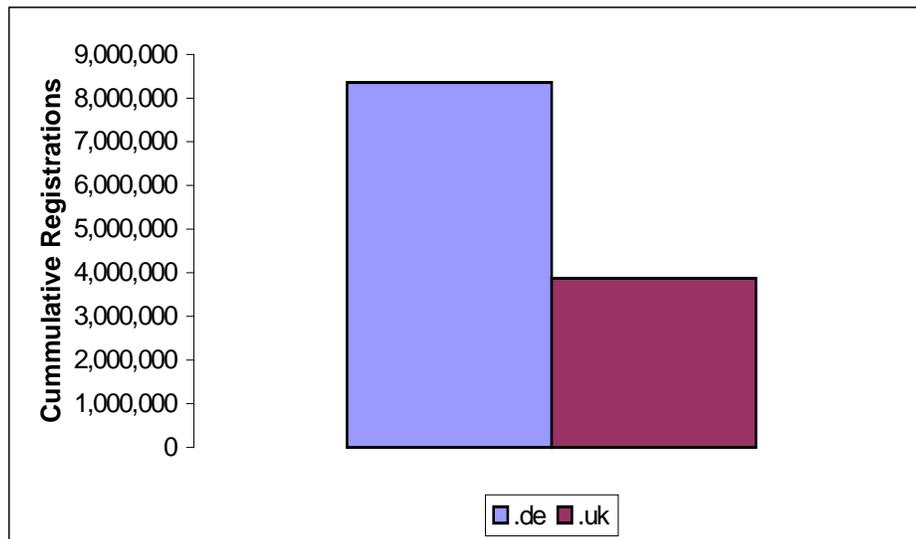
⁹ VeriSign, “There’s more to .net than meets the eye,” available at <http://www.verisign.com/stellent/groups/public/documents/presentations/022109.pdf>.

Korea	42464	1.86	13846	25995	2623
Denmark	16767	0.73	8439	6887	1441
Norway	14322	0.63	7424	6308	590
Belgium	10715	0.47	5831	4570	314
Czech Republic	6675	0.29	4786	1814	75
Finland	6492	0.28	4346	1896	250
Poland	5813	0.25	3606	2124	83
Turkey	5834	0.26	2862	2840	132
Ireland	5071	0.22	2625	2180	266
New Zealand	6412	0.28	2602	3580	230
Greece	3431	0.15	2253	1102	76
Mexico	3997	0.17	1820	1914	263
Hungary	1454	0.06	1112	322	20
Portugal	2028	0.09	966	981	81
Slovak Republic	1035	0.05	642	386	7
Luxembourg	1000	0.04	466	466	68
Iceland	249	0.01	119	117	13
OECD Total	2079857	91.05	1111840	860987	107030
Non OECD countries Total	204567	8.95	52296	143131	9140
Total	2284424	100.00	1164136	1004118	116170

Source: Organisation for Economic Co-operation and Development (OECD), based on Registry Monthly Reports

The cross-sectional information in Table 1 reveals an interesting clustering of registrations, where by Europe seems to favor .info over .biz. This preference has pushed .info registrations to surpass.org in January 2005.¹⁰

Figure 2. Total registrations under the two major ccTLDs (January 2005)



Source: denic.de and nominet.org.uk

¹⁰ Registration data source is ZookNIC, available at <http://zooknic.com/Domains/counts.html>.

3.2 Sources of Demand

The major reasons for owning domain names are discussed below. These sources of demand are not necessarily mutually exclusive.

3.2.1 Establish And Protect Brand Names And Trademarks

Brand names aggregate consumers' perception of a company's products and services. Thus, the accuracy of this perception has a profound impact on a company's shareholder value.

A company's primary domain name is part of its identity and thus, needs to be protected to avoid customer confusion and strengthen brand awareness.

3.2.2 Investment For Resale

Investors who want to resell domain names invest in two kinds of names. (1) Domain names made up of terms from popular generic keyword searches. For example, "web hosting" becomes webhosting.com. (2) Domain names using the trademark of a third party. This practice is called cybersquatting.

The main attraction to generic domain names is that they can act as traffic magnets by providing favorable search engine result-rankings.¹¹ On the other hand, third-party trademark-related domain names are registered in the hope of selling them back to the trademark owners at a considerable profit. Some investors have had over 600,000 domain names for resale.¹²

Although not all intellectual property violations are a result of malice, a number of organizations have discovered that domain-name violations can be a lucrative business. In addition to registering domain names of established companies, cybersquatters have registered other companies' trademarks with typos (wellzfargo.com for wells Fargo.com) and with a www prefixes (wwwyahoo.com for www.yahoo.com) to capture traffic when Internet users do not enter "." after www in their browser.

This class of registrations has extended from large companies to well-known individuals such as actors, actresses, prominent politicians, and writers.

3.2.3 Signal Country Presence

Companies must not only protect their brand names and trademarks through the dot-com extension, but must also register them under country-code extensions (ccTLDs), such as

¹¹ For more information of search engine placement and domain names, see A. Tajirian, *Domain Names and Google Search Engine Ranking*, available at <http://domainmart.com/news/opinion-keywords_Google_search.htm>.

¹² For a list of the largest domain name holders see Zook's research at http://www.zooknic.com/Domains/top_holders.html.

.uk for United Kingdom and .jp for Japan. These domain names are a company's primary domain name, brand names, and trademarks with ccTLD extensions.

These extensions signal to customers that the company is doing business within the country of the domain name extension, which is an especially important signal in a country that allows only entities with business presence to register under their extension.

In an effort to compete against the gTLDs a number of countries are relaxing registration requirements. For instance, France, in May 2004, AFNIC (the registry in charge of .fr) dropped the residency requirements.¹³

Some ccTLDs are being marketed to a particular group of Internet users instead of their geographic scope. For example, .tm is being marketed as trademark-related and .tv for television related markets.

3.2.4 Use As Doorway

Secondary domain names can be used as a doorway to specific pages of a company's Website so as to increase traffic and direct visitors to pages relevant to online keyword searches.¹⁴ These are composed of generic keywords that are not trademarkable.

