

# 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

# Incentives and fairness norms



# 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 devaluation)**

# 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