

Book Review

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Australian Domain Name Law

Alpana Roy [Thomson Reuters, Sydney, 2016, pp.258]

With the increasing use of the Internet in both public and private life, there is increasing competition for domain names. This has led to disputes concerning the rights of parties to particular domain names, and discussion as to the precise relationship between domain names and trademarks. Recently, .au Domain Administration (auDA) assumed the rights to administer Australian domain names and, in August 2002, established an Australian dispute resolution policy (auDRP) for domain name registration. This represented an extension of the American-based Uniform Dispute Resolution Policy (UDRP) that had been in force in Australia for some time. However, the impact of these changes to dispute resolution in Australia remains to be realised, particularly since there has been little judicial comment on domain names in Australia.

As most legal practitioners (especially IP lawyers) would know, domain names are “user-friendly” computer addresses that allow others to know where a person or entity is located on the Internet. With the exponential increase in popularity and commercialisation of the Internet, competition to register prominent, conspicuous, relevant “aesthetically pleasing and mnemonically stimulating” domain names has dramatically increased, which has provoked reform of the allocation of Internet domain names. Previously, this process was relatively informal, and depended largely on a voluntary basis.

In 1999, the Australian Government established .au Domain Administration Limited (auDA), a non-profit organisation, to regulate the registration of Internet domain names. Subsequently, in September 2001, auDA entered into a sponsorship agreement with ICANN that gives auDA the right to administer the .au ccTLD. The Constitution of auDA took the position that the Internet Domain Name System is a public asset, and that since the .au ccTLD was under the sovereign control of the Commonwealth of Australia, auDA would administer the .au ccTLD for the benefit of the Australian community, under the delegation of ICANN. On 1 August 2002, a new Australian dispute resolution policy (auDRP) for Internet domain name allocation was established.

Since then, there has been a dearth of Australian literature published on domain name law in Australia. This newly released book by legal IP academic, Dr Alpana Roy, marks the first complete statement of Australian domain name law in that it offers the reader not only a comprehensive overview of auDRP decisions, from the inception of the policy in 2002 to date, but an examination of the Australian and international regulatory frameworks for Internet domain name disputes, the procedural rules which exist under the auDRP, as well as, the substantive elements that must be established in order to bring a successful complaint under the auDRP.

At the outset, the author provides a logical and understandable overview of domain names and the international and national regulatory frameworks for Internet domain name disputes. Chapters 2 and 3 then proceed to set out the auDRP, and auDRP procedural rules, respectively. Chapters 4 to 6 focus on the three substantive elements that need to be established in order to prosecute a successful complaint under the auDRP.

In its holistic approach, this work it is not only erudite, but instructive and highly pragmatic. The work is current as at 9 May 2016. There is no doubt that, in future years, it will serve as a valuable addition to this still burgeoning field of the law.