3.2.5 Use Generic Domains Names As Brand Identifier

Some companies use a domain name with generic keywords related to their major product offering as their primary domain. Although their branding merits are not clear, as noted above, these domain names receive favorable rankings on search engine results.¹⁵

3.2.6 Generate Traffic Revenue

The traffic revenue business model focuses on domain names that generate clicks. This is achieved by placing advertiser links on a Web page. Every time a visitor clicks on any of the links the advertiser pays the link manager a fee, i.e., pay-per-click (PPC), that ranges from a few cents to over fifteen dollars. A considerable portion of these domain names was grabbed after their previous owners failed to renew them.¹⁶ Traffic to such domain names comes from commercial Websites that fail to update external links, users entering the domain name in their browsers, or search engine result-links.

Two groups of traffic-revenue domain owners have emerged: (a) individuals parking their domain names with a traffic aggregator that hosts them, manages advertiser links, and pays a commission to the owners; and (b) business entities that register and manage their own portfolio of traffic domain names. Traffic aggregators are either independent third-party agents such as DomainMart, or registrars placing links on "under

¹³ AFNIC, "Liberalization of .fr and .re domain name registrations from 11th May 2004," January 7, 2004, available at [Hhttp://www.afnic.fr/actu/nouvelles/nommage/CP20040120H](http://www.afnic.fr/actu/nouvelles/nommage/CP20040120H).

¹⁴ See footnote 11.

¹⁵ See the reference in footnote 11 for more details.

¹⁶ According to "The VeriSign Domain Name Registrant Profile - June 2004," of the 12 million names that don't get renewed in a given year, approximately 20% are registered by other users within six months.

construction” pages.¹⁷ However, not all registrars share click revenue with domain owners.

Traffic-revenue domain name functionality and link management have evolved. Initially Web pages were forwarded to porn or gambling sites, which in turn pay the traffic aggregators for each customer that originates from the redirected URL. The second generation represented standardized portal-type result-links with Internet search ability. Currently, links are customized based on the keyword composition of the domain name and page content.

Jupiter Research estimates that the PPC advertising market will grow from \$2.6 billion in 2004 to \$5.5 billion in 2009.¹⁸

3.2.7 Other

Unofficial Fan Clubs – People have registered the names of their heroes, teams, etc. At times this has created conflict with the owners of the intellectual property associated with the names.

Disgruntled people – These domain names involve disgruntled people who have chosen to use well-known names to spread negative publicity about a company.

Deliberate attempt to mislead – For example a racist group registered hatewarch.com to misrepresent the watch group, an anti-racist group, whose domain name is hatewatch.org. Ringling Brothers, a well-known circus, found an animal welfare group, PETA, was using ringlingbrothers.com. Interestingly, PETA had earlier found that peta.org had been taken by an avowed carnivore to promote his belief that eating meat was good.

Telephone numbers – Some companies have registered domain names reflecting their toll-free telephone number. However, the lack of a standard format has limited their demand. For example, 1800flowers.com has also registered 1-800-flowers.com to protect their brand name. To overcome this limitation, some companies have proposed .tel as a new TLD.

¹⁷ ICANN requires that a domain name has at least one active Web page. Thus, with every new registration, registrars create an “under construction” page that is automatically displayed when a user visits the domain name.

¹⁸ See “Paid Search Growth May Slow,” Wired News, available at <http://www.wired.com/news/business/0,1367,64515,00.html>.

4 THE PRIMARY MARKET: DOMAIN NAME REGISTRATIONS

4.1 Role

Registration represents the creation of a new domain name, an intangible asset, by an individual or an organization. Thus, it represents a primary market transaction, whereby the registrant acquires the rights to and of a domain name. Hence, registration is sometimes referred to as buying a domain name.

To avoid confusion, we use buy to mean a transfer of ownership in the secondary market.

4.2 Process

The process of registering a domain name depends on whether the domain name's top-level extension exists, such as .com, or it is being newly launched, such as the recently introduced .biz and .info extensions.¹⁹

4.2.1 Registration under existing extensions²⁰

The registering entity places a request to register a specific domain name through an intermediary, a registrar, or, yet another intermediary, a reseller.²¹ To maintain order in the registration process and ensure integrity of record keeping, registrars create and list these domain names with a central registry. The resulting searchable database of registration information is called Whois.

Domain names are registered for a specific time period, typically between 1 and 10 years,²² and can be renewed at any time for a maximum of 10 years. If the registrant or the administrative contact does not renew a domain name, it expires.

The two most important characteristics of the process are: (1) domain name ownership-allocation is based on a first-come-first-served basis and (2) neither the registry nor the registrar is responsible for any trademark-related issues.²³

¹⁹ For an analytical review of the reforms introduced and resource allocation procedures available to ICANN, see S. Paltridge and M. Matsui, "Generic Top Level Domain Names: Market Development And Allocation Issues," OECD, available at [Hhttp://www.oecd.org/dataoecd/56/34/32996948.pdf](http://www.oecd.org/dataoecd/56/34/32996948.pdf)H.

²⁰ According to Hobbes' Internet Timeline ([Hhttp://www.zakon.org/robert/internet/timeline/H](http://www.zakon.org/robert/internet/timeline/H)), the first domain name registered was sympolics.com (March 15, 1985). Other firsts in 1985: cmu.edu, purdue.edu, rice.edu, Berkeley.edu, ucla.edu, Rutgers.edu, bbn.com (April 24); mit.edu (May 23); think.com (May 24); css.gov (June); and mitre.org, .uk (July).

²¹ As of November 2004, there were over 1,000 registrars and 10,000 resellers worldwide. See "The VeriSign Channel Report," November 2004, available at [Hhttp://www.verisign.com/stellent/groups/public/documents/newsletter/019478.pdf](http://www.verisign.com/stellent/groups/public/documents/newsletter/019478.pdf)H.

²² NSI has a 100-year registration service. It is essentially a promise to renew a domain name 10 times for 10 years each. The viability of the service is not yet clear.

²³ For domain name rules, see

[Hhttp://domainmart.com/DomainNames/information/Global_Registration/rules.htm](http://domainmart.com/DomainNames/information/Global_Registration/rules.htm)H.

4.2.2 Registration under new extensions

When the recently ICANN-approved extensions were launched, the registry attempted to curb trademark infringements by preventing the public from registering ahead of mark owners. Establishing a sunrise period²⁴ gave trademark holders the option to pre-register their marks under these extensions.

The registry charged a fixed price for each domain name that was awarded randomly to a pre-registered applicant. Such an allocation mechanism put a damper on registry profits, resulted in misallocated domain names, and provided a boost to the secondary market. Using auctions to allocate domain names, the registry would have made more money and the registered domain names would have been owned by an entity that valued them most.

