# A Behavioral Perspective on Information and Communication Technology and ICANN

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#### **Broad outline**

Psychology, Technology, and the Foundations of Communication and Information Law

An Application to ICANN

#### I. PSYCHOLOGY, TECHNOLOGY, AND LAW

#### (A) The Making of Law

#### legal conservatism

#### status quo bias

#### Biased assimilation

#### Self-serving biases

#### System justification

#### Iron law of oligarchy

#### Disruptive technology

#### (B) Legal Concepts

#### Incremental nature of law

### Progressive differentiation of concepts

#### Overgeneralization

### Technology driven concept evolution

### (C) Property and Exclusive Rights

### Rivalry and "tragedy of the commons"

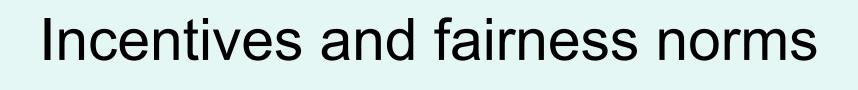
### Cooperation and sharing norms

#### **Altruism**

#### Loss of rivalness

### Technology can monitor cheating on the commons

#### (D) Creative Production



#### Motivation crowding

### Economic assumptions as self-fulfilling prophecies

### Fundamental attribution error and "romantic authorship"

## New possibilities for nonmarket compensation mechanisms

Technologies for collaboration

#### (E) Simple Nonrival Goods

## Broadcast frequencies, names - tragedy of the anticommons

#### Loss aversion

### Rights assignment creates loss aversion

### Barriers to negotiation (e.g. reactive devalution)

### Technology-enabled decentralization

## II. APPLICATION TO DOMAIN NAME DEREGULATION

## Why take domain names away from ICANN and deregulate?

- Market comes from artificial scarcity
- Barrier to entry and innovation
- Excessive scope of gTLDs countries, industries
- Search engines more reliable than URLs
- Proliferation of TLDs increases costs and vested interests
- Increasing cost and complexity of regulation -Eric Goldman's "irresolute arms race"
- Growth of vested interests, iron law etc.

### Domain name woes...a partial list

- Cybersquatting (greed)
- Expiration/transfer (memory limitations)
- DNS attacks (malice)
- Spoofing/redirection, phishing (greed, cognitive limitations, acquiescence)
- Typosquatting and domainers (motor limitations)
- Quasi-spoofing (loss aversion)
- User confusion (memory limitations)
- Sharking
- Slamming

#### Alternatives to global DNS

- IP Addresses (nonscarce, equally attractive, free)
- Address books (personal)
- Trusted name mappers (private 3rd party services)
- Government-certified name mappers tied to jurisdictions