1. Introduction

This book examines the regulatory framework for introducing and managing generic Top-level Domains (TLDs) on the Internet. Since 2012, the Internet Domain Name System (DNS) has undergone the most substantial alteration since its inception. Over 1000 TLDs have been added, and many more will be added in the future. Companies like Google and Amazon have applied for new names, such as <.app> for applications, <.blog> for weblogs and <.google> as a company’s main web presence. These are added to the existing domain name structure based on TLDs like <.com>, <.org>, <.uk> and <.de>. Such changes to the DNS have involved or affected most of the largest corporations worldwide, and they will, at least indirectly, affect all Internet users and numerous domain name registrants. While many Internet users are not yet aware that the Internet’s DNS is evolving, this understanding will gradually increase as new names come into use. For example, when Google was restructured under the new brand name Alphabet, the company’s website was established under <www.abc.xyz>, where <.xyz> is the TLD. Google’s parent company does not even own the name <alphabet.com>, which is in use by another company, also called Alphabet.

It can probably be said that the creators of the Internet and the DNS did not primarily focus on economic and legal issues, but understandably, concentrated on creating a usable and scalable technical solution for a complex network of networks instead. Yet, subsequent conflicts over the evolution and governance of the DNS have often focussed not on

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2 The ‘DNS design goals’ pointed out in RFC 1034 were limited to creating and managing a consistent namespace. While economic terms like ‘trade-offs’ and ‘costs’ are mentioned, they are used in a relatively narrow technical context; see Paul Mockapetris, RFC 1034: Domain Names – Concepts and Facilities (1987), http://tools.ietf.org/html/rfc1034.html. In general, RFC documents are publications from the technical community that can contain Internet standards or simply launch new ideas; see Harald Alvestrand and Håkon Wium Lie, ‘Development of Core Internet Standards: the Work of IETF and W3C’ in Lee A Bygrave and Jon Bing (eds), Internet Governance: Infrastructure and Institutions (Oxford University Press 2009) 126–46.
Internet technology, but have been driven by the underlying economic and regulatory issues in a market for global identifiers on the Internet. These are among the issues discussed under the heading of ‘Internet governance’.

A. DOMAIN NAMES AND TOP-LEVEL DOMAINS

Domain names offer a fairly user-friendly human–computer interface; they are somewhat easily memorized, branded and typed. Despite the complexity of the distributed Internet, it appears hierarchical owing to domain names. We can navigate the web or send emails based on addresses structured according to TLDs (e.g. <.org>) and domain names registered therein (e.g. <wikipedia.org>). The overall system of TLDs and lower-level domain names is called the DNS.

This book focusses on the extension of the domain namespace, and especially, the introduction of ‘new’ generic TLDs (gTLDs) since 2012. These domains can be associated with generic words, such as <.com> for commerce, <.edu> for education and <.org> for organizations. Recently introduced gTLDs include endings like <.london>, <.shop>, <.med> and <.law>. Being ‘generic’ simply means that they include anything other than a country code. This differentiates gTLDs from country-code TLDs (ccTLDs) like <.uk> for the United Kingdom and <.de> for Germany. Unlike country codes, which are mainly subject to the national sovereignty of the respective country, generic names are managed internationally. The Internet Corporation for Assigned Names and Numbers (ICANN) has the authority to make certain policy decisions regarding the domain namespace, and its policy for introducing new generic TLDs is the key focal point of this book.

B. THE 2012 GTLD APPLICATION ROUND

The expansion of the domain namespace was enabled by a liberalization of the rules for introducing new gTLDs. In the first phase of this liberalization (hereinafter, the 2012 application round), with a few exceptions, any organization in good standing could have applied for virtually any TLD. The regulatory framework for the 2012 application

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3 At the time of writing, the TLDs introduced after 2012 are still called ‘new’, and thus, they are distinguished from ‘legacy’ gTLDs. This naming may change when even more gTLDs are introduced in the future.
round is primarily contained in a text ICANN called the ‘gTLD Applicant Guidebook’ (AGB).4

An applicant for a TLD had to pay a substantial application fee and submit a detailed application within a limited time span. The subsequent assessment was not carried out by ICANN, but by external parties, applying the criteria stated in the AGB. Applications that complied with ICANN’s requirements then moved to the next phase, where disputes among applicants, and with third parties, were resolved. Subsequently, competing applications, such as the many applications for <.app>, had to be resolved based on preferential rules for certain application categories or through an auction. If the application was successful, ICANN awarded the applicant a contract (the ‘Registry Agreement’). Once the contract was concluded, the applicant became a ‘registry operator’ or simply a ‘registry’.