4.3 CBB and Domain Name Registrations

The CBB model, outlined in Appendix B, is used to describe the domain name registration experience.

4.3.1 Need Identification

The need to own domain names are discussed in Section 3. In this section I outline how companies identify the need.

A large number of brick-and-mortar companies were late in identifying the need to protect their brands, allowing cybersquatters to take advantage. Moreover, unlike domain name entrepreneurs, established businesses were also late in recognizing the importance of doorway and keyword domain names to their marketing strategy.

Currently, the majority of registrars and resellers notify their clients and potential new customers when new domain names are to be launched and stress the importance of protecting their brands through ccTLD registrations.

4.3.2 Product Brokering

At this stage, the business entity needs to answer the following questions:²⁵

- Which domain names and extensions to register?
- If their first choice is registered by a third-party, should they select alternative names, acquire the already registered names, or wait for the desired names to expire?
- What additional support products and services are needed to enhance shareholder value?

²⁴ An alternative proposed mechanism to protect trademark holders is to use an auction with initial price set high enough to discourage speculators.

²⁵ For more information on corporate domain name strategies and tactics, see [Hhttp://domainmart.com/DomainNames/protect/CDM_enter.htm](http://domainmart.com/DomainNames/protect/CDM_enter.htm)H.

4.3.3 Merchant Brokering

4.3.3.1 Overview

In choosing the best merchant, the variables to consider are price, bundle of services offered with registration, their portfolio of complementary services, and any existing relationships with a registrar or broker.

It should be noted that consolidating domain names with one registrar increases management efficiency and decreases renewal relapses that may result in losing domain ownership. Thus, when choosing a broker-agent, companies with a large number of domains should focus on those with a positive track record in offering domain name management and protection services.

4.3.3.2 Price Trends in the Primary Market

Domain name registrations were free until September 1995 when the U.S. National Science Foundation (NSF) authorized Network Solutions (NSI) to begin charging \$100 US for a two-year registration for the then only three available gTLDs (.com, .net, and .org). The annual renewal and maintenance fee was set at \$50 US. NSF required that NSI pay a 30% tax on the revenue collected through domain registration (\$15 US per year per registration) to be put into an interest-bearing fund for future enhancements to the Internet “intellectual infrastructure.”

In April 1998, NSF ended the “tax” requirements, which in effect reduced the cost of annual registration and renewal to \$35 US. The next price reduction came on January 15, 2000, when NSI required registrars to pay a non-refundable amount of \$6 US for each registration and renewal.²⁶

The new price structure created the first competitive market in domain name registration, which not only reduced registration cost, but also led to bundling of services.

Table 2. gTLD Registration Fees (November 2004)

Registrar	Registration (years)			URL	E-mail	Whois
	1	5	10	Forwarding	Forwarding	LOCK
Network Solutions	35	20	10	NA	NA	Free
Dotster.com	15	13.6	13	5/yr	10/yr	10/yr
1and1.com	6	6	6	Free	Free	NA

For information on service providers, see AboutDomains.com.

²⁶ ICANN, <<http://www.icann.org/nsi/nsi-rla-04nov99.htm>>.

4.3.4 Negotiations

This stage is more relevant to entities registering a considerable number of domain names and needing domain management and protection services.

4.3.5 Purchase and Delivery

Registrations under existing gTLD extensions are typically instantaneous. However, there might be a delay in receiving registration confirmations for certain ccTLDs.

Allocation mechanisms under newly launched extensions typically include pre-registration services with a sunrise period. Trademark disputes during this period may be resolved through ICANN's UDRP. For generic names, delivery of pre-registered domain names is not guaranteed, as the registrar randomly allocates them.

4.3.6 Service and Evaluation

- Registrars and resellers provide domain name owners and their designated contacts a mechanism to change Whois information. To prevent unauthorized modification of the information, some registrars give an owner the option to lock the information.²⁷
- Although ICANN requires that contact information for a domain owner to be listed in the Whois database, some registrars offer an optional service that allows an owner to make contact information private.
- Registrars and resellers typically send renewal notification-emails to their clients prior to the expiration date.
- Services such as email-, URL-forwarding, and web-creation tools can be added at a later date through any Internet Service Provider (ISP).
- Users who are not satisfied with the service or need to consolidate their domain names can switch registrars.²⁸

5 AFTER-REGISTRATION MARKETS

The two major domain name after-markets are the secondary market, where ownership is exchanged, and leasing markets.

As noted earlier, a robust secondary market and a flourishing leasing market can be attributed to: an inefficient domain name allocation process, the laggard realization by many businesses of the role that domain names play in protecting and enhancing

²⁷ For information on anti-hijacking measures, see [Hhttp://domainmart.com/DomainNames/protect/hijacking.htm](http://domainmart.com/DomainNames/protect/hijacking.htm)H.

²⁸ For a summary of the registrar transfer process, see [Hhttp://domainmart.com/DomainNames/information/RegistrarTransfer.pdf](http://domainmart.com/DomainNames/information/RegistrarTransfer.pdf)H.

shareholder value, and the wild-wild-west stampede of the 1996-98 domain land-rush speculators.

5.1 Overview

5.1.1 The Secondary Market

5.1.1.1 Overview

All ownership transfers, except through backorders,²⁹ require the explicit approval³⁰ of the domain name authorized contact, or the owner. Hijacking of domain name ownership has been relatively rare.

Three types of domain name exchanges co-exist: public, private, and mixed. An exchange can be brokered through private (such as Wanted and Private Placement services) or public listing (such as catalog listings and auctions), or negotiated directly between buyers and sellers. In backorder auctions, some sites make the listings public, but restrict bidding to customers with backorder-requests submitted prior to the expiration date.

5.1.1.2 Market Prices

There is statistical evidence that domain name prices are on the rise.³¹ Table 3 is a list of the highest paid prices for domain names.

Some the factors³² that positively influence value include: search volume for the keyword-combination³³ implicit in a domain name; with .com extension being King;³⁴ no hyphen; and no numbers. We find that the length of the domain name is practically irrelevant.³⁵

²⁹ There are some legal issues with this practice, which has prompted some registrars not to provide such services. For information on backordering, see [Hhttp://domainmart.com/DomainNames/agent/expired-methods.htm](http://domainmart.com/DomainNames/agent/expired-methods.htm)H.

