

PROTECTION OF DOMAIN NAMES IN NIGERIA: CYBER INTELLECTUAL PROPERTY LAW CONCERN*

Abstract

The advancement of technology that led to the emergence of Cyberspace and aggressive use of the internet by the whole world brought about the creation of websites and use of domain names as unique identifiers by individuals, organisations and businesses. Domain names are important Intellectual Property assets as they give ownership to a brand's identity, its goods and services. Domain name is a web address, also very important for use in online businesses to distinguish one enterprise of goods and services from another. Hence the need for its protection. This paper examines and appraises the registration, usage and protection of domain names, how domain names disputes arise and how they can be resolved. It used the doctrinal, analytical and narrative methodology of research. The intricacies of domain names protection in Nigeria, strengths and weaknesses of the current frameworks were revealed. There is no one single comprehensive framework on domain name protection. Proper domain name protection is one of the vital tools for a safe cyberspace. Domain disputes can be resolved by mediation, arbitration and the Court. It is recommended that there should be legal reforms to align Nigerian legislation with international standard. There should be public enlightenment on the protection of domain names, how disputes can be resolved and remedies available for infringement.

Keywords: Domain name, Nigeria, cyber, protection, Intellectual Property, disputes.

1. Introduction

The continuous technological advancement in the world today has brought about the emergence of the cyberspace and an increase in the use of the internet. Hence the need for individuals, businesses and organisations to have pronounced presence and benefit from the world wide web (WWW). To fully benefit from the world wide web, interested persons, businesses and organisations create and launch websites. These websites have unique identifiers commonly referred to as domain names or web addresses, which serve as locators of these entities. It is essential for businesses to own and protect domain names to set them apart from other businesses and competitors. Protecting domain names is as necessary as protecting treasured assets of business, businesses/concerns. In Nigeria's rapidly expanding digital economy, domain names have become critical part of establishing online presence and protecting intellectual property. Protecting domain name is increasingly seen as a critical part of brand protection and online presence. As businesses move online, securing domain names that align with company trademarks becomes crucial to protecting business interests in the digital space.¹ Hence this paper seeks to discuss the need for registration and protection of domain names, domain names dispute on the internet, how these disputes are resolved.

2. Meaning of Domain Name

Domain name is a name owned by a person or organization and consisting of an alphabetic or alphanumeric sequence, followed by a suffix indicating the top-level domain, used as an Internet address to identify the location of particular webpages.² Science Dictionary defines domain name as: 'A series of alphanumeric strings that are separated by periods, such as *www.hmhbooks.com*, that is an address of a computer network connection and that identifies the owner of the address'.³ It is a unique easy to remember address used to access websites.⁴ It is also a name associated with a particular computer online. In the domain name *www.chillingeffects.org*; .org is the top-level domain (TLD), chillingeffects is the second-level domain name, and *www* is a subdomain. Domain names are looked up on name servers in the Domain Name System (DNS) hierarchy to resolve them to numerical Internet Protocol (IP) addresses.⁵ In line with the afore stated, Millenkovic opines that domain name is that combination of text and signs you type to reach a particular website. It typically consists of a second-level domain (in our case, *domainwheel*) and a top-level domain (.com, .org, .net, etc.). So, our domain name is *domainwheel.com*.⁶ Examples of Some of the most popular domains are: google.com, youtube.com, facebook.com, twitter.com, instagram.com etc⁷. Simply put a domain name can be considered as the name that a person or business chooses for his/its website. It is used to identify a registered Internet Protocol (IP) address which online visitors can use to access a website. Examples of some domain names are 'google.com', 'facebook.com' and 'linkedin.com'.⁸ It can also be said to be the unique address of a website on the internet.⁹

*By **Mary Imelda Obianuju NWOGU, PhD, FCARB**, Reader, Faculty of Law, Nnamdi Azikiwe University, Awka, Anambra State, Nigeria, Email: ujn3333@yahoo.com

¹1st Attorneys, 'Domain Name Registration and protection in Nigeria: Legal Frameworks and Emerging Trends' <https://1stattorneys.com/2024/10/24/domain-name-registration-and-protection-in-nigeria-legal-frameworks-and-emerging-trends/#:~:text=Intellectual%20Property%20and%20the%20Digital%20Economy:%20The,protecting%20business%20interests%20in%20the%20digital%20space>. Accessed on 28/3/2025.

