Issues of co-existence of trademarks and domain names: public versus private international registration systems

1. Analysis of current domain name registration procedures

1.1 Nature of signs

What is the status of a domain name in your country?

Proprietary rights are not recognised to exist in domain names in Australia.

Does the registration of a domain name confer exclusive rights to the proprietor?

The registration of a domain name is effectively the grant by the registrar to the registrant of a licence to use the domain name. Such use must be in accordance with the terms and conditions of the licence agreement between the registrar and the registrant (including the policies published by the .au domain name space administrator, .au Domain Administration Ltd (“auDA”)).

The licence is granted for a two year period and must be renewed every two years. The licence may be terminated if the registrant is in breach of the licence agreement.

Can domain names be the subject of dealings such as assignment, mortgage and the like?

No. Under its agreements with its accredited registrars, auDA requires that all domain name licence agreements contain a term that prohibits the registrant from:

(a) transferring or purporting to transfer a proprietary right in a domain name registration;

(b) granting or purporting to grant a registered domain name as security; or

(c) encumbering or purporting to encumber a domain name registration.

This prohibition is further described in auDA Published Policy 2002-24 (http://www.auda.org.au/docs/auda-2002-24.pdf). Indeed, by selling or offering a .au domain name for sale a registrant will be in breach of its licence agreement and the registrar (or auDA) may revoke the registrant's licence.

Registrants are however permitted to transfer their .au domain name licence to a third party in certain limited circumstances (including where the registrant has entered into an agreement to transfer the licence to the proposed new registrant in settlement of a dispute between them). These circumstances are further described in auDA Published Policy 2002-27 (http://www.auda.org.au/docs/auda-2002-27.pdf). The transfer is however subject to the new registrant being eligible to hold the domain name according to the eli-
gibility rules applicable to that domain and subject to the transfer not amounting to a
"sale" of the domain name.

It is also interesting to note that stamp duty legislation in the Australian state of New
South Wales has recently been amended to include the words "domain name" within the
definition of "intellectual property". As such, stamp duty will now be payable on dutiable
transactions involving domain names.

1.2 Legislation

Is there any legislation in your country dealing specifically with domain names and the
domain name registry? If so, please describe it.

Other than as discussed in part 1.3, there is no legislation in Australia that deals specifi-
cally with domain names or the domain name registry.

1.3 Type of registry

Which organisation has been assigned responsibility for the ccTLD domain in your
country? Is this organisation a public or a private entity? If it is a private entity is it subject
to a regulator? Is the registry's conduct of business (e.g. the setting of registration fees)
subject to judicial or independent review?

Since October 2001 the .au domain name space has been administered by .auDA, .au
Domain Administration Ltd (see http://www.auda.org.au/).

.auDA is a self funded, non-profit, private company. Its board is presently made up of ten
members who are either suppliers of domain name services, users of domain name serv-
ices or representatives of associations of such users or suppliers, as well as two inde-
pendent directors and the company's CEO. Other than as described below, auDA is self
regulated and its conduct is not subject to independent review.

The Australian Government (represented by the National Office for the Information Econ-
omy ("NOIE"), see http://www.noie.gov.au) facilitated the establishment of auDA. The
Australian Government (represented by NOIE and the Minister for Communications, In-
formation Technology and the Arts) formally endorsed its role as the .au domain name
space manager in December 2000 (see http://www.auda.org.au/docs/Endorse_Letter_-
Final.html). auDA's acceptance of the government's endorsement required auDA to ac-
knowledge that "the management and administration of the .au ccTLD are subject to the
ultimate authority of the Commonwealth of Australia". The endorsement was also subject
to auDA's continued compliance with certain conditions.

The ccTLD Sponsorship Agreement, signed on 25 October 2001 by ICANN and auDA,
expressly sets out this "triangular relationship" between auDA, the Australian Govern-
ment and ICANN (see http://www.icann.org/cctlds/au/sponsorship-agmt-25oct01.htm).
Importantly, the failure of auDA to continue to comply with the terms of the endorsement
granted by the Australian Government is a ground on which ICANN may terminate the
ccTLD Sponsorship Agreement.

In December 2000, the Australian Government also passed certain legislative amend-
ments to enable government intervention into the management of electronic addressing
in the event that the self-regulatory regime proved ineffective. Amendments to the
Telecommunications Act 1997 (Cth) and the Australian Communications Authority Act
1997 (Cth) permit the Australian Communications Authority (the "ACA") or the Australian
Competition and Consumer Commission (the "ACCC"), in consultation with one anoth-
er, to "declare" and "direct" a manager of electronic addressing in certain circumstances.
In addition, the Minister has the authority to instruct the ACA to take over the responsibili-
ty for the management of electronic addressing in the event that the self-regulatory body carrying out the management is unable to do so in an effective manner.