³⁰For more details on the ownership transfer process, see [Hhttp://domainmart.com/DomainNames/information/RegistrarTransfer.pdf](http://domainmart.com/DomainNames/information/RegistrarTransfer.pdf)H.

³¹ See A. Tajirian, “Statistical Analysis Confirms Upward Trend in Domain Name Prices,” (January 2004), available at [Hhttp://domainmart.com/DomainNames/agent/appraisal/opinion_upward-trend.htm](http://domainmart.com/DomainNames/agent/appraisal/opinion_upward-trend.htm)H.

³² Statistical analysis is the only technique to obtain a meaningful estimate of the influence of each factor. See A Tajirian, “Valuing Domain Names: Market Approach Methodology,” available at [Hhttp://domainmart.com/DomainNames/agent/appraisal/methodology.htm](http://domainmart.com/DomainNames/agent/appraisal/methodology.htm)H.

³³ Consider SexyDomain.com, for example. One gets 7,000 results for “sexy domain” search on Google. However, a naïve search without the quotes (“) yields 1.7 million results for the same keywords.

³⁴ See A. Tajirian, “Dot-com Is King with No Adult Effect,” available at [Hhttp://domainmart.com/DomainNames/agent/appraisal/opinion_dot-com-is-king.htm](http://domainmart.com/DomainNames/agent/appraisal/opinion_dot-com-is-king.htm)H.

³⁵ See A. Tajirian, “Length of Domain Name Is Irrelevant!” (July 2003), available at [Hhttp://domainmart.com/DomainNames/agent/appraisal/lenght-irrelevant.htm](http://domainmart.com/DomainNames/agent/appraisal/lenght-irrelevant.htm)H.

Table 3. Highest Reported Prices Paid

Name	Date	Price
Business.com	11/99	\$7,500,000
AltaVista.com	7/99	\$3,250,000
Loans.com	1/00	\$3,000,000
Wines.com	9/99	\$3,000,000
Autos.com	12/99	\$2,200,000
Express.com	12/99	\$2,000,000
Men.com	12/03	\$1,300,000
WallStreet.com	4/99	\$1,030,000
eFlowers.com	2/99	\$1,000,000
ForSaleByOwner.com	1/00	\$835,000
Drugs.com	8/99	\$823,456
Cinema.com	2/00	\$700,000
Source: DomainMart		

5.1.2 Leasing & Parking Markets

Leasing services can be grouped into two classes depending on the number of advertisers associated with the domain. The first has all domain name visitors transparently transferred to content provided by a single advertiser. While under the second class, visitors see a page with a menu of advertisers maintained by a traffic aggregator. As noted in Section 3.2.6, the aggregator manages the domain name hosting, advertiser links, and pays a portion of the commission generated by the links to the owner. The service provided by the aggregator is called parking. That is, an owner leases her domain name to a traffic aggregator.

The amount of revenue from parked domain names depends on the number of visitors, their quality as measured by their length of stay and the number of clicks, the pay-per-click commission,³⁶ and the percent of click commission retained by the traffic aggregator. For a single-advertiser, the lease rate depends primarily on the value of the domain name and the length of the lease.

³⁶ Pay-per-click rates on search engines vary from \$.05 to over \$15.

5.1.3 Lease or Sell?

A domain name owner might have a choice among leasing, selling, or entering into a lease-with-an-option-to-buy agreement. In such a situation, the owner selects the option with the highest Net Present Value (NPV).³⁷

Leasing not only generates periodic income to the owner as traffic from search engines, but can also boost the value of the domain name. However, some aggregators forward the domain name to a page within their Website instead of creating Web pages on the leased domain name. The latter practice is less likely to establish search engine result-links.

5.2 The CBB in The Secondary Market

5.2.1 Need Identification

Intellectual property managers know that not owning a domain name associated with their company's brand name leads to customer confusion and brand dilution, which manifests itself in loss of shareholder value. Moreover, to increase Website traffic, marketing executives have come to realize the need to use doorway and keyword domain names as an integral part of their strategy.

Individual owners need to consider inheritance protection measures.³⁸

5.2.2 Product Brokering

At this stage, to meet its need, a business entity must decide whether to register a new, buy an existing, or lease the identified domain name.

The four necessary components of a secondary market transaction are outlined below, followed by the various exchange mechanisms available to buyers and sellers.

5.2.2.1 Components

There are four necessary components for a successful exchange. The first is determining the domain name's market value; the second is deciding on the minimum (maximum) price the seller (buyer) is willing to accept (offer); the third is choosing the best venue; and the fourth is transferring ownership and escrow.

³⁷ For elements of NPV valuation, see A. Tajirian, *Lecture Notes: Capital Budgeting Process*, available at <<http://www.morevalue.com/i-reader/ftp/Ch9.PDFH>>.

³⁸ For more information on inheritance protection services, see <http://domainmart.com/protect/DomainNameInheritancePlanning.htm>.

Component 1: Determining Market Value

First, buyers and sellers need to determine the market value of the domain name. In this, professional appraisal should be seriously considered.³⁹

Component 2: Determining Private Value

As a seller (buyer) you need to determine the minimum (maximum) price at which you are willing to sell (buy). Your personal valuation of a domain name depends on its current market value and your expectation of future price trends.

Just as in the stock market, there are two schools of thought on market values. Some investors believe that markets are efficient and that prices reflect true value at a given point in time, while others believe that they can outperform the market by either selecting stocks or timing peaks and troughs. However, domain markets are not as efficient or as liquid as stock markets, and thus negotiation skills and acquisition urgency play a significant role in determining value at any given point in time.

Component 3: Exchange Options

The various options available to buyers are discussed in Section 5.2.2.2 and the options to sellers in Section 5.2.2.3 below.

Component 4: Escrow & Transfer

Escrow and transfer services solve the last hurdle that most buyers and sellers face. A domain name buyer wants to make sure that domain name ownership is properly transferred before paying the owner, while the owner wants to make sure that the money is promptly received before ownership is transferred.

5.2.2.2 Buyer Options

There are five ways to purchase a domain name that is already registered. To simplify the selection, first clarify to yourself exactly how much you want the Internet domain name. Below is a table to assist you with the selection process.

Brokering and negotiation mechanisms depend on the degree of need for the domain name. We classify them as: must have, want to have, and nice to have.

How Much Do You Want It?	Options
Must Have	Direct Contact, Search Listing Sites, Recovery
Want to Have	As above and Wanted
Nice to Have	Register Expired

³⁹ For a review of appraisal services, see [Hhttp://aboutdomains.com/ServiceProviders/appraisal_list.htm](http://aboutdomains.com/ServiceProviders/appraisal_list.htm)H.

