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 anticommmons
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