In 2012, over 1000 applicants applied for more than 1400 TLD strings,5 often with several competing applications for the same name. When this round of expansion is concluded, the namespace will have been extended, with new TLDs dedicated to geographical areas (e.g. <.london> and <.bavaria>), industries (e.g. <.bank> and <.insurance>), communities (e.g. <.catholic>), brand names (e.g. <.google>, <.ibm> and <.apple>) and generic words (e.g. <.music>, <.kids>, <.gay>, etc.). Successful applications for these TLDs are awarded the right to register domain names under these domains (e.g. <wholivesin.london>). At the time of writing, the 2012 application round is still not concluded; several applications await a final decision. At the same time, ICANN is discussing how its framework for introducing gTLDs should be updated.

C. TRANSNATIONAL PRIVATE REGULATION

The present book focuses on the global regulatory framework for the introduction of the new names in the 2012 TLD application round. The emphasis on the regulatory framework for generic TLDs is partly because this book was written from a lawyer’s perspective, that is, with an interest in rules and their interpretation. The regulatory framework for generic TLDs consisted of rules that could be classified as either soft or hard law,

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5 In the domain name industry, a ‘string’ refers to a unique set and order of alphanumeric characters.
Introduction

if they had been developed in the context of domestic or international law. However, neither the origin nor the application of these rules fits well into traditional legal categories of domestic and international law, and this framework is not directly based on such laws.

I argue that the globally applicable rules pertain to an emerging class of legal sources, which can be referred to as transnational private regulation. The rules for the new TLDs are transnational in application, originate from a private – rather than public – organization (ICANN) and are regulatory in nature, as explained below. Thus, one of the book’s aims is adding to the growing academic discourse concerning transnational private regulation, by highlighting how such regulation is shaped and applied in the domain name context. At ICANN, private regulation ultimately takes a corporate form, but it is based – at least in theory – on a bottom-up, multistakeholder governance model, so one could also speak of ‘multistakeholder transnational private regulation’.

The regulatory framework for the new gTLD programme addresses two key regulatory matters. First, who should have a right to a gTLD? Based on an elaborate application process, ICANN has created a binding set of rules for the allocation of rights in new gTLDs. In this context, ICANN has concentrated on rule making and process management, while much of the real decision making is outsourced to independent third parties. The second regulatory issue ICANN addressed in the 2012 gTLD programme concerns the registration and use of domain names under new gTLDs. The registration and use of domain names is regulated differently for new gTLDs and pre-existing gTLDs (‘legacy gTLDs’), such as <.com>. The rules governing the registration and use of domain names under new gTLDs are found in annexes to the agreements with ICANN, so this is called ‘regulation by contract’ here. Interestingly, this set of regulations is not primarily aimed at any of the parties to the contract, but instead, at registrants – that is, third parties. Another interesting factor is that several of these rules were not created as multistakeholder regulations, but instead, as a response to governmental ‘advice’ from ICANN’s Governmental Advisory Committee (GAC).

The book’s research focus is partially comparable to traditional legal analyses that examine domestic or international law, but the object of study is different, as it does not easily fit into traditional legal categories. The book aims to elucidate some underlying rationales for adopting the

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6 See Chapter 5 Section B.
rules regarding new domain names. At a metalevel, they reflect problems in the pre-existing DNS and the desire to develop it into an IT architecture that fulfils the needs of all people using the Internet. Some of the existing DNS’s problems are related to the domain name market and how ICANN regulated it historically. Thus, the book examines some of the underlying factors leading to the creation of new rules, as well as reasoning patterns that have become evident in the decision-making practices based on them. The aim is to clarify, explain and account for the relatively complex and evolving current regulatory framework. On this basis, readers may consider potential alternatives for future evolutions of the DNS.