5.2.2.2.1 Direct Contact

This method involves communicating with the administrative contact of the domain name, which can be obtained by performing a Whois search.

You will be able to reach the administrative contact by either retaining a broker/agent such as DomainMart or acting on your own behalf. This decision depends on three variables:

- (a) your negotiation skill;
- (b) your comfort level in communicating in the language of the seller, if the administrative contact is a non-English speaker; and
- (c) your knowledge about the market value of the domain name and its value to you.

There are a number of limitations to this option, including:

- a. The Whois information might be invalid.
- b. The administrative contact need not be responsible for dealing with sale issues.
- c. The administrative contact might consider the buyer's email as spam, which might end up with your email being blocked by anti-spam databases.
- d. A number of registrars are providing owners with the option not to make Whois details public.
- e. For country-code domains (ccTLDs), the information is harder to find, as each country maintains its own Whois with its own information requirements.
- f. Potential language barriers if ownership is not by a domestic entity.

5.2.2.2.2 Search Listing Sites

The dominant business model is that of listing sites which act as agents for owners and derive income from fees charged to sellers and/or buyers. Few merchant sites offer their own domain names for sale.

The dominance of this model is to a large extent driven by network effects, whereby the more buyers visit a Website, the more sellers list, and the more sellers list, the more buyers visit.

All the sites with catalog listings have developed their own proprietary listings and exchange mechanisms. However, DomainMart uses eBay for its ascending auctions, therefore, increasing the visibility of listed domains, as the number of listing sites increases.

Despite network effects, there has not emerged a single dominant standard selling procedure or a single dominant listing site. AboutDomains.com has simplified the cumbersome process of buyers having to search each site individually, by listing domains with asking prices of at least \$1,500 from the four major sites and eBay listings with at least one bid.

Listing, except on auction sites, does not necessarily give the site/broker an exclusive right to sell the domain name.

5.2.2.2.3 Wanted

Wanted listings can be either through private or public listing with a broker.

For example, the public listing at DomainMart:

- Does not publicize the exact name. Instead, relevant characteristics such as business category, words that it must contain, top-level extension, and maximum bid are made public.
- When a seller meets a buyer's criteria, both the seller and buyer are contacted without necessarily revealing the buyer's identity.
- Wanted customers are matched with either private placement (see Section 5.2.2.3.5) listings or with responders to the Wanted listings. Consider recovery services (see Section 5.2.2.2.4) for a more active engagement of a broker to secure desired names.

Here are some reasons for a buyer to choose the Wanted option over Direct Contact:

- (a) The buyer does not want to reveal strong interest to the seller for fear of adverse asking price.
- (b) The buyer is not interested in a specific domain name, but has a list of close substitutes.
- (c) The buyer has no urgency to acquire the domain name.
- (d) Reduced transaction costs, especially when large number of domains are involved.

However, one of the current limitations of this approach is that there is no single dominant Wanted-listing site.

It should be noted that the main difference between the Wanted listing and recovery services is that the latter is an aggressive effort to secure a domain name. With the Wanted-listing, the broker matches the Wanted listing with domain names listed through private placement.

5.2.2.2.4 Recovery Through A Broker

Under this option, a broker would contact the owner, negotiate a price, handle escrow, and transfer the domain name to the buyer.

A broker can have an advantage over the buyer in recovery, as the broker has negotiating experience and might have already established a business relationship with the owner. However, it is imperative that a reputable broker is selected to avoid collusion with the owner.

5.2.2.2.5 Register Expired⁴⁰

Register expired, or backorder, is a service that attempts to register an expired domain name on behalf of an entity before someone else grabs it. Over 750,000 domains expire every month!

It should be noted that not all expired domain names can be backordered, as the registrant might renew them before being deleted by the registrars. They might also be on HOLD status pending a settlement of a trademark dispute.

Five backorder models targeting different stages of the domain name expiration cycle are currently in play, each of which has its own strengths and weaknesses. Three of them are more likely to survive in the medium-term. However, in the long-term, it is very likely that one of these models will dominate the market. The dominant model that does emerge will depend upon the success of coordination efforts between registrars, fee structure, and customer awareness of such services.

Thus, to increase the chances of acquiring an expired domain name, we recommend subscribing to multiple complimentary services simultaneously, or to the one-stop integrated model developed by DomainMart.

Remember, this approach is practical only if you feel it would be “nice” to have a given domain name. From an owner’s perspective, the domain name is left to expire because:

- (a) the owner does not think it is worth the annual renewal fee of \$6-\$35;
- (b) the owner was not aware of the expiration date because the administrative contact e-mail is not active, though most registrars and service providers send e-mail notifications; or
- (c) the owner wants to use the domain name either as a doorway to their main site or as a porn site if the domain had a reasonable traffic referral from links-in (other Websites or search engines) and misspelled direct entry into browser.

⁴⁰ For a description of the backordering process, see [Hhttp://domainmart.com/DomainNames/agent/expired-methods.htm](http://domainmart.com/DomainNames/agent/expired-methods.htm)H.

If a domain name is worth considerable money, there will be a lot of people interested in acquiring it. In that case, the chances of securing the domain name will be very small, so you, as a buyer, should try to acquire it through one of the other options discussed above.

Some owners signal the availability of the domain name for sale by including “For Sale” in the address information.

This service has not only created new intermediary services, but also created some registration stickiness, as registrars have been able to generate at least one more year of registration revenue, especially the registrars charging premium fees.

5.2.2.3 Selling Venues

5.2.2.3.1 Auction Listing

One drawback of auctions is that their success requires that buyers are aware of an on going auction. This requirement would not be a problem for standardized items. However, it might not be a realistic requisite for selling brand name, trademark-related, and domain names with moderate and high price tags. Thus, the success of this mechanism requires a considerable marketing campaign to make potential buyers aware of the auction. For non-standard items successfully auctioned online, bidders rely on the reputation of the seller for authentication and a detailed description of the product. For domain names, however, there is no need to inspect the merchandize as it is self-descriptive, unless it has established traffic, or if there are any associated trademarks. Moreover, the major exchanges provide escrow to reduce risk to buyer and seller.