² D Howe, 'Domain name' <, <http://dictionary.reference.com/browse/domain=name>> accessed on 2 Sept 2012

³*The American Heritage® Dictionary of English Language*, 5th Ed, (HarperCollins Publishers) 2022 cited in < <http://ahdictionary.com/word/search.html/domain=name> accessed on 11 July 2024

⁴ Cloudflare inc, What is a domain name. <http://www.cloudflare.com>. Accessed on 11 July 2024

⁵ Chilling Effect Clearinghouse, 'About Domain Name' < www.chillingeffect.org/domain/fag> accessed on 25/02/ 2025

⁶ Damjan Milenkovic, 'What is a domain Name', <https://domainwheel.com/domain-name-examples/#gref> . Accessed 27/3/2025.

⁷ *Ibid*

⁸ Otoru, D. IP How to Protect Your Domain Name in Nigeria: What is a Domain Name. <https://legalnaija.com/ip-how-to-protect-your-domain-name-in/> Accessed on 13/3/2025

⁹ Diggity Marketing, 'How Many Domain Names are There?' <https://diggitymarketing.com/web-hosting/how-many-domain-names>. Accessed 14/3/2025

A domain name can be regarded as a company's unique identity and most individuals and businesses usually invest in registering domain names. A domain name can comprise of a combination of letters and numbers. It is however advisable to choose a name that is distinctive so users can easily identify it. If a common domain name is selected by a company, it may be difficult building a reputation with the name and impossible to prevent other competitors from using it.¹⁰ Trade marks are often used on the Internet in domain names. Domain names are memorable names used to identify computers and websites on the Internet. Domain names are unique, so there are no two identical domain names in the world.¹¹ In addition, to some, a domain name is nothing more than web address. It is the online address of a person or business. Each website on the Internet has a numeric address that functions like coordinates on a map. Instead of pointing to a geographic location on Earth, these numeric addresses, called IP addresses, point to a location on the Internet. Computers have no problems with locating and remembering numeric addresses. In contrast, many people have trouble remembering long, complicated sequences of numbers. So, to make navigating the Internet easier, the domain name system was invented. This system allow people to use easy to remember names for websites instead of numeric sequence. A domain name is made up of two parts – Top Level Domain (TLD) and Second Level Domain (SLD).¹² Top Level Domain (TLD) is the part that comes after the dot, such as, .com, .org or .net domains. Second Level Domain (SLD) is part of the domain name that comes before the dot such as google, yahoomail, diggitymarketing¹³ etc. TLD is also known as domain extension¹⁴.

However, there are basically four types of Top-Level Domains: i) Generic Top Level Domain (gTLD), examples are .com, .net, .org; ii) Country Code Top Level Domain (ccTLD), examples .ng, .uk, .us, etc; iii) New Generic Top Level Domain (ngTLD): These are new TLDs created to give businesses and organisations more options for their domain names, such as .blog, .shop, .news etc; iv) Geographic New Generic Top Level Domain: These are new TLDs that are specific to a certain geographical region, such as .nyc, .pairs etc.¹⁵ There are hundreds of domain extensions you can choose from to design a website, but for a business website, you need to select the one that is specific to your business or at least one that will be easy for your customers to remember.¹⁶ However, to Charlotte Waelde an example of a domain name is 'ibm.greenock.com'. Reading this from left to right, 'ibm' is the name of the hostcomputer; 'greenock' is the second level domain name, and is registered by the organisation or entity who wants to use the particular address. The last item 'com' is the top level domain name and often describes the purpose of the organisation or entity who owns the second level domain name.¹⁷

3. Domain Name Registration and Protection in Nigeria

Legal/Policy Protection

There is no specific comprehensive Nigerian Law solely on the protection of domain names. The protection of domain names is found under several Laws such as The Constitution of the Federal Republic of Nigeria 1999 (as amended), Trade Marks Act 2004, Business Facilitation (miscellaneous Provisions) Act 2022, Cybercrimes (Prohibition, Protection, etc) Act 2015, Nigerian Internet Registration Association (NIRA) Policies, Uniform Domain Name Dispute Resolution Policy (UDRP), Domain Name Registration Policy, National Information Development Agency (NITDA) Act 2007.

Constitution of the Federal Republic of Nigeria 1999 (as amended): The Constitution is the *grundnorm* of the country, all Acts and Laws should be made in accordance with the provisions of the Constitution, otherwise they will be declared null and void to the extent of their inconsistencies.¹⁸ The National Assembly is vested with the powers to make Laws. Section 251(f) vests the Federal High Court, *inter alia*, with the exclusive jurisdiction to determine civil causes and matters arising from trade marks and passing off.