D. THE BOOK’S REMIT

The present book illustrates the breadth of legal and regulatory issues that come into play when domain names are registered and used on the Internet. The book discusses, inter alia, the following issues and questions: How can competition in the domain name market be ensured, especially considering the dominance of <.com>? What regulation exists for certain categories of names, such as trademarks, geographical names and names of international organizations? To what extent can and should actors in the domain name industry police the Internet? Should domain name policy incorporate aspects of consumer protection considerations to protect some reasonable expectations of Internet users? For example, can we reasonably expect that a website under <.bank> is a registered and licensed financial institution? To what degree should domain name policy safeguard that domain names are not confusingly similar? For example, should the TLD strings <.hotel>, <.hotels> and the Portuguese <.hoteis> all be permitted? Is there a possibility that TLDs conflict with provisions in public international law? What are the property rights acquired by a successful applicant for a new TLD? For example, after being awarded the gTLD <.google>, what legal or contractual rights does Google have to this digital asset?

8 Competition issues are discussed in Chapter 8 Section D.
9 These issues are relevant in the application process, as described in Chapter 9 Section A.
10 See Chapter 12 Section D.
11 See Chapter 11 Section C.4.
12 See Chapter 10 Section B.1.
13 See Chapter 11 Section B.1.
14 See Chapter 7.
E. DOMAIN NAME LAW

The book also aspires to contribute to the domain name law discourse. It has been remarked that among the challenges for global domain name law is the need for an adequate, more comprehensive theoretical foundation.\textsuperscript{15} Traditionally, domain name law has been significantly influenced by trademark law, but this can only address a limited set of issues. Moreover, the phrase ‘domain name law’ can point to at least two different regulatory regimes. First, it can refer to the application of traditional sources of domestic or international law to domain names. A second perspective is that we may consider ICANN’s regulatory framework as the ‘law’ that regulates domain names. Both perspectives are relevant for this book, but the emphasis is on the latter.

ICANN enforces both its own regulation and a variety of domestic and international laws, which may or may not be related to the DNS. These concern issues like cybercrime and cybersecurity, intellectual property infringing content, fair lending practices and even organic farming. Because ICANN holds a monopoly control over the Internet’s dominant root, it has a de facto potential to enforce any regulation, and it already makes ample use of this. ICANN’s factual enforcement possibilities are not clearly limited, and therefore, it is even more important – and challenging – to discuss what ICANN should regulate, and where it should abstain from regulation. ICANN’s recently overhauled Bylaws attempt to limit the organization’s regulatory authority, but unfortunately, they do not foresee a clear boundary of its regulatory authority, as illustrated in this book.

F. THE REGULATORY PERSPECTIVE IN INTERNET GOVERNANCE

Although many of the abovementioned issues have a legal dimension, they are often discussed as Internet governance questions. An important reference point in this regard is the working definition included in the declaration of the 2005 World Summit on the Information Society (WSIS): ‘Internet governance is the development and application by governments,
the private sector and civil society, in their respective roles, of shared principles, norms, rules, decision-making procedures, and programmes that shape the evolution and use of the Internet’.16

It is not always easy to point out exactly what is meant by ‘governance’ in this context. The above definition, and much of the literature,17 touches on issues related to ‘coordination’ and ‘regulation’, as observed by Hofmann and others.18 The two aspects overlap, but it is useful to distinguish them analytically.

Regulation involves the intentional influencing of behaviour, for example, through rules.19 In the definition given above, this regulatory focus is clearly visible. Regulation is arguably at play when rules ‘shape’ the ‘use of the Internet’. By comparison, governance is more process oriented, with a focus on coordination.20 In the above quotation, this perspective is arguably visible in the continuing ‘development and application’ that shapes the Internet’s evolution and use. The influence by various stakeholders in governance processes is often a key issue, as can be seen in the emphasis on the roles of ‘governments, the private sector and civil society’.

This book focusses on the regulatory perspective in Internet governance. As legal scholarship, it especially elucidates the significance of rules in potentially influencing the behaviour of actors in the domain name industry, as well as Internet users.

There may be a certain resistance in the Internet governance community, and literature, to the term ‘regulation’ in this context. It may carry connotations of ‘Internet regulation’, which is politically opposed by

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17 For a legal perspective on Internet governance, see Lee A Bygrave, *Internet Governance by Contract* (Oxford University Press 2015) 11. His definition is as follows: ‘Internet governance primarily concerns issues relating to the design, engineering, and management of infrastructure for data transmission based on the TCP/IP suite and other protocols that build on or are compatible with that suite. However, it also embraces issues about how such infrastructure is used and how infrastructure design and usage impact upon the information content of the transmitted data’ (emphasis in original).


