

Comments on subjects to be discussed in the Second WIPO Internet Domain Name Process

Personal Names

20.1 Some names should be protected against abusive registration as Internet domain names

20.2 The key concerns are:

- 1) Registration in bad faith of personal names as Internet domain names;
- 2) Abusive registration of personal names as Internet domain names;
- 3) Deceptive registration of personal names as Internet domain names;
- 4) Illegal registration of personal names as Internet domain names;

The emergence of the problem:

- the registration was made with the intention of obtaining an advantage by using the reputation and the notoriousness of a certain person.

20.3 All names should be protected. However it is more practical to protect only well-known names and official representatives, irrespective of whether they are alive or not.

20.4 By analogy in respect of trademarks.

20.5 The application of the priority principle helps in avoiding the problems posed by the multiple occurrence of the same name.

20.6 In solving disputes, law analogy should be used, but usually this is a problem of domestic common law.

20.7 As a general rule, national legislation should provide remedies for solving domain conflicts.

20.8 Irrespective of their nature and domain, well-known names should be protected (e.g. if the registration billgates.com already exists, and other person applies for a billgates.nom domain name, registration should be rejected).

20.9 The damages should be calculated as from the moment the commercial effects appear.

20.10 The best way to avoid disputes related to domain names is the publication of relevant information (i.e. in the WIPO Gazette).

20.11 Having in mind future development of the Internet as a means of communication and ecommerce, the best strategy is to grant Internet domain names the same protection as to other forms of intellectual property. One of the requirements of such protection should be based on previous rights arising from domain name registration, for example, if the domain name is identical with a trademark, it should be

preceded by the right in this trademark (residing in a trademark registration certificate or in a licensing contract). Also, the right for a name (certified by certificate of birth or passport) should enable the person to the right to register his name as a domain name. By analogy, this should be valid in the case of trade names.

International common names for pharmaceuticals.

21.1 Yes.

21.2 Types of problems:

1. Bad faith registration of INN as domain names
2. Abusive registration of INN as domain names
3. Misleading registration of INN as domain names
4. Unfair registration of INN as domain names

Extent of problems, or the moment when a problem emerges: - the registration was made for the purpose of obtaining an advantage by using an INN.

21.3 By analogy in respect of trademarks.

21.4 No.

Names of international intergovernmental organizations

22. It is possible to protect names of international intergovernmental organizations against their abusive registration as Internet domain names, applying the same principles of protection as provided for by the Paris Convention and the TRIPS Agreement.

22.1 Yes.

22.2 All organizations applying the provisions of the Paris Convention related to notifications should enjoy protection under DNS

Geographical indications, indications of source or geographical terms

23. Geographical indications, indications of source and geographical terms should be protected against their abusive registration as Internet domain names. It is possible to apply the provisions of the Paris Convention, Madrid Agreement for the repression of False or Deceptive Indications of Source of Goods and the TRIPS Agreement .

Tradenames

24. Commercial names should be protected against their abusive registration as domain names by applying the provisions of Article 8 of the Paris Convention.

Proposals: The best way to prevent abusive registration of personal names, trade names, common names for pharmaceuticals, geographical

indications, appellations of origin, geographic terms and international intergovernmental organizations as Internet domain names would be the conclusion of an international treaty on domain names registration and protection.

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