Trade Marks Act: The Nigerian Trade Marks Act juxtaposed with the Business Facilitation (Miscellaneous Provisions) Act 2022 is based on the classification of goods and services. They provide, *inter alia*, that trade mark is used or proposed to be used for goods and services to distinguish one's goods and services from those of others. The Trade Marks Act in Nigeria primarily governs trade marks, but then it is relevant to domain names, particularly when dispute arises over the use of a registered trade mark as domain name by another.

Cybercrimes Act: Cybercrimes Act includes provisions that indirectly relate to domain name misuse. Specifically, it criminalizes offences like cyber-squatting, online fraud, and the unlawful use of internet resources. Under Section 25 of the Cybercrimes Act, cybersquatting (registering, trafficking, or using a domain name that is identical or confusingly

¹⁰Ibid

¹¹ N Beckett, 'Trade Mark Infringement on the Internet' < www.alliance.eur > accessed on 23 Nov 2024

¹² Diggity Marketing *Op Cit*

¹³Ibid

¹⁴ J. Alumka, 'What is a Domain Extension', https://truehost.com.ng/popular-domain-names-for-business/#What_is_a_domain_extension. Accessed on 27/3/2025.

¹⁵ Ibid: AI Overview, 'Classification of Top Level Domains', <http://www.google.com/search?q=Types+top+level+domain&ie=UTF8>. Accessed on 14/3/2025

¹⁶ Ibid

¹⁷ C Waelde, 'Domain Names and Trade marks' < <http://www.law.ed.uk/it&law> > accessed 20 Sept 2024

¹⁸ The Constitution of the Federal Republic of Nigeria 1999 (as amended) s, 1(3)

similar to someone else's trademark or name) is prohibited, and offenders may be subject to penalties.¹⁹ It then follows that the Cybercrimes Act, *inter alia*, deals with domain name infringement and criminalizes same.

National Information Technology Development Agency (NITDA) Act: The National Information Technology Development Agency (NITDA) Act 2007, is an Act of the National Assembly that provides for the deployment and use of information technology systems, practices and digital services within Nigeria. It establishes the National Information Technology Development Agency (NITDA) which provides standards and guidelines for the development, standardization and regulation of ICT in Nigeria, one of which includes domain names. The Act grants the NITDA a supervisory role in the management and use of the country-code domain name (.ng)²⁰ and charges it with the responsibility of accelerating internet prevalence and promotion of sound internet governance.²¹

Uniform Domain Name Dispute Resolution Policy (UDRP): It is a body of rules implemented by the Internet Corporation for assigned names and Numbers (ICANN) through their accredited registrars and approved dispute resolution service providers. It provides a regulatory framework for resolution of disputes between trade mark owners and domain name holders²². The UDRP is a policy for resolving domain name disputes. It is created by the Internet Corporation for Assigned Names and Numbers (ICANN). It can be used to resolve disputes involving Nigerian entities or trade marks. The UDRP can cancel an improperly registered domain name or order a losing party to transfer the domain name to a winning party.²³ The UDRP is a policy created by Internet Corporation for assigned names and Numbers (ICANN) used in resolving domain name disputes.

Domain Name Registration Policy: This policy governs and regulates how individuals or organizations can register and use a particular web address, stating the process for claiming and utilizing domain names. It outlines the process of registering domain names under .ng domains, eligibility criteria and restrictions.²⁴

Nigerian Internet Registration Association (NIRA) Policies: NIRA policies govern various aspects of domain names registration and usage under the .ng domain, including dispute resolution, domain name restrictions and policies for.gov.ng domains.²⁵The key NIRA policies are Dispute Resolution Policy, Domain Name Policy, .gov.ng Domain Policy. However, having looked at the Laws, policies and rules that regulate and protect domain names in Nigeria. It is also necessary and important to look at the institutions and organisations responsible for registration and management of domain names.