One of the main appealing features of an auction is the immediacy of the sale, even though it may be achieved at depressed prices.⁴¹

One of the major limitations of an auction is asynchronicity of demand and supply, i.e., situations in which there is no one interested in buying your domain name when you are ready to sell it.⁴² This problem can be overcome through customized auctions and direct contact, if designed with longer listing time.

Despite the popularity of online auctions, they have not been a popular domain name exchange mechanism.

⁴¹ For auction strategies, see [Hhttp://domainmart.com/information/auction/auction_strategies.htm](http://domainmart.com/information/auction/auction_strategies.htm)H.

⁴² This problem is discussed in more detail at [Hhttp://domainmart.com/DomainNames/agent/appraisal/opinion_auction-misleading.htm](http://domainmart.com/DomainNames/agent/appraisal/opinion_auction-misleading.htm)H.

5.2.2.3.2 Customized Marketing & Sale

The service focuses on high profile and targeted market segmentation:

- Develop a detailed marketing strategy
- Conduct a trademark search
- Contact directly potential buyers
- Determine the best venue to sell: auction v. direct negotiation. Note that for the auction venue, prior marketing effort reduces the asynchronicity of demand, as noted in Section 5.2.2.3.1.
- If an auction venue is selected:
 - Administer an auction through eBay, if needed
 - Publicize the auction
- Transfer domain name ownership to the buyer/auction winner
- Transfer sale proceeds, less our fees, to you

5.2.2.3.3 Catalog of Listings For Sale

The main advantage of catalog listing is its clear signal to potential buyers that an owner is interested in selling a domain name, but doesn't have an immediate need to sell.

A limitation is that sellers may need to list their domain names with a number of major brokers, as there is no dominant listing yet. Another limitation occurs when a seller does not want to reveal the domain name being sold. If the latter is your situation, consider Private Placement as discussed next.

All major listing sites use an online catalog format. However, specifying a minimum bid and an ask price are optional. Although a stated ask price might suggest a Buy-it-Now exchange mechanism, interested buyers either make an offer to the owner through the listing site, or contact them directly. An offer through the listing site may prompt the owner to lower the ask price.

5.2.2.3.4 Direct Contact with Potential Buyers

With this option, potential buyers are contacted directly. Considerable time and effort are involved in compiling a list of potential buyers and their contacts. (Sellers need to be careful when trademarks are involved.)

5.2.2.3.5 Private Placement

When an owner lists on an active Website or an auction, the owner must reveal the full domain name to the public. Yet the owner does not want to alert current customers of the intended sale and risk a decrease in business. This option eliminates the need to regularly check Wanted and other listings and thus, reduces search costs.

5.2.3 Merchant Brokering

5.2.3.1 Major Sites

At this stage, the company must first decide between retaining a broker-agent and negotiating directly with the owner of the desired name.

Even if the buying entity decides to negotiate directly with the owner, it is recommended to engage a broker-agent for appraisal, escrow, and transfer services.

Below are the major domain broker-agents and their after-market services.

Table 4: After-market Service Providers

Services	Service Providers				
	AfterNIC	DomainMart	eBay	Great Domains	Sedo
Secondary Market					
Auction (ascending)	Proprietary	Through eBay	Yes	No	No
Catalog (haggling)	Yes	Yes	No	Yes	Yes
Appraisal & Escrow	Yes	Yes	No	Yes	Yes
Leasing (one advertiser)	No	Yes	No	No	No
Parking	Yes	Yes	No	No	Yes

5.2.3.2 Auction Features

With the exception of DomainMart and eBay, the start dates of auction-listed names are not fixed. In the case of AfterNIC, an auction would commence only if the ask price is met.

5.2.3.3 Catalog Listing

Haggling is the exchange mechanism for catalog listings at AfterNIC, GreatDomains, Sedo, and DomainMart. However, at AfterNIC, when a buyer submits a bid equal to the ask price, an auction is initiated.

GreatDomains restrict their listings to domain names with a minimum ask price of \$5,000, specific extensions (.com, .net, .tv, .org, .us, .biz, .info, and .cc only), and don't include hyphens.

5.2.3.4 Fees

Table 5 After-market Fee Structure

Site	Listing Fee	Sale Commission ⁴³	Other
AfterNIC	Free	10%, \$60 minimum paid by seller	Membership fee: <ul style="list-style-type: none"> • \$1/yr for buyer • \$9/yr for seller
DomainMart	Free	12% for custom sales & marketing	
eBay	Varies with the size of the minimum bid	Sellers pay 5% of the first 25, 2.5% of additional amount up to \$1,000, and 1.25% of any additional amount over \$1,000	Buy-it-Now: Sellers pay five cents ⁴⁴ for using the option (except for the auto category)
GreatDomains	Free	10% deducted from final sale price	
Sedo	Free	10%, minimum of \$50-\$150 depending on the extension	

5.2.4 Negotiations

If you decide to buy (sell) without the assistance of a broker-agent, you need to negotiate the price, ownership transfer procedure, and payment method with the seller (buyer). Most domain escrow agents require payment via a bank wire-transfer, a cashier’s check, or international money order. Other methods of payment, including credit cards, expose the agent to additional risk.

5.2.5 Purchase & Delivery

- Registrant transfers through the same registrar takes one to two days. Registrar transfers take two to five business days on average.
- Standard appraisals take one to three days.
- Transfers and escrow can take two days to a few weeks, depending largely on the response time of the parties at various stages of the process.

⁴³ For an offline comparison, Sotheby charges the buyer and seller 15% and 20% of the final price respectively.

⁴⁴ Wang et. al. (2004) recommend that auctioneers like eBay price this option differently across various product categories to increase transaction costs and in turn increase total revenue.

6 REGULATION & GOVERNANCE

There are three areas of regulation: registrations, secondary market exchanges, and use of domain names. Existing regulation is primarily concerned with the registration market and, to a lesser degree, use. There is practically no direct regulation of the secondary market as it is governed through contracts between the transacting parties.

6.1 Historical Background

The U.S. National Science Foundation (NSF) was the first organization responsible for registration of domain names. In 1992, NSF put out a solicitation for managing network services, including domain names. In 1993, NSF signed a 5-year agreement with InterNIC, a consortium of companies, under which Network Solutions (NSI) became the sole manager of all then existing gTLDs (.com, .net, and .org).

The imposition of registration fees in 1995 (see Section 4.3.3.2) and an increase in trademark disputes arising from the tremendous growth of .com fueled the criticism of NSI as an illegitimate *de facto* monopoly. These concerns prompted actions from the international community and the U. S. government.