It should be understood that auDA licenses second level domain ("2LD") registry operations to entities selected by competitive tender. Since July 2002 AusRegistry Pty Ltd ("AusRegistry") has operated the registries for the "open" 2LDs (.com.au, .net.au, .org.au, .asn.au and .id.au). AusRegistry also operates the primary and secondary name servers in Australia for these 2LDs. The operation of registries for the "closed" domains (.gov.au, .edu.au and .csiro.au) is carried on by relevant peak bodies.

auDA also accredits .au registrars, which in turn license domain names to registrants. Registrars enter into a "Registrar Agreement" with auDA (see http://www.auda.org.au/docs/auda-registrar-agmt05-07.pdf) and must comply with (and ensure that their appointed resellers comply with) auDA's "Domain Name Suppliers Code of Practice" (see http://www.auda.org.au/docs/auda-2002-26.pdf). The Domain Name Suppliers Code of Practice came into operation in September 2002 but is presently under review by auDA.

It is proposed that registrars will also be subject to the .au Domain Name Application Appeals Process (adopted by the auDA board on 8 October 2001, but not yet operational), which provides an independent review mechanism for persons whose application for a domain name has been rejected by an auDA accredited registrar (see part 1.6).

1.4 National treatment

Does the applicant require legal or natural status in your country to register a domain name?

Applicants for domain names need not necessarily have legal or natural status in Australia to register a .au domain name, however they must satisfy the relevant "Domain Name Eligibility and Allocation Policy Rules" for the particular 2LD for which they are seeking registration (see Published Policy 2002-07, http://www.auda.org.au/docs/auda-2002-07.pdf). For example, a foreign company registered to trade in Australia or the owner of or applicant for a registered Australian trade mark may apply to register a .com.au or a .net.au domain name, while applicants for a .id.au 2LD must be either an Australian citizen or resident.

1.5 Bars to registration

Is the domain name registry in your country entitled to reject applications on public policy grounds? If so, on which grounds (e.g. immorality or generic terms)?

Registrars must reject domain name applications for domain names containing words that are on auDA's "Reserved List" (see Published Policy 2002-30, http://www.auda.org.au/policy/auda-reserved-list.csv). The Reserved List contains words and phrases the use of which is prohibited or restricted by Commonwealth legislation. Such words include "Anzac", "Red Cross" and "Olympic". The Reserved List also presently includes all Australian place names and the names and common abbreviations of the Australian States and Territories. It is intended that these names will be removed from the Reserved List once a mechanism is finalised for allocation of such names for non-commercial use by the community in the relevant geographic area. This task is presently being undertaken by auDA.

auDA does not require Registrars to decide whether a domain name is objectionable, however auDA supports the right of Registrars to reject an application if it breaches the Registrar's own rules on such matters. It would however appear that none of the major Registrars of domain names in the .com.au domain name space have rules that expressly permit them to reject domain names on such a ground.
1.6 Appeals

Does the applicant for a domain name have the right to appeal against the refusal of the registry to register a domain name? If so, to which entity and based on what kind of procedure (e.g. arbitration or administrative procedure)?

Under the Registrar Agreements between auDA and accredited registrars, if a registrar rejects an application for a domain name, registrars are required to provide the applicant with written reasons for the rejection.

In accordance with Published Policy 2002-21 (see http://www.auda.org.au/docs/auda-2002-21.pdf) registrants and other members of the public can complain to auDA about certain conduct on the part of registrars (and resellers). Such conduct includes conduct in relation to the registration of a domain name. Before auDA will investigate a complaint, the complainant must first have attempted to resolve the dispute with the relevant registrar or reseller. Depending on the results of its investigations, auDA may direct a registrar (or reseller) to remedy their error. If a registrar fails to comply with a direction from auDA, auDA may suspend or terminate the registrar’s accreditation, however as it is not a government agency or statutory authority, auDA does not have the power to impose fines or other penalties on registrars. For this same reason, it would not appear that the decisions of auDA (or indeed registrars approved by auDA) could be subject to judicial or administrative review.