Institutions and Organisations for Registration of Domain Names

There are different institutions concerned with the registration and management of domain names in Nigeria. These institutions register and manage different types of domain names and they are:

Internet Corporation of Assigned Names and Numbers (ICANN): ICANN is a non-government, non-profit organization with responsibility for Internet Protocol (IP) addresses allocation, protocol parameter assignment, Domain Name System (DNS) management and root server management functions.²⁶ ICANN is responsible for overseeing domain name registration globally, it has procedures and standards through which domain names are assigned. It also adopted UDRP which aids the resolution of disputes involving domain names.²⁷ ICANN was established in 1998 and adopted UDRP on 26th August 1999. Initially ICANN registers and manages the generic top-level domains (gTDL) such as .com, .org, .net, .mane etc. which it does through it accredited Registrars. According to AI²⁸ it has expanded its role to include all aspects of internet identifiers and continues to evolve and adapt to changing needs of the internet.

World Intellectual Property Organisation (WIPO): The World Intellectual Property Organisation (WIPO) is a specialized agency of the United Nations that deals with intellectual property (IP) related issues. It was established in 1967 and has 193 member states with its headquarters in Geneva, Switzerland. It serves as the global forum for IP services, policy and information and co-operation.²⁹ Nigeria is a member state of WIPO. WIPO plays a crucial role in intellectual property protection, including domain names, by offering services like policy forums, global services for IP protection, and technical infrastructure to connect IP systems, ultimately aiming at protecting and promoting innovation.³⁰ Most importantly, WIPO established arbitration and mediation centre which recommended and gave effect to UDRP adopted by ICANN. For example, Ekott³¹ in his article cited the case of YouTube v You Tube.phand where

¹⁹ 1st Attorneys *Op cit*

²⁰ National Information Development Agency (NITDA) Act 2007, 2nd Schedule.

²¹ *Ibid* s.6(m)

²² D Lindsay, International Domain Name Law: ICANN and UDRP 2nd Edn, Oxford and Portland, Oregon: Hart Publishing, 2007.

²³ AI Overview, Legal Protection of Domain Names in Nigeria – Google Search, <http://www.google.com/search?client=firefox-b-d=legal+protection>. Accessed 28/3/2025.

²⁴ 1st Attorneys *ibid*.

²⁵ AI Overview, *Op cit*

²⁶ P Loshin, 'What is ICANN', techtargget.com/whatis/definition/ICANN. Accessed on 1/4/2025

²⁷ Global Law Experts, 'Cybersquatting and the Protection of Domain Names in Nigeria.' 2020 <http://globallawexperts.com/cybersquatting> accessed on 5/11/2024.

²⁸ AI Overview, 'ICANN History' <http://ggoogle.com/search?> Accessed on 1/4/2025.

²⁹ WIPO, 'Inside WIPO', <http://www.wipo.int/about-wipo/en> accessed on 1/4/2025

³⁰ AI, functions of WIPO, *op cit*

³¹ E Ekott, Registration and Protection of Domain Names and Business Entities Names as Trade Marks in Nigeria 2022.

complaint was filed by google to the WIPO Arbitration and Mediation Centre over the use of domain names – ‘YouTube.ph’ and ‘Youube.com’ that are closely similar to YouTube.com. WIPO Mediation Rules³² and Arbitration Rules³³ are to the effect that the WIPO centre has rules guiding its intellectual property and technology disputes and such rules ensure comprehensive and balanced protection of all aspects of confidentiality and confidential information.

National Information Technology Development Agency (NITDA): National Information Technology Development Agency (NITDA) was created in April 2001 to implement the Nigerian Information Technology Policy and co-ordinate general Information Technology (IT) development in the country. The National Information Technology Development Agency Act 2007 mandates NITDA to create a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of Information Technology practices, activities and systems in Nigeria. Its role therefore is to develop, regulate and advise on Information technology in the country through regulatory standards, guidelines and policies.³⁴ Additionally, NITDA is the clearing house for all IT projects and infrastructural development in the country. It is the prime Agency for e-government implementation, Internet governance and general IT development in Nigeria.³⁵ The registration of domain names in Nigeria is handled by the office of the National Information Technology Development Agency (NITDA)³⁶. The Act³⁷ also mandates NITDA to ensure Internet governance and supervise the management of the country code top-level domain (cctld .ng), including domain name registration for government entities.³⁸ It then means that NITDA can register and manage country code top-level domains.