On February 4, 1997, an International Ad Hoc Committee (IAHC), a coalition of individuals representing various constituencies, released a proposal for the management of domain names. The proposal recommended that seven new gTLDs be created and that additional registrars be selected to create competition. The executive branch of the U.S. government assigned the National Telecommunications and Information Administration (NTIA) of the Department of Commerce (DOC) the responsibility of issues related to domain names. DOC issued its final statement of policy, called the White Paper,⁴⁵ on June 5, 1998.

The White Paper endorsed a process for multi-interest groups to drive Internet management policy. IANA and NSI agreed to create a new corporation that was called the Internet Corporation of Assigned Names and Numbers (ICANN), whose bylaws and articles on incorporation were submitted to DOC on October 2, 1998. A nine member interim board of directors (four Americans, three Europeans, one Australian, and one Japanese) was chosen. On November 25, 1998, DOC and ICANN signed an official Memorandum of Understanding (MOU), whereby they agreed to work jointly toward transferring the domain name system (DNS) functionality from NSI, a for-profit corporation, to a private-sector not-for-profit entity.

The transition was not controversy free. For one, NSI initially refused to sign ICANN's accreditation agreement. On September 28, 1999, NSI agreed to sign a conditional accreditation agreement with ICANN, whereby NSI retains control of the .com registry for at least four years (until 2007) with the term extended for four additional years - if

⁴⁵ Management of Internet Names and Addresses, NITA, DOC, *Federal Register*, Vol. 63, No. 111, June 10, 1998, 31741.

control of the registrar functions were transferred to a third-party. The agreement was signed on November 10, 1999.

On May 25, 2001, VeriSign, which had acquired NSI, with the approval of DOC, signed a controversial⁴⁶ agreement with ICANN, whereby its registry and registrar businesses would not have to be separated. The agreement granted VeriSign the continued responsibility to operate the .org registry until 2002, the .net registry until June 30, 2005, and .com registry until 2007 and possibly beyond.

6.2 Institutions

6.2.1 ICANN

The Internet Corporation for Assigned Names and Numbers (ICANN) is a non-profit supra-national organization in charge of the domain name assignment system. By controlling the domain name system, ICANN determines who owns a domain name by controlling intellectual property rights associated with domain names (trademark disputes through its UDRP), sets the fees for domain name registrations, and sets zoning restrictions by deciding on the introduction of new top-level domain names – such as .mobi and .xxx. Thus, ICANN is the principal institution governing the primary market and exerts considerable influence over use through UDRP.

Trademark Dispute Resolution. There is anecdotal evidence suggesting that ICANN has setup its system to favor big established companies.⁴⁷ Trademark holders have won over 75 percent of the cases brought, many of which involve questionable generic terms like “crew.com” that was awarded to Jcrew - a large retailer.⁴⁸ When a trademark holder initiates the UDRP claim, the domain dispute goes through a quick and inexpensive process that takes less than two months and costs about two to three thousand dollars compared to action through U.S. courts that can take years and tens of thousands of dollars to resolve. This is good news for a small company. However, the court system that the small company has to use is very expensive and the incumbent may exhaust its resources. Secondly, the dispute resolution providers are licensed by ICANN. The most popular dispute resolution provider selected by trademark owners is the World Intellectual Property Organization (WIPO). The trademark holder can select the provider most favorable to trademark issues. Nevertheless, some blame falls on the small domain name owners for not protecting their common-law trademarks through TM-it.com – an inexpensive service.

⁴⁶ See A. Tajirian, *Domain Name Politics Beats Economics Rationality*, at <[Hhttp://domainmart.com/news/politics_beats_economics.htm](http://domainmart.com/news/politics_beats_economics.htm)>.

⁴⁷ For a critical look at ICANN, see M. Mueller, *Ruling the Root: Internet Governance and the Taming of Cyberspace*, MIT Press, June 2002.

⁴⁸ M. Geist, “Fair.com: An Examination of the Allegations of Unfairness in the ICANN UDRP,” August 2001, URL: <[Hhttp://aix1.uottawa.ca/~geist/geistudrp.pdf](http://aix1.uottawa.ca/~geist/geistudrp.pdf)>. For the rebuttal from INTA, see [Hhttp://www.inta.org/downloads/tap_udrp_2paper2002.pdf](http://www.inta.org/downloads/tap_udrp_2paper2002.pdf).

6.2.2 Government Control

DOC remains responsible for ensuring that ICANN satisfies the principles of the White Paper.

The U.S. government has also demonstrated selective intervention. For instance, it shut down iCraveTV.com, a legal site in Canada that was rebroadcasting U.S. television programming on the Internet.⁴⁹ Moreover, many countries have made local presence a pre-requisite for a Website to use their ccTLD.

Control over country-code is limited to commercial activity using such domain names; not Internet business activity within their borders. For instance, France accused Yahoo! of disobeying its laws against the sale of Nazi paraphernalia. However, Yahoo!, does not restrict such listings on either Yahoo.com or yahoo.fr. Because Yahoo.fr is under the control of the French government, Yahoo.fr complied. The French authorities obtained a court order to present such sales on Yahoo.com, but a U.S. court⁵⁰ held that the French did not have jurisdiction over Yahoo, a California corporation.⁵¹ The court decided, among other reasons, upon the basis of free speech under the First Amendment. As a result, French citizens continue to have access to items banned under French law, but not under the country that has jurisdiction over the domain name.

6.2.3 Congressional Oversight

6.2.3.1 Domain Registrations

Congress occasionally holds hearings regarding ICANN proposals. On June 12, 2002, the Senate Commerce, Science, and Transportation Committee held oversight hearings that focused on ICANN reform proposals and the DOC-ICANN relationship. A bipartisan letter on June 20, 2002, from the House Energy and Commerce Committee to the Secretary of Commerce called for only a short-term renewal of the MOU until ICANN demonstrated greater accountability and transparency.

6.2.3.2 Use

6.2.3.2.1 Anti-Cybersquatting Consumer Protection Act of 1999

Attempting to recover domain names related to established corporate brands from cybersquatters has led to considerable litigation, especially at a time when there were no explicit laws governing domain name ownership.

⁴⁹ J. Litman, *Digital Copyright* (Amherst, NY: Prometheus Books, 2002).

⁵⁰ United States District Court for Northern California.