As noted in part 1.3, in October 2001 the auDA board adopted the .au Domain Name Application Appeals Process ("AAP") (see Published Policy 2002-21, http://www.auda.org.au/docs/auda-2002-21.pdf). We understand that auDA has not yet set down a date for implementation of the AAP. The AAP provides for an independent dispute resolution provider to hear an applicant’s appeal against the refusal of a registrar to register a domain.

1.7 Publication, opposition and cancellation

Is the application for or registration of a domain name made public in your country?

The application for a domain name in the .au domain name space is not made public.

Is there any procedure available to third parties to oppose such application (prior to registration) or registration? If so, on what (relative or absolute) grounds (e.g. prior trademark registration or generic term) and based on what kind of procedure (e.g. arbitration or administrative procedure)?

No, there is no procedure available to interested parties to oppose an application for a domain name prior to registration. Domain names are allocated by registrars simply on a "first come, first served" basis, provided that the applicant can establish that it satisfies the eligibility criteria for the relevant 2LD. Registrars are not required by auDA to determine whether a domain name potentially infringes the rights (registered or not) of a third party.

Is it possible for a registered domain name to be cancelled? If so, by whom and on what (relative or absolute) grounds (e.g. prior trademark registration or generic term)?

A domain name registered in the .au domain name space may be cancelled by a registrar where:

(a) the registrant of the domain name directs the registrar to do so; or
(b) the registrar is directed to do so by a court or other arbitral tribunal; or
(c) where a panel formed to hear a dispute in relation to that domain name under the .au Dispute Resolution Policy directs the registrar to do so.
While there is presently little Australian case law on this point, we expect that the Federal Court of Australia would have the power to direct a registrar to cancel (or transfer) a domain name where legal proceedings are successfully brought against the registrant for trade mark infringement, breach of the consumer protection provisions of the Trade Practices Act 1974 (Cth) (e.g., misleading and deceptive conduct in the course of trade) and/or passing off. In Australian Competition & Consumer Commission v Purple Harmony Plates Pty Ltd (No 3) [2002] FCA 1487, following a finding that the respondent (Purple Harmony Plates Pty Ltd) had breached the prohibition against misleading and deceptive conduct in the course of trade, the Federal Court of Australia ordered the respondent to transfer the registration of the .com domain name (www.purple-plates.com) to the ACCC to enable the ACCC to post corrective advertising on the site.

The .au Dispute Resolution Policy ("auDRP", see http://www.auda.org.au/docs/auda-2002-22.pdf) provides for an interested party (that is, a party that has rights in a name, trade mark or service mark which is identical or confusingly similar to the domain name) to obtain the cancellation (or, more commonly, the transfer) of the domain name where it can establish that:

(a) the registrant has no rights or legitimate interests in respect of the domain name; and
(b) the domain name was registered or subsequently used in bad faith.

In addition, a .au domain name registration may be cancelled where:

(a) a registrant has given a false warranty to the registrar (such as a warranty that the registration or use of the domain name by the registrant will not infringe third party intellectual property rights) or otherwise acted in bad faith to obtain the licence; or
(b) as noted in part 1.6, a party complains to auDA that the eligibility criteria has not been applied correctly by the registrar, in accordance with auDA Published Policy 2002-21.

Is it possible to request cancellation of a domain name based on general statutory law (e.g. unfair competition law)? Which procedure is followed, in the case that cancellation is required?

See above.

Is the ccTLD registry liable for domain names which infringe trademarks?

There is no Australian precedent to suggest that auDA, the relevant registry or registrar may be held liable for domain names that infringe trade marks.

1.8 Maintaining the registration

Must use requirements be satisfied in order to maintain the domain name registration? If so, is there any definition of what constitutes use?

There is no express use requirement in order to maintain domain registrations for the .au ccTLD.

However, under its agreements with its accredited registrars, auDA requires that all domain name licence agreements between registrars and registrants contain a term which prohibits the registrant from registering a domain name and then passively holding the domain name licence for the purpose of preventing another registrant from registering it. Also, in proceedings under the .auDRP, failure to use the domain name following registration may be taken as evidence of bad faith use of the domain name. However, it is unlikely that, without further evidence, non-use will on its own amount to bad faith use.
Is a renewal fee payable, in addition to, or in place of, a maintenance fee?

Renewal fees must be paid every two years to maintain the domain name registration.

1.9 Generic Top-Level Domains (gTLDs)

Are gTLDs subject to regulatory control in your country? If so, in what ways? Are there any differences to the treatment of ccTLDs? If so, what are they?

gTLDs are not subject to regulatory control in Australia. There are presently five ICANN accredited registrars for gTLDs operating in Australia. These registrars allocate gTLDs in accordance with ICANN policy.

