



ICANN Responsible for Domain Name Trademark Mess

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It is ICANN's responsibility to make sure domain names do not infringe on trademarks. To determine infringement ICANN should rely in the short term on [predictive models](#). Thus, domain name and trademark owners must start putting pressure on ICANN to assume its trademark responsibility.

Intangible assets such as copyrights and trademarks are created by a single entity and are protected by law. A domain name is a multiblock intangible asset that is assembled from different entities, the way LEGO® blocks are snapped together. A trademark used in a domain name constitutes the first block. The second block is drawn from ICANN, which, through the registries, is able to create an infinitely countable number of unique domain names that a registrant can choose from. The third block is the registrant through domain name use. However, the trademark and the use blocks need not always be present in the asset.

When an entity asks to register a name that includes a trademark, then it has requested the creation of a two-block asset. With registration requests through one of the ICANN-approved registries, ICANN, as a creator of the asset, is responsible for insuring that the asset does not violate any laws.

Multiblock-based similarities can be drawn between Web site mash-ups and domain names. In both cases, someone else creates the building blocks. In mash-ups, it is the responsibility of the Web site creator to ensure proper legality of each component. However, it is much easier to ensure legal content compliance with mash-up Web sites than with domain names, as each block's copyright restrictions is more clearly stated than in trademark issues inherent in the domain name creation process.

For whatever reason, ICANN has successfully dodged any responsibility for building an asset on top of a trademark block. It is time to meet its responsibilities by disallowing registrations of infringing domain names. However, since a legal definition of infringement is not yet available, ICANN should rely on a [predictive model](#).

Because the trademark debacle hurts domain name and trademark owners, both groups must start exerting pressure on ICANN instead of taking costly actions against each other. ■