19 See below, Chapter 5 Section B.3.

20 Hofmann, Katzenbach and Gollatz (n 18) 22.
Calling ICANN a ‘regulator’ may imply that the organization possesses a legitimate authority to regulate the DNS, and perhaps even the Internet more broadly. However, in my view, it is important to distinguish descriptive and normative questions. From a descriptive perspective, we can ask the following: (i) Does ICANN regulate? From a legal perspective, the question is as follows: (ii) To what extent does ICANN have a mandate to regulate? Finally, the normative/political question is as follows: (iii) How ought ICANN’s regulatory authority be delimited?

The answer to the descriptive question is clear cut if one accepts the definition of regulation given above. ICANN has engaged in regulation since its inception. There cannot be much doubt that the organization intentionally influences the various actors’ behaviour, not least in the domain name industry. ICANN has binding contracts with key actors, and it uses them for regulation and enforcement, as described here.

Unfortunately, the answer to the legal question is less clear, even if one accepts the ICANN Bylaws as a legal source, as the limit of ICANN’s regulatory authority is unclear. This is a problem, as it potentially permits overregulation. ICANN has a de facto possibility of regulating various matters related to the Internet because it holds a monopoly position in the DNS. Moreover, ICANN has power over a wide contract network, as elaborated on in later chapters.

The third question (how ICANN’s authority ought to be regulated) is normative in a different sense. In my view, it is important to delimit the legal authority, especially given ICANN’s wide de facto regulatory powers. However, this is a contested issue, and readers are encouraged to draw their own conclusions.

As is apparent from this overview, this book is primarily based on a descriptive legal perspective focusing on an analysis of documents and cases, which is common in legal literature. In addition, normative

21 The perspective of cyber-libertarianism is perhaps expressed most vividly in Barlow’s declaration of independence; John Perry Barlow, ‘A Declaration of Independence for Cyberspace’, www.eff.org/cyberspace-independence; Chris Reed, Making Laws for Cyberspace (Oxford University Press 2012) 5. However, this also depends on how ‘Internet regulation’ is defined. A more open-ended, less state-focussed definition is as follows: ‘Internet regulation means activities and policies aiming at regulating the structure and usage of the Internet in a way that all participating parties accept as binding’; see Wolfgang Kleinwächter, ‘Internet: International Regulation’ in The International Encyclopedia of Communication (Wiley 2014).

22 This is examined in Chapter 6.

23 This is the political/normative question lawyers often call ‘de lege ferenda’, for which a variety of political, economic and other considerations are relevant.
perspectives identify relevant technical, economic, political or other issues. These should also be understood as an attempt to build a bridge to analyses from other disciplines. For example, Mueller24 has contributed to the understanding of key political and economic perspectives on the DNS and some of these are discussed here from a legal perspective.

G. THE BOOK’S METHOD AND SCOPE

This book contributes to three distinct academic discourses – Internet governance, domain name law and transnational private regulation – all of which have a global dimension and are hotly debated. It focusses on a broad set of regulatory issues regarding gTLDs, with clear implications for domain name registrants, name holders and Internet users.

Although the book is primarily based on document analysis, the data collection has also involved participant observation at various ICANN meetings, both online and offline, over several years. For example, the author participated in ICANN’s first working group to define metrics for the gTLD programme’s evaluation, with a focus on competition, consumer trust and consumer choice (the CCT metrics).25 Although this implies that I was sometimes a participant, rather than a neutral observer, my active role has given me valuable insight into some debates concerning ICANN’s policy decisions on gTLDs.

This book focusses on the developments at ICANN during the past decade, starting from the Board decision to introduce new gTLDs (2008). At present, most of the new gTLDs applied for during the 2012 application programme have been delegated, and ICANN is debating how gTLDs can be introduced in the future. Yet, the past decade has also seen a second major development: During this time, ICANN has been transformed from a private entity under the influence and oversight of the US Department of Commerce (DoC), to one formally accountable to the global Internet community. The most significant step in this process was the ‘Internet Assigned Numbers Authority (IANA) functions transition’ in 2016, which introduced a new corporate structure and reform of the ICANN Bylaws touching on several issues that are also relevant for new gTLDs. The temporal sequence of these two major ICANN

developments represents a presentation challenge for this book. Most of the gTLD issues discussed here were decided prior to the 2016 transition, or at least, based on the pre-2016 ICANN Bylaws. However, this book’s initial description of ICANN is based on the current status quo, after the transition. The book is structured around topics rather than having a temporal sequence, so we commence with a description of the current regime at ICANN and then go back to focus on decisions made primarily under the old regime.