⁵¹ “Yahoo! Inc. v. La Ligue Contre le Racisme en Antisemitisme.” *Media Law Reporter*, 29, (June 2001), URL at <Hhttp://www.computerworld.com/cwi/story/0,1199,NAV47_STO35035,00.htmlH>.

Under the Act, cybersquatting refers to registering, trafficking in, or using a domain name in “bad faith,”⁵² whereby the domain name belongs to someone else.

Although it is not always easy to demonstrate “bad faith,” a party winning a lawsuit can ask the court for an injunction against the cybersquatter and for monetary compensation. The compensation includes triple any monetary damage, profits realized by the cybersquatter from illegal use of the domain name, and court costs. If the domain name did not generate any profit to the cybersquatter, the court can offer the victim statutory damages of \$1,000 to \$100,000.

6.2.3.2.2 Protecting Children on the Internet

To create a “kids-friendly” Internet domain space, Congress passed the Dot Kids Implementation and Efficiency Act of 2002, which was signed into law on December 4, 2002. Instead of creating a new gTLD, such as .kids, Congress authorized the National Telecommunications and Information Administration (NITA) to require the .us registry (NeuStar) to establish, operate, and maintain a second level domain name within the .us ccTLD (i.e., .kids.us) that is restricted to material suitable for minors.

The Child Abduction Prevention Act of 2003 makes it a punishable crime to knowingly use a misleading domain name with the intent to deceive a person into viewing obscenity on the Internet.

⁵² For more information on cybersquatting, see FindLaw.com, URL at http://cobrands.business.findlaw.com/business_commercial/business_operations/nolo/ency/60EC3491-B4B5-4A98-BB6E6632A2FA0CB2.html.

Appendix A: Auction Valuation Environment

This appendix deals with technical issues related to item valuation as they relate to auction listing.

Since only the secondary domain name market uses auctions as a medium of exchange, this section outlines the valuation forms for the different motives to trade.

When the transaction involves brand name, trademark protection, or traffic, the environment will be that of private value, as each domain name's worth is based on the value of the additional benefits it generates to a buyer. Note that although the volume of the additional traffic, as measured by, say, number of visitors, might be equal, the additional value contribution of each visitor can vary across sites. However, traffic can be considered of common value in the rare event that bidders have similar pricing and cost structures. On the other hand, when buying domain names for resale, and assuming no trademark violation, the appropriate valuation environment would be that of common value.

Appendix B: The Consumer Buying Behavior Model (CBB)

I will outline the domain name marketplace activity using the CBB model, which divides buying behavior into six stages. The overlapping stages represent a framework within which to simplify the complex iterative buying procedure.

I will first provide a generic description of the stages, followed by the application of CBB in buying domain names.

Stage 1: Need Identification

At this stage the consumer becomes aware of some unmet need. The need can be a result of internal strategic and tactical analysis, the assistance of a domain name consultant,⁵³ or stimulation through product information pushed by an advertiser.

Stage 2: Product Brokering

This stage comprises the retrieval of information to help determine what to buy. The consumer evaluates product alternatives.

Stage 3: Merchant Brokering

This stage uses the information provided in the previous stage to determine who to buy from. The evaluation is based on consumer-selected criteria that can include price, warranty, availability, delivery time, reviews, service contracts, return policies, financing options, and reputation.

Stage 4: Negotiations

This stage determines the terms of the transaction such as price, warranty, service agreement, payment method, and delivery mechanism.

Stage 5: Purchase and Delivery

At this stage, the buyer either makes the payment directly, or through an escrow agent who, after a satisfactory delivery is made, guarantees the payment.

Stage 6: Service and Evaluation

Based on the negotiations in stage 4, the seller may be required to provide customer service. At this stage, the buyer evaluates the purchased item as well as the purchase experience.

⁵³ For information on corporate domain management services, see http://domainmart.com/DomainNames/protect/CDM_enter.htm.

Appendix C: Glossary of Terms

ccTLDs:

Stands for **C**ountry-**C**ode **T**op **L**evel **D**omains and includes all of the other domain spaces that are country specific such as .co.uk (United Kingdom) and .jp (Japan). Some of these domain spaces have strict policies that allow only certain types of organizations or individuals to register them. A full list of ccTLDs can be found at <http://www.iana.org/cctld/cctld-whois.htm>.

Domain Name:

Also referred to as Internet name or Internet address, a domain name is a unique intangible asset⁵⁴ that represents a virtual Internet address. For a business entity, it is a storefront and a name that customers will remember and use to identify the associated brand. For an overview of domain names, see http://domainmart.com/DomainNames/information/Corporate_Strategies-Tactics.htm.

Domain name extension:

A domain name extension, or suffix, are the two or three characters that appear furthest to the right and is preceded by a “.”, e.g. .com, .net, .org, ccTLDs, and .edu. Also referred to as the top-level domain name (TLD).

Registrant:

The entity (corporation, partnership, association, or individual) that owns the domain name.

Registrar:

An entity that acts as an intermediary between domain name registrants or their contacts and a registry in the collection of registration data about the registrants or their contacts and submitting registration information for entry in the registry

Registry:

An entity that manages the registry database that contains user and domain name information supplied by domain name applicants. Network Solutions is the registry that manages the database for .com and .net (until 2005) extensions, which can be accessed through a Whois enquiry.

It is important to note that each registrar may only effect information about domain names for which it is responsible.

A registry provides direct services to registrars only, not Internet end users. The registry database contains only domain name service (DNS) information (domain name, name server names and name server Internet Protocol [IP] numbers) along with the name of the registrar that registered the name and basic transaction data. It does not contain any domain name registrant or contact information.

⁵⁴ It has been sometimes incorrectly suggested that it is property. For more details see A. Tajirian, *Sex.com* -- *Domain Names, Not Property*, at [Hhttp://domainmart.com/news/opinion-sex_com_not_property.htm](http://domainmart.com/news/opinion-sex_com_not_property.htm).

Historically, registry and registrar functions were most often provided by the same organization. More recently, these functions for some of the Internet's top-level domains have been split to allow for competition in the registration services business. There are still many organizations today that provide consolidated registry and registrar services similar to the way they used to be performed for the .com and .net top-level domains.

Reseller:

An entity that is affiliated with a registrar to register domain names on behalf of their clients.

Whois:

A searchable database containing information⁵⁵ about networks, networking organizations, domain names, and the contacts associated with them.

⁵⁵ H.R. 2572, introduced in July 2003, would make it a felony to submit false Whois information “with an intent to defraud.”