Nigeria Internet Registration Association (NIRA): Nigeria Internet Registration Association (NIRA) was founded on March 23, 2005 as a stakeholder-led organisation, charged with the management of the nation's Country Code Top Level Domain (.ng ccTLD) in the public interest of Nigeria and global Internet communities.³⁹ NIRA is the registry for .ng Internet Domain Names and maintains the database of names registered in the .ng country code Top Level Domain. NiRA is a Not-for-Profit, Non-Governmental, Self-Regulating body and managers of the .ng national resource, the country code Top Level Domain(ccTLD) name space in the public interest of Nigeria and global internet communities.⁴⁰ Hence, the .ng domain, Nigeria's country code top-level domain, is managed by the Nigeria Internet Registration Association (NiRA) and approved by the Internet Corporation for Assigned Names and Numbers (ICANN) for business, email, and all other internet communications.⁴¹ NIRA operates the 3R (Registry, Registrar, Registrant) model of operation. It does not register domains directly for Registrants (end users). Domain registration information is maintained by the domain name registry, which contracts registrars to provide registration services to the public. An end user selects a registrar to provide the registration service, and that registrar registers the domain chosen by the user.⁴² The implication of this is that NIRA does not handle the registration of domain names directly. Registrations can only be done through NIRA certified Registrars. Notably, Registrars are establishments accredited by NIRA to facilitate the registration, transfer, renewal, and modification of registration data for customers/registrants that have, or are applying for, .ng domain names. NIRA currently has 137 accredited Registrars and 177,453 active .ng domain names⁴³. NIRA (Nigeria Internet Registration Association) generally operates on a ‘first-come, first-served’ basis for domain name registration, meaning that the first applicant to successfully register a domain name will be granted ownership.⁴⁴ Odusan reiterated this general policy by stating that one of NIRA’s policy is first come, first serve. All the trademarks and domain names are put into the database, making sure that the people that own them are the right owners, so that they are maintained in the registry software use by the association.⁴⁵ Suffice it to say that, country-code top-level domains are designated for the local Internet communities in countries to operate in a way that best suits their local needs. These top-level domains are assigned by the Internet Corporation for Assigned Names and Numbers (ICANN) to responsible trustees (known as ‘Sponsoring Organisations’) who meet a number of public-interest criteria for eligibility. Through an ICANN department known as the Internet Assigned Numbers Authority (IANA), requests are received for delegating and redelegating the sponsoring organisation of top-level domains. Decisions on whether to implement requests to delegate or redelegate top-level domains are made by the ICANN Board of Directors, taking into account ICANN’s core mission to ensure the stable and secure operation of the Internet’s unique identifier systems.⁴⁶

³² Articles 15 - 18

³³ Articles 67 - 70

³⁴ NITDA, ‘Background’, <https://nitda.gov.ng/background/> accessed on 3/4/2025

³⁵ *Ibid*

³⁶ Stillwaters Law firm, ‘Domain Names’, <https://stillwaterslaw.com/domain-name/> accessed on 3/4/2025

³⁷ National Information Technology Development Agency Act 2007

³⁸ AI Overview, <https://www.google.com/search?client=firefox-d&q=National+Information+Development+Agency+%28NITDA%29+Act+-+on+domain+names&dlr=1&sei=GYbuZ9P0HtymbhIP1dezqAM>, accessed on 3/4/2025

³⁹ NIRA, ‘About us’ www.nira.org.ng accessed on 3/4/2025

⁴⁰ NIRA ‘Register your .ng Online Identity Today’ www.nira.org.ng, accessed on 3/4/2025

⁴¹ Ai, <https://www.google.com/search?client=firefox-b-d&q=Ope+Odusan+on+NIRA> accessed on 3/4/2025.

⁴² *Ibid*

⁴³ NIRA, ‘The Nigerian Internet Registration Association (NIRA) has reported a record 177,453 active Domain Names,’ <http://nira.org.ng> accessed on 9/4/2025.

⁴⁴ AI Overview, <https://www.google.com/search?client=firefox-b-d&q=NIRA%22S+policy+of+first+come+first+serve>, accessed no 3/4/2025.

⁴⁵ O Odusan, ‘NIRA COO: Why Nigeria’s name is Today’s Hottest Internet Real Estate’ <<http://www.technologytimesng.com/nira> > accessed on 15 May 2013

⁴⁶ NIRA, ‘IANA Report on the Redellegation of the .NG Top-Level Domain’ <<http://www.iana.org/reports/2009/ng-report-07apr2009.html> > accessed 15 Dec 2012

In the words of Ope Odusan,⁴⁷ the .ng is NIRA's Internet space and has been approved by the Internet Corporation for Assigned Names and Numbers (ICANN), to use the .ng for business and email and all other communications. The primary DNS (domain name server) of NIRA is actually located here in Nigeria physically. What has been done was to create a lot of distributed servers around the world so that even if the one in Nigeria goes down, there are other ones that can back it up. That is the nature of the DNS itself.