2. Proposals for adoption of uniform rules

2.1 Nature of signs

Should the registration of a domain name confer exclusive rights to the proprietor? Should domain names be subject of dealings such as assignment, mortgage and the like?

No, the registration of a domain name should not confer exclusive rights to the proprietor. It is important that regulatory control is maintained over the domain name space. The granting of a limited licence to use the domain name on certain conditions is, we consider, the best way of doing so. To confer exclusive rights on the registrant and permit it to deal with the domain name as it wishes would fail to recognise that there may be a number of persons who could claim a legitimate interest in any one domain name. To permit a registrant to deal freely with the domain name by assignment, mortgage and the like, is likely to result in domain names being held by persons with no legitimate interest in them.

We do however acknowledge that domain names are now commonly recognised as an intellectual property asset of a company. As such, it is appropriate that a registrant of a domain name be entitled to transfer its rights in the domain name in certain limited circumstances (for example, where the operations of the registrant are acquired by another party). However, such dealing must always be subject to the requirement that the new registrant be eligible to hold the domain name in accordance with the relevant eligibility rules for that domain name.

If the registration of a domain name were to confer exclusive rights on the registrant we consider that the process of examination of registration applications would need to become more rigorous and third parties should be given an opportunity to oppose the application.

2.2 Legislation

Should legislation be enacted to deal specifically with domain names and domain name registries?

We consider that if the domain name system in a particular country is managed by a private entity it is appropriate that legislation be enacted, as in Australia (see part 1.3), to empower a statutory authority to oversee the management of the domain name system by that entity, given the public interest in the continuing and effective operation of the DNS.

In relation to domain names and the allocation of domain names, we consider that specific legislation is not required if there is sufficient existing protection afforded by private ordering to protect consumers from misleading conduct and to protect trade mark owners from infringement. In due course, as disputes arise, courts will be required to apply existing law to the Internet environment and a body of common law will develop. It may
be that amendments will be required to certain legislation that is not adaptable, however this will become apparent in due course.

2.3 Type of registry

Do you think the domain name system should be administered by public or private entities?

We consider that the manner in which the Australian DNS is administered is ideal - that is, with the administration (both technical and policy) of a ccTLD handled by a private, non-profit entity which is endorsed and overseen by the country’s Government via its consumer protection and communications regulatory agencies (see part 1.3). We see no particular reason which would necessitate regulation of ccTLDs by a public entity.

If you think that the DNS should be administered by private entities should they only perform technical functions or should they also perform policy functions? If you think that they should only perform technical functions who should perform the policy functions? What do you think Government’s involvement in a privately administered DNS should be?

It is acceptable that such an entity performs policy functions as well as technical functions, provided that the entity is required to use its best efforts to engage key stakeholders (Internet industry users and service providers and commercial entities) in the development of that policy.

We do acknowledge that there are certain potential problems with private administration of the DNS such as:

(a) consumers’ ability to appeal the decisions of a private entity is not guaranteed unless the entity expressly provides for it; and

(b) the private entity’s own ability to enforce its decisions against parties (for example, registrars) since its decisions do not have the force of law and it doesn’t have the power to impose fines or penalties.

However we consider that a “triangular relationship” between ICANN, government and the private entity is an effective means of ensuring that the entity meets certain standards of operation or otherwise sees its role terminated by ICANN.

If the DNS is administered by private entities do you think that their actions should be subject to a regulator and to an independent review? If so, which institutions should perform these functions?

As noted above, we consider that the operations of the private entity should be overseen by Government via its consumer protection and communications regulatory agencies.

If you think that the DNS should be administered by public entities which institutions should perform the technical and policy functions?

Not applicable.

Should the assignment of gTLDs and the key Internet co-ordination functions (e.g. the stable operation of the Internet’s root server system) be performed by a treaty based multi-governmental organisation? If so, should an existing organisation such as WIPO or ITU be tasked with these functions or should a new one be created?

These functions are obviously critical to the continued operation of the global DNS and its evolution. As such, we consider that it is appropriate that the body that carries out such functions be a multi-governmental organisation, independent of the control of any one country. The organisation must carry out such functions with an appropriate level of support and assistance from relevant stakeholders (including governments, ccTLD opera-
tors, root server operators). The development of any policy in relation to such matters must also be transparent and open to input from other interested parties (including business, Internet users and Internet service providers). Such functions are however highly technical and we consider that an already established, multi-governmental organisation like the International Telecommunications Union ("ITU") would be best tasked with these functions.

