

# China Law Update

Posted at 9:26 AM on December 9, 2009 by Sheppard Mullin

## Protect Your Internationalized Domain Names

At the 36th Annual Meeting of the Internet Corporation for Assigned Names and Numbers ("ICANN") on October 30, 2009, the ICANN board finally approved the new Internationalized Domain Name ("IDN") Fast Track Process. IDNs have been a topic of discussion since before ICANN's inception. It has taken years of intense technical testing, policy development, and global cooperation to prepare the Fast Track process for its launch. On November 16, 2009, ICANN officially opened the IDN Fast Track Process to allow countries that use non-Latin based languages to also apply for top-level domains that reflect their country's name in local scripts such as Chinese, Korean, Arabic, etc.

### ".中国" Domain Names

With the full support of representatives from the internet industry, including Microsoft, Baidu, Alibaba, Taobao, Firefox, OPERA, Sina, and Tencent, China Internet Network Information Center ("CNNIC") formally applied for ".中国" (meaning ".CHINA") as an IDN on the same day. It is estimated that Chinese domain names would be internationalized in the beginning of 2010. So far, over 90% of PRC government authorities and key Mainland universities, over 95% of media websites, over 50% of the top 100 local enterprises in China, and over 40% of the top 500 local enterprises in China have already registered their own ".中国" domain names.

".中国" domain names have great value for the majority of internet users, as well as for enterprises. For more than 300 million internet users, it will add an optional access mode while for 1 billion people who don't have access to the Internet, it will lower the thresholds of access, learning and use of the internet. Moreover, it will allow domestic enterprises apply for domain names which directly using Chinese brand names. At the same time, it will help foreign enterprises localize foreign brands.

### Cybersquatting Activities

".中国" domain names can make a positive impact on the Chinese internet system. However, this also inevitably raises the risk for cybersquatting activities. Why are cybersquatting activities so popular in China? There are three major reasons:

First, the registration fee for one domain name is inexpensive in China, roughly around RMB 150. If a cybersquatter registers a domain name and sells it successfully, he would probably earn

thousands of RMB, or even more.

Second, in practice, CNNIC only performs a preliminary examination rather than a substantial examination to determine whether a proposed domain name has infringed upon others' prior rights.

Last but not least, it is relatively hard to punish cybersquatters under the existing Chinese legal framework. According to *Rules for CNNIC Domain Name Dispute Resolution Policy*, a complaint must satisfy the following three requirements: (1) the disputed domain name must be identical with or confusingly similar to the complainant's name or mark in which the Complaint has civil rights or interests; (2) the disputed domain name holder must have no right or legitimate interest in respect of the domain name or major part of the domain name; (3) the disputed domain name holder must have registered or used the domain name in bad faith.

### **Conclusion**

With the upcoming approval of ".中国" domain names, the use of purely Chinese domain names will become popular not only in China but also among overseas Chinese. Therefore, both Chinese enterprises and foreign enterprises are encouraged to take appropriate measures to guard against all types of cybersquatting activities on ".中国" domain names.

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