

The Clash of Trademarks and Domain Names on the Internet

Also by Gerald M. Levine

DOMAIN NAME ARBITRATION

Trademarks, Domain Names and Cybersquatting:

A Practical Guide to the Uniform Domain Name Resolution Policy

(1st Ed. 2015; Second Edition Revised and Expanded 2019)

The Clash of
Trademarks
and **DOMAINS**
NAMES
On the
Internet

**Combatting Cybersquatting
& Protecting Rights**

by **Gerald M. Levine**

foreward by **Georges Nahitchevansky**

**Volume 2: Indexes and
Tables of Cases**

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TO

HUGH C. HANSEN
Present at the beginning

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INTRODUCTION

The book that has become *The Clash of Trademarks and Domain Names on the Internet* is entirely different from what I originally envisioned. The first draft was simply a selection of earlier published essays. But having assembled these, I saw that the collection lacked coherence as a book. So, I decided on an entirely different approach, one that focused more directly on the body of legal principles applied in adjudicating claims of cybersquatting. This was appropriate because 2024 is the twenty fifth year since ICANN's implementation of the UDRP, and as WIPO anticipated, there has developed a mature jurisprudence to suppress cybersquatting. As I point out in the text, WIPO even named its 2017 Overview, the Jurisprudential Overview.

One of the consequences in reconceptualizing *Clash*, though, was that the text grew to such an extent that it consumed the entire volume and left no room for the indexes and tables. This is because the printing protocol limits the number of pages to 840 so that what was originally intended for a one volume book has grown to two volumes of unequal length.

While it may have been more aesthetic to have two books of the same length, it seemed a clumsy solution to divide the Text. So I decided to leave the Text in one volume and the Indexes and Tables in the other. This division of Text in one and Indexes/Tables in the other is justified for an entirely pragmatic reason. I think that having a separate volume for the Indexes and Tables is more efficient in using Volume 1. If the Indexes are placed as they usually are at the back of the book then researching for specific material would require some considerable dexterity in examining the referenced pages, but if the volumes are sitting one above the other or side by side, researching the text will be more comfortable and easier.

I put the issue to colleagues in my weekly Chat group (see Preface in Volume 1) who had been receiving drafts of the book and they agreed with this approach. In any event, that was my thinking and I hope the division into two volumes for the reasons I have explained will be approved by my readers without reproach.

ABOUT THE INDEXES AND THE TABLE OF CASES

Where a book is written to be used rather than read there must be an adequate index to assist readers in finding what they are searching for. In the paper book medium, indexes can never be as functional as a Boolean search, and because of this a general index is ill equipped to be totally satisfactory. This is why I decided to offer a pdf of the text as a free addition to purchasing the two volumes. It is available on request from the publisher at inquiries@legalcornerpress.com

WIPO foresaw in its Final Report that a jurisprudence would emerge from reasoned decisions and it did and has. So large is the database of UDRP decisions

(over 100,000) that only those with the most powerful memories could possibly recall even a fraction of them. I have tried to capture a wide selection of panelists' voices to illustrate my argument for the rise and development of a domain name jurisprudence and also to illustrate that this jurisprudence is law created from the bottom up rather than as with statutory law from the top down, very much like the creation of English common law before its codification to statutes.

WIPO celebrates panelists' achievement in creating domain name law by naming its present volume of overviews the Jurisprudential Overview (2017). Decisions come down by the dozen every day and for those with a masochistic streak they can be readily accessed at Providers' websites or, even better, from <udrp.tools>.

The third and fourth items in this second volume are Tables of Cases of UDRP decisions and US, UK, and EU cases. They do not require much explanation. Because of the size of the database of UDRP decisions some of my choices for citation and discussion may be unfamiliar, but I wanted to illustrate my argument for a jurisprudence by a wide spectrum of voices for it is the Panels who have created the law and it is they who should be heard in all their fluency of reasoning and logic. The cases cited in the fourth Table were mostly cited by panelists, not so much in recent years but certainly in the earlier years when the jurisprudence was being formed. What is mostly cited now are UDRP cases and WIPO's current overview of the jurisprudence, the Jurisprudential Overview (2017).

Copies of UDRP decisions can be located at each of the Provider's websites: Domain Names can be researched on current and former provider websites:

WIPO: <http://arbitrator.wipo.int/domains/search/index.html>

FORUM: <http://www.adrforum.com/SearchDecisions>

CAC: <https://udrp.adr.eu/adr/decisions/index.php>

CIIDRC: <https://ciidrc.org>

ADNDRC: http://www.adndrc.org/mten/UDRP_Decisions.php

Former Providers:

eResolution: <http://www.disputes.org/index.htm> (also accessible on <udrp-search.com>).

You can also find WIPO, Forum, CAC, and CIIDRC cases at my preferred search tool, <udrp.tools> and Reverse Domain Name Hijacking cases at <rdnh.com>, generously available without having to pay annual fees.

**The Clash of
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