NIRA is an indigenous association concerned with the registration of country code top level domain .ng. It does not do the registration directly by itself, but through its accredited Registrars. It registers domain names on first come first serve bases. Nigeria's domain registration process is managed by the Nigeria Internet Registration Association (NiRA). NiRA operates a 3R model (Registry, Registrar, Registrant) and doesn't register domains directly, instead contracting registrars to provide registration services to the public⁴⁸. The procedure for registration is as follows:⁴⁹ i) Check Domain Name Availability: Use the NIRA website to check if your desired domain name is available; ii) Select a NIRA Accredited Registrar: Visit NIRA's website for a list of accredited registrars and choose one; iii) Visit the Registrar's Website: Go to the website of the chosen registrar; iv) Read and Sign the Registrant Agreement: Carefully review and sign the registrant agreement provided by the registrar; v) Register the Domain Name: Use the registrar's platform to register your chosen domain name; vi) Provide Relevant Information: The applicant must provide all relevant information to the registrar, who will then submit the registration request to NIRA.⁵⁰

Be that as it may, generally, domain name registration process involves choosing a registrar, selecting a domain name, checking its availability using the registrar's search tool, and completing the registration with the registrar. After choosing your domain name, you'll need to provide contact information and payment details, and then review the domain name registration contract before finalizing the purchase⁵¹.

NIRA's jurisdiction to handle complaints is limited to matters relating to the .ng domain space. There are two types of complaints that NIRA handles⁵², viz (1) Complaints about .ng domain names and registrants (domain complaints), which include complaints about: a) prohibited misspellings; b) offering a domain name for sale; c) correct ownership of a domain name; d) transfers (change of registrant); and; e) breaches of the domain name license terms and conditions, or any NIRA Policy; and, (2) complaints about .ng domain name services provided by NIRA accredited registrars and their resellers ('industry complaints'), which include complaints about: a) domain name registration and domain name management services of a registrar; b) transfers (change of registrar of record); and c) breaches of the Registrar Agreement, Registrar's Practice Policy, or any NIRA Published Policy.⁵³

NIRA investigates all complaint on the basis of whether there has been a breach of NIRA policy, not on the basis of whether the complainant has a better claim to the domain name, or whether complainant's rights in the domain name have been infringed. If the desired outcome is transfer of the domain name to the complainant, then the complainant should consider lodging a complaint under the NIRA Dispute Resolution Policy or taking legal action directly against the registrant. If the complaint is upheld, NIRA may take one or more of the following actions:⁵⁴ a) instruct the registrar of record to 'policy delete' the domain name(s) in question; b) instruct the registrar of record to correct the registrant details of the domain name(s) in question; or c) in the case of an unauthorised transfer, instruct the registry to reverse the transfer. Nevertheless, NIRA does not have the jurisdiction to handle complaints about: a) generic Top Level Domains (e.g. .com, .net, .biz, .info, etc) or other country code Top Level Domains (e.g. .nz, .uk, .us, etc); b) web hosting, website management or website design services; c) Internet access or email services; or d) possible breaches of Nigerian law relating to Information Technology, telecommunications, broadcasting or unfair business practices.⁵⁵ NIRA reserves the right not to investigate a complaint that is clearly frivolous, vexatious or abusive, or in NIRA's opinion has been brought in bad faith.⁵⁶

Complaints may be submitted to NIRA via the online form on NIRA's website, by fax or by post. NIRA will acknowledge receipt of the complaint and indicate the timeframe that the complainant can expect a response. NIRA will endeavor to resolve complainant's complaint within thirty (30) days, but if complainant's complaint is complex, it may take several weeks to resolve. If this is the case, NIRA will keep complainant informed of the progress of complainant's complaint on a weekly basis⁵⁷. Where appropriate, NIRA will request a response from the registrant or registrar involved. NIRA will investigate the complaint based on the facts provided by all parties involved in the matter. NIRA may seek further information from any party to assist with its investigation. NIRA may place a registry server lock on the domain name(s) in question, in order to preserve

⁴⁷ *Ibid*

⁴⁸ AI Overview, : Accredited Registrars' <https://www.google.com/search?client=firefox-b d&q=Who+register+.com%2C+.net+domains+in+nigeria>, Accessed on 9/4/2025.