2.4 National treatment

Do you think domain name registries should be entitled to impose restrictions on the application process based on the nationality of the applicant?

No, we do not consider that registries should be entitled to impose restrictions based on the nationality of the applicant however we do consider that applicants should be required to establish some degree of connection with the relevant country.

2.5 Bars to registration

Do you think domain name registries should be entitled to reject applications on public policy grounds? If so, on which grounds (e.g. immorality or generic terms)?

Yes, we consider that it is reasonable and appropriate that registrars should be entitled to reject applications on certain policy grounds. However, these policy grounds should be developed by the registry operator of the relevant ccTLD country, subject to input from interested parties. We suggest that such policy should not materially deviate from the policy on such matters followed by the government of that country in relation to the registration of trade marks.

2.6 Appeals

Do you think that the applicant for a domain name should have the right to appeal against the refusal of the registry to register a domain name? If so, to which entity and based on what kind of procedure (e.g. arbitration or administrative procedure)?

Yes, we consider that applicants should have a right to appeal against the refusal of a registry to register a domain name. We consider that it is appropriate that such right of appeal only lie in respect of a failure to correctly apply the eligibility criteria for registration of a domain name or in respect of a rejection on public policy grounds. We suggest that in order to minimise costs, the appeal should first be directed to a higher level within the registrar and then to the body that oversees the performance of the registrars (in Australia, that would be auDA). This is the process that is described in auDA's Published Policy 2002-21 (see part 1.6).

We also suggest that if a complainant is not satisfied with the action taken by that body in relation to the complaint, there should be a process available to the complainant to at least notify the government body overseeing the domain name space administrator that it was not satisfied with the outcome of the complaint. This process could act as a means of the government monitoring the performance of the registry to which it has given its endorsement.

We do however have some concerns that while it is appropriate that the administrator of the ccTLD domain name space be required to investigate the conduct of its accredited registrars where a complaint is made regarding their conduct, it may be a significant and unnecessary drain on that body's resources for it to investigate decisions regarding registration. We suggest that such decisions should be examined by an independent, cost-effective dispute resolution provider.
As noted in part 1.6, unless the registry is a government agency or statutory authority, it would not appear that its decisions could be subject to formal judicial or administrative review.

2.7 Publication, opposition and cancellation

Do you think that the application for or registration of a domain name should be made public?

No, we do not consider that the application for registration of a domain name should be made public. We consider that to do so would be somewhat inconsistent with the "first in, first served" ethos for allocation of domain names.

Do you think that there should be a procedure available to third parties to oppose such application (prior to registration) or registration?

No, for the reason noted above we do not think that there should be a procedure available to third parties to oppose applications for registration of a domain name.

If so, on what (relative or absolute) grounds (e.g. prior trademark registration or generic term) and based on what kind of procedure (e.g. arbitration or administrative procedure)?

Not applicable.

Do you think that it should be possible for a registered domain name to be cancelled?

Yes, we consider that it should be possible for domain names to be cancelled.

If so, by whom and on what (relative or absolute) grounds (e.g. prior trademark registration or generic term)?

We consider that a domain name should only be capable of being cancelled by a registrar where it has been improperly registered (that is, contrary to relevant eligibility policy relevant to the particular DNS).

However, subject to receipt of an order from an appropriate court within the jurisdiction of the particular DNS, the registrar should also cancel a domain name where that domain name is found by the court to have infringed third party rights (for example, trade mark rights (registered or unregistered)) or to be contrary to the legislation in force in the relevant country (including consumer protection legislation dealing with misleading conduct).

Do you think it should be possible to request cancellation of a domain name based on general statutory law (e.g. unfair competition law)? If so, which procedure should be followed?

Yes, we consider that it should be possible to request cancellation based on general statutory law, however only if a court has made a specific determination that the registration of the domain name or its use breaches statutory law. The domain name should only be cancelled in such circumstances if the court makes an order to this effect.

Do you think domain name registries should be liable for domain names which infringe trademarks?

No, we do not consider that registries should be liable for domain names which infringe trade marks. Even if registries were expressly required to check whether domain names infringed the trade marks of a third party, we do not consider that they should not be held liable for the conduct of the registrant.

2.8 Maintaining the registration

Do you think that use requirements should be satisfied in order to maintain the domain name registration?
No, we do not consider that there should be a use requirement. While it is not desirable that registrants register domain names and not make constructive use of them, it is expected that many registrants will do so in order to defensively protect trade mark rights. However, even if there were a use requirement, we consider that this would not stop this practise from continuing as registrants would find means to meet the use requirement (for example by re-directing visitors to other sites).