The scope of this book is limited to the analysis of generic TLDs. Therefore, everything related to the introduction or removal of country-code TLDs, such as <.no> and <.uk>, is beyond its scope. For this reason, the book often refers to new ‘TLDs’ or ‘endings’ rather than using the more precise term ‘gTLDs’. There are significant differences between the two frameworks (gTLDs and ccTLDs), and the bulk of legal issues concerning the latter depends on national law, which is not addressed here.

This book does not focus in detail on the trademark-related issues raised by the introduction of new gTLDs. Some of the debate on new gTLDs has dealt with the question of whether there are sufficient protections for trademark holders at the first (TLD) and second (domain name) levels. These are relevant questions, but they are not analysed in detail here. This book briefly presents the new trademark protections, otherwise concentrating on other issues.

Finally, the book does not address the ongoing policy development at ICANN, such as the protection of human rights, consequences of the IANA transition and rules for the future introduction of new gTLDs. There are multiple working groups considering these issues, but the speed of development is too high to be captured in a book.

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26 While it is technically more correct to use the acronym ‘gTLD’, both ICANN and much of the industry often simply use ‘TLD’. For this study, ‘TLD’ typically refers to generic TLDs, except if otherwise indicated.

27 These national legal issues concerning ccTLDs are described, for example, across more than 800 pages in Torsten Bettinger and Allegra Waddell, *Domain Name Law and Practice: An International Handbook* (2nd edn, Oxford University Press 2015) 153–1075. For an overview of ccTLD governance, see Bygrave (n 17) 77. For a critical perspective on sovereignty issues related to ccTLD governance, see Milton L Mueller and Farzaneh Badiei, ‘Governing Internet Territory: ICANN, Sovereignty Claims, Property Rights and Country Code Top-Level Domains’ (2016) 18 Colum Sci & Tech L Rev 435.
H. THE BOOK’S STRUCTURE AND MAIN ARGUMENTS

The book has five parts. Part I prepares the ground for the subsequent analysis. Chapter 2 introduces the private regime governing the DNS, including some of the regulatory issues regarding the DNS. It shows how ICANN has evolved as the key actor in its governance. Thus, it seeks to establish some of the background for the subsequent analysis.

ICANN’s institutional framework, as summarised in Chapter 3, is the basis on which the organization develops, implements and applies its ‘policies’ and contracts. Although this framework is clearly different from domestic legal systems, it is interesting to note certain similarities, for example, to constitutional principles, such as the separation of powers. Although ICANN is registered as a private corporation under California law, its structure and functions are increasingly comparable to those of a constitutional legal system, in which powers are separated between executive, legislative and judicial branches. Nevertheless, there are important contrasts with national states. For example, much of the decision making and adjudication is outsourced to independent third parties.

Chapter 4 describes ICANN’s regulatory framework for introducing new gTLDs. This contains the application rules foreseen in the AGB. In addition, the Registry Agreement with ICANN lays out a binding set of rules for how a gTLD can be used. The AGB and contracts constitute a binding normative framework that is self-contained but somewhat fragmentary. This exists outside traditional legal systems in domestic and international law – should we call it law?

Part II assesses ICANN’s function and limitations as a transnational regulator. Although ICANN’s framework could be called ‘transnational law’, as discussed in Chapter 5, this book conceptualizes ICANN’s binding rules as ‘transnational private regulation’. The rules are private, have a transnational effect and regulate actors in the DNS. Because the dominant perspective in the literature is based on ‘governance’ rather than ‘regulation’, this chapter discusses these two concepts and provides arguments for the claim that ICANN’s rules should count as ‘regulation’.

This chapter also highlights the function of contracts as the key mechanism ICANN employs for enforcing its regulation. ICANN effectively regulates ‘by contract’. It controls a chain of contracts with several actors in the domain name industry; thus, it can insert rules into these contracts and enforce them at a global level, including in the interest of third parties.

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28 This expression is inspired by Bygrave (n 17).
like Internet users. The regulatory function of these provisions often has effects that go beyond the immediate parties to the contract, thereby effectively regulating third parties, such as domain name registrants. Thus, voluntary agreements between contractors can contribute to the creation of a binding global regulatory regime, which can be contractually enforced.