⁴⁹ AI Overview, <https://www.google.com/search?client=firefox-b d&q=Procedure+for+registration+of+Domain+Names+by+NIRA>, accessed on 9/4/2025

⁵⁰ AI Overview, <https://www.google.com/search?client=firefox-b d&q=Procedure+for+registration+of+Domain+Names+by+NIRA>, accessed on 9/4/2025

⁵¹ AI overview, 'Domain Name Registration Process' <https://www.google.com/search?client=firefox-b d&q=Domain+names+registration+process>, accessed on 14/4/2025.

⁵² NIRA, 'NIRA Complaint Policy', <https://nira.org.ng/wp-content/uploads/2022/06/NIRA-COMPLAINTS-POLICY.pdf>, accessed on 14/4/2025.

⁵³ *Ibid*.

⁵⁴ *Ibid*

⁵⁵ *Ibid*

⁵⁶ *Ibid*

⁵⁷ *Ibid*

the status quo whilst the investigation is pending⁵⁸. After conducting a full investigation, NIRA will notify complainant in writing of the outcome of the complaint and, if relevant, of any other courses of action available to the complainant.⁵⁹

Notably, NiRA (Nigeria Internet Registration Association) handles domain name disputes under its Dispute Resolution Policy (NDRP). This policy outlines procedures for resolving disputes related to domain names registered directly by NiRA in the .ng domain. The process typically involves a complaint filing, review by NiRA, and potentially arbitration if a resolution cannot be reached through mediation.⁶⁰ A party can file a complaint with NiRA alleging that the domain name in question is being used in bad faith, lacks legitimate interest, or violates other provisions of the NDRP. NiRA reviews the complaint for administrative compliance and notifies the respondent (the domain name holder) within three days of the complaint. If not compliant, the complainant has five calendar days to correct any deficiencies. The respondent has 20 days from the date of receiving the complaint to file a response. NiRA then initiates and facilitates informal mediation between the parties to attempt to reach a resolution.⁶¹ If mediation fails, it appoints an expert to adjudicate the dispute, based on the applicable fees paid by the complainant.⁶² Fees are payable by the complainant only when mediation fails and an expert or experts are appointed to arbitrate. Remedies that may be available to the complainant for such infringement if any, include the cancellation of the domain name registration or the transfer of the domain name to the complainant. May it be known, that parties have the right of appeal against the decision of the experts to an Appeal Panel of NIRA.

4. Domain Name Disputes on the Internet

As more companies move to put information and products onto the Internet, the clashes over Internet domain names become more common. These clashes are challenging the law and the Internet community to develop new procedures and legal rules that adequately address the equities involved⁶³. The disputes that arise over domain names involve 'second level' domain names. The second level name is the name directly to the left of the top-level domain name in an Internet address. For instance, in the address 'www.microsoft.com', the second level domain name is Microsoft.⁶⁴ Two identical second level domain names cannot coexist under the same top level domain. For example, even though both the Delta Faucet Company and Delta Airlines would like the 'delta.com' domain name, only one Delta company can have delta.com. Delta Airlines uses deltaairlines.com, while Delta Faucet Company uses deltafaucet.com.⁶⁵ In order to register a second level domain name under a top-level domain, a request must be made to the organization that has the power to assign names for that top-level domain. For instance, The US Domain Registry administers the registration of second level domain names under the US top-level domain.⁶⁶ Prior to December 1999, a company called Network Solutions Inc. (NSI) based in United States, was almost solely responsible for the registration of second level domain names for the most popular top-level domains, including .com, .net, and .org. Since the vast majority of domain names are under one of these top-level domains (the most common being .com domain names).

The Nigerian Internet Registration Association has the power to assign the top-level domain name .ng. NIRA with its registrars are responsible for the registration of second level domain names for the country code top-level domain .ng, and like Network Solutions have a great deal of control over how domain names were registered, and how disputes would be resolved. To avoid having to be the arbitrator between two parties who both desire the same domain name, NSI and NIRA simply adopt a first come, first serve arrangement with respect to domain names. Under this scheme, NSI and NIRA would not question an applicant's right to have a particular domain name. If the domain name was available, the applicant was given the name.⁶⁷ However, because of the increasing popularity of the Internet, companies have realized that having a domain name that is the same as their company name or the name of one of their products can be an extremely valuable part of establishing Internet presence. A company wishing to acquire a domain name must file an application with the appropriate agency. Before doing so, a search is done to see if their desired domain name is already taken. A good site for doing such a search is provided by Nigeria Internet Registration Association (NIRA) and Network Solutions.