If so, what should constitute use?

Not applicable.

Should a renewal fee be payable, in addition to, or in place of, a maintenance fee?

Yes, we consider that there should be an additional fee paid in an effort to discourage registration without use.

3. **Assessment of the trademark registration system**

Do you think that the publicly administered trademark registration system is adequate and sufficiently efficient as compared with the privately administered system of domain name registration?

Yes, we do consider that the publicly administered trade mark registration system is adequate and sufficiently efficient as compared with the privately administered system of domain name registration. The two systems are quite different in character and charged with achieving completely different goals. The trade mark registration system is charged with examining an applicant's claim of proprietary rights in a mark which may be used exclusively by it in relation to particular classes of goods or services. On the other hand, the domain name registration system is charged with the pure allocation of names to applicants on a first come first served basis. Although the privately administered system of domain administration is generally far less expensive and faster in its operations, we consider that given the tasks that the trade mark registration system is charged to carry out (and the fact that the operation of the domain name registration system to a degree rides off the decisions of the trade mark registration system) the additional expense and time taken by the latter in its operations is necessary and appropriate.

**Summary**

Proprietary rights are not recognised to exist in domain names in the .au domain name space ("DNS"). The .au DNS is administered by .au Domain Administration Ltd ("auDA"), a self funded, non-profit, private company. ICANN's appointment of auDA to this role does however have the formal endorsement of the Australian Government. As such, auDA's appointment may be terminated by ICANN if that endorsement is withdrawn by the Australian Government for any reason. auDA licenses the operation of the .au DNS registries and the task of allocation of .au domain names to third parties. The process of application for registration of domain names in Australia is unlike the process of application for registration of trade marks, in that applications are not made public and there is no procedure for third parties to object to applications prior to registration. An applicant for a domain name in the .au DNS presently has a limited ability to appeal the rejection of its application.

**Résumé**

L'existence d'un droit de propriété n'est pas reconnue en matière de noms de domaine dans l'espace des noms de domaine (Domain name space ou "DNS"). Le DNS .au est administré par
.au Domain Administration Ltd ("auDA"), société privée, autofinancée et à but non lucratif. Toute-
fois l'attribution de ce rôle par ICANN à auDA n'a pas reçu l'aval officiel du gouvernement aus-
tralien. À ce titre, la nomination d'auDa peut être terminée par ICANN si cet aval est retiré par le
gouvernement australien pour quelque raison que ce soit. auDa accorde des licences d'ex-
ploration des registres du DNS .au et autorise l'attribution de noms de domaine .au à des tiers.
Le processus de demande d'enregistrement de noms de domaines en Australie est très différent
du processus de demande d'enregistrement de marques de fabrique, en ce sens que les de-
mandes ne sont pas divulguées et qu'il n'existe pas de procédure permettant à des tiers de for-
muler des objections contre des demandes avant l'enregistrement. Un demandeur de nom de
domaine dans le DNS .au ne dispose actuellement que d'une capacité limitée de faire appel si
sa demande est rejetée.

Zusammenfassung

Die Existenz von Eigentumsrechten wird bei Domännamen im .au Domännennamensystem
(Domain Name Space = DNS) nicht anerkannt. Das .au DNS wird von der .au Domain Adminis-
tration Ltd ("auDNS") verwaltet, einer sich selbst finanzierenden, gemeinnützigen Privatfirma.
Für die Berufung von auDA zu dieser Rolle durch ICANN ist jedoch die offizielle Zustimmung der
australischen Regierung erforderlich. Somit kann die Ernennung von auDA jederzeit durch
ICANN widerrufen werden, sollte diese Ernennung aus irgendeinem Grund durch die australis-
che Regierung zurück gezogen werden. Die auDA lizenziert den Betrieb der .au DNS Regis-
straturdatenbanken sowie die Aufgabe der Ausgabe von .au Domännamen an Dritte. In Aus-
tralien unterscheidet sich der Vorgang zur Beantragung für die Registrierung von Domännenn-
amen vom Vorgang zur Beantragung für die Registrierung von Patenten insofern, dass die
Anträge nicht veröffentlicht werden und es keine Prozedur gibt, die Dritten erlaubt, vor der Reg-
istrierung Einwendungen zu erheben. Der Antragstellende eines Domännennamens im .au DNS
hat derzeit begrenzte Möglichkeiten gegen die Ablehnung seines Antrags Beschwerde einzule-
gen.