Chapter 6 discusses whether, and to what degree, ICANN has, or should have, a clear authority to regulate actors involved in the use of the DNS. This analysis is based on relevant provisions of the ICANN Bylaws. The two key arguments in this chapter are as follows: First, the limits of ICANN’s authority to regulate are of crucial importance for the Internet’s future development and regulation, as ICANN’s factual regulation potential seems almost unlimited. Second, it is unsatisfactory that the current version of ICANN’s Bylaws does not sufficiently clarify these limits.

Part III discusses the regulation of property rights and competition in the domain name market. Chapter 7 focusses on property rights in gTLDs. Does somebody own the DNS, or parts of it? It is argued that ICANN does not own the DNS; rather, it manages a common property regime. By comparison, registry operators of gTLDs arguably hold an individual property right. This conclusion may be controversial, as ownership rights are explicitly excluded by many ICANN documents and contracts. I make this claim because the registry operator of a gTLD enjoys a significant degree of protection of its interests in the gTLD, and this fulfils certain economic criteria for property rights. Thus, perhaps surprisingly, gTLD operators hold property rights in the economic sense, but not necessarily in the legal sense, as the legal notion can differ between jurisdictions and even contexts. To avoid the conceptual challenges with the phrase ‘property right’, the chapter proposes a new term, ‘gTLD right’.29

Chapter 8 analyses the regulation of competition in the domain name market. ICANN’s incorporation as a private company leads to a double role, both as a global regulator and subject of regulation (under national competition law). This chapter examines how national and transnational competition rules are interrelated, creating a mesh of hybrid regulation. At the time of writing, competition in the domain name market is regulated by both ICANN and a US competition agency. The chapter also discusses the effect of introducing new gTLDs on the domain name market and its relevance for future regulation. I argue that the introduction of new

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29 This chapter is partly based on Tobias Mahler, ‘A gTLD Right? Conceptual Challenges in the Expanding Internet Domain Namespace’ (2014) 22 Int’l J L & Info Tech 27.
gTLDs has had a limited effect on competition. Moreover, ICANN’s independence from US influence requires increased efforts to coordinate transnational and national regulation of competition.

Part IV addresses the procedural mechanisms for allocating gTLD rights to applicants. Chapter 9 explains the procedural and substantive rules governing the gTLD application process. This was one of the innovations of ICANN’s 2012 gTLD programme. It was used to decide which applicants would receive a contract for a gTLD, and thus, a gTLD right. Overall, the 2012 application process was a significant step forward compared with the shortcomings of earlier gTLD rounds. Nevertheless, there is still significant room for improvement, as discussed in Chapter 10. ICANN did not make application decisions, but instead, outsourced the decision making to independent third parties. Although this is not automatically unfair, the experiences show that it was challenging to ensure fairness and administrative due process.

Part V elaborates on ICANN’s regulation of domain name registration and use. Cyberspace regulation is challenging for nation states, as the Internet’s transnational character makes enforcement difficult. By comparison, ICANN can effectively enforce regulation on its contractors, with global effects. Under the heading of ‘public interest’, ICANN has included several new regulatory measures to address the interests of Internet end users. The degree to which ICANN’s rules protected users of the Internet was hotly debated, and this was also visible in some case law generated in the context of dispute resolution concerning the new gTLD programme. ICANN eventually created a rather wide-ranging set of regulatory measures targeting the global ‘public interest’, at the insistence of governments represented at ICANN. This was done outside ICANN’s regular policy-making procedures.

Chapter 12 addresses ICANN’s regulatory response to the demand for blocking, suspension, takedown and other ‘non-use’ of domain names. Although ICANN’s key concern is ensuring the function and use of the DNS, it has created a considerable number of rules that are more closely related to an interest in non-use of domain name strings in new gTLDs.

The underlying justifications for the rules are diverse, but they arguably expand the purview of ICANN’s regulation. They go beyond the traditional focus on trademark holders by including states and territories, governmental functions, intergovernmental organizations (IGOs) and non-governmental organizations. Some address ‘abuse’, which is widely defined and can include infringements of intellectual property on websites using new gTLDs. This development potentially risks extending ICANN’s purview to that of a future Internet content regulator.
Finally, Chapter 13 captures some of the central themes of the book. ICANN is de facto a transnational regulatory/legal regime, but this is still a work in progress. Overall, it is a positive feature of the regulatory landscape, but ICANN needs to be careful to stay focused on names-related matters and not attempt to regulate Internet content.