

UNDERSTANDING DOMAIN NAME

WHAT IS A DOMAIN NAME AND WHY DOES IT MATTER?

A domain name by definition, is the text address you type into a web browser to visit a website such as johnsonbryantpartners.com. A domain name has two main parts:

SECOND LEVEL DOMAIN

This is a unique and distinct name for the website. For example, in amazon.com, the word Amazon is the second-level domain.

TOP -LEVEL DOMAIN

The suffix at the end of the address tells you the location of the website. An example would be .com for commercial sites, .org for non-commercial groups, and .ng for Nigeria.

Think of a domain name as your digital address on the internet. It's a unique series of human-readable text that allows users to find your brand, products and services online. Without it, users would have to copy complex numbers known as an IP-address to access your website.

A domain name might seem like a small detail, but it plays a huge role in how users find your brand on the internet.

While a domain name can be valuable and sometimes protected, registering one does not translate to automatic and perpetual ownership to it. What a domain name registration implies is, a contract with the domain registrar granting the registrant the right and exclusive use of the domain for a fixed period of time. The right subsists in renewal, which means, you can have access to the domain name indefinitely provided your subscription is renewed from time to time. The nature of a domain name is a conditional and time-bound service license.

NATURE OF DOMAIN NAME RIGHTS

A domain name is not quite a trademark, and is not quite property in the traditional sense, and it is not merely an ordinary contractual right; this makes domain names sit in a unique grey area and at the intersection of contract law, property law, and intellectual property.

WHAT LEGAL INTEREST DOES A DOMAIN NAME HOLDER ACTUALLY POSSESS?

A domain name holder possesses a "Bundle of Rights" rather than permanent ownership of the domain name.

Contract: It comes into existence through an agreement between the registrar and the registrant. The registrant's rights are therefore, in the first instance, contractual and are subject to the applicable registration terms, policies, and renewal requirements.

Intellectual Property: It will function as a trademark where it incorporates the distinctive brand identifier. Domain name registration itself does not automatically confer trademark rights. Protection under trademark law generally depends on whether the name independently satisfies the applicable requirements for trademark protection.

Property: A domain name holder possesses the legal interest required to dispose of or license the rights to the domain to a third party.

WHO ADMINISTERS THESE RIGHTS?

The administration of domain rights operates through a multi-tiered system rather than a single entity. How your rights are assigned and managed depends on the role each organization plays in the domain hierarchy. A domain registration is managed by three distinct entities.

The Registry: This manages a country's Top-Level Domain (TLD); these include domains such as .ng, .uk, .us etc.

The Registrar: A registrar acts on behalf of the registrants who want to register their domain names (licensed by ICANN)

The Registrant: A person who has registered at least one domain and who is the holder of the bundle of rights.

THE STRUCTURAL NATURE: HIERARCHICAL AND CENTRALISED?

The architecture of domain registration is strictly hierarchical and not decentralised. At the absolute top sits IANA (Internet Assigned Numbers Authority) and ICANN (Internet Corporation for Assigned Names and Numbers), managing the global master directory (the root zone). The core mission of IANA is to handle the actual operational and administrative tasks of allocating unique internet numbers (IP-addresses) and codes. It also manages the global pools of IPv4 and IPv6 addresses and distributes them to Regional Registries (RIRs) like AFRINIC for Africa.

ICANN is responsible for coordinating the management and technical elements of the domain name system to ensure it remains stable, secure, and unified. They are also tasked with deciding what new top-level domains (TLDs) can exist like .org, .com or country codes like .ng.

ICANN uses a “**Multistakeholder Model**” which means policies are developed by a mix of governments, technical experts, businesses, and individual internet users.

However, these rights are strictly conditional, and intellectual property law does not automatically protect domain name holders. But a domain name can be protected under IP law by qualifying as a trademark.

REQUIREMENTS TO QUALIFY FOR TRADEMARK PROTECTION

To successfully claim intellectual property rights over a domain name, it must satisfy specific conditions:

Active commercial use: A domain name must be actively directed to a functional website that advertises, sells, and delivers goods and services to customers. It must not be a placeholder or an empty site.

Distinctiveness (Not Generic): A domain name must serve as a unique brand identifier. Generic or descriptive names generally cannot be trademarked because they describe a category, not a distinct business.

CAN CREDITORS RELY ON DOMAIN NAMES AS COLLATERAL FOR LOANS?

Financing domain names is a highly specialized niche in asset-based lending because a domain name is not a physical asset, and traditional banks rarely accept them. The treatment of domain names as collateral is not uniform across jurisdictions. Lenders are highly selective, and a vast majority of domain names are completely unfinanceable. For a domain name to qualify as collateral, it must be an ultra-premium digital asset that satisfies these standards: Clean title and history; Deep resale liquidity; High independent value.

HOW THE RIGHT IS ENFORCED

Where a dispute arises over a domain name registered under the .ng domain, the Nigeria Internet Registration Association (NiRA) provides a specific mechanism for resolving the dispute through the NiRA Dispute Resolution Policy (NDRP). The NDRP was created to provide a relatively quick and less expensive means of dealing with conflicting domain name registrations. It provides for informal mediation and, where mediation is unsuccessful, determination by an independent expert. The enforcement mechanism is particularly important because NiRA does not simply treat the expert's decision as a recommendation. Decisions under the NDRP are binding on the parties, subject to the available appeal and court processes. The remedies available under the NDRP are relatively limited. Where the complainant succeeds, the domain name may either be cancelled or transferred to the complainant, provided that the complainant is eligible to hold the domain name.

The current NiRA complaints policy further makes clear that NiRA itself does not ordinarily mediate or determine disputes between a registrant and another party concerning competing rights in a domain name. Instead, such disputes are to be dealt with under the NDRP or through the appropriate legal process. NiRA may, however, place a registry lock on a domain name in appropriate circumstances while the dispute is being resolved.

CONCLUSION

Domain names have evolved beyond their original function as mere technical addresses for locating websites. They now represent valuable digital identifiers with commercial, contractual, property-like and, in appropriate circumstances, intellectual property interests. Yet, their legal character remains inherently hybrid.