When a company finds that the domain name corresponding to their corporate name or product trade mark is owned by someone else, the company can either choose a different name or fight to get the domain name back from its current owners. Examples are: i) candyland.com: Both Hasbro and an adult entertainment provider desired the candyland.com domain name. Hasbro was too late to register the name itself, but it is never too late to sue (well, almost never). The domain name is now safely in the hands of Hasbro;⁶⁸ ii) mcdonalds.com: This domain name was taken by an author from Wired magazine who was writing a story on the value of domain names. In his article, the author requested that people contact him at ronald@mcdonalds.com with suggestions of what to do with the domain name. In exchange for returning the domain name to McDonalds, the author convinced the company to make a charitable contribution.⁶⁹

5. The Ways in which Disputes Have Arisen

One way in which disputes have arisen is where a third party intentionally registers a domain name in the knowledge that someone else will want it, such as 'windows95.com'. This domain name was registered by a student in Utah. The intention may be to hold the company or business who wants to use the domain name to ransom, and demand financial reward for giving

⁵⁸ *Ibid*

⁵⁹ *Ibid*

⁶⁰ NIRA, NIRA's Dispute Resolution Process on domain Names, file:///C:/Users/user/Documents/NIRA's%20Dispute%20Resolution%20Process%20on%20domain%20Names%20-%20Google%20Search.htm, accessed on 17/4/2025

⁶¹ *Op cit*

⁶² *Ibid*

⁶³ BitLaw, 'Domain Name Dispute', <https://www.bitlaw.com/internet/domain.html>, accessed on 14/4/2025

⁶⁴ *Ibid*.

⁶⁵ *Ibid*

⁶⁶ *Ibid*

⁶⁷ *Ibid*

⁶⁸ *Ibid*

⁶⁹ *Ibid*

up the domain name. Another example is where 'Mcdonalds.com' was registered by a journalist, Mr Quittner in 1994. To secure return of the name, McDonalds were forced to make a donation for computer equipment for a primary school.⁷⁰ Suffice to say that the acts of the above two persons is called cybersquatting. A second way in which disputes arise is where a domain name is registered by someone who knows, it is the same, as a trade mark belonging to someone else, or very similar to such a trade mark, but intends to use it for their own purposes. Visitors to the site may be surprised to find that the goods or services which are advertised are not those they would normally have associated with the mark that they know and understand. IROKO Partners Ltd, a Nigerian based company and one of the world's largest online provider of African movies and music found themselves in just such a position. A competitor Iroko TV Movies registered the name www.Irokotvmovies.com, which is in violation of iROKO Partners Ltd, iROKO TV's trade mark.⁷¹ Thirdly, disputes can arise over 'innocent' registrations. This is where registration is made of what would be a logical choice of a domain name.⁷² The permutations are endless, as are the potential grounds for dispute. Interlaw Ltd, an international legal organisation, registered the domain name 'interlaw.org'. Interlaw Ltd complained about the registration of the domain name 'inter-law.com' by the 'Lectric Law library', a popular legal site. Someone else has registered the domain name 'interlaw.com'; and yet someone else 'Electric-Library.com'. Most of the litigations to date have involved instances where there have been intentional pirating of domain names, as in the cases of 'Tuebner.com' and 'McDonalds.com'.

The clash between ownership and use of domain names in cyberspace and trade marks in the terrestrial world is one of the areas of dispute currently at the forefront of legal debate in relation to the internet. The issues that arise illustrate the struggle being played out between commercial users of the internet as they lock horns in an effort to mould the unstructured web of cyberspace into a form that more closely resembles the rules of engagement with which they are familiar. Traditional terrestrial rules of trade mark law are being employed to resolve clashes over domain names with some extraordinary results. In response, those currently charged with a supervisory role in relation to the allocation of domain names have formulated their own policies to deal with the clashes. These policies have in their turn led to yet more disputes, and resulted in international efforts to resolve the clashes, which in their turn have led to further criticism. The result is something akin to chaos. Despite this, the internet continues to function, and indeed to grow at a phenomenal rate⁷³.

Reported Disputes and Decided Cases

Rumours and stories of domain name and trade mark controversies are rife. A Nigerian case on this issue is *iROKO Partners Ltd v Iroko TV Movies*.⁷⁴ In this case a complaint was filed by iROKO Partners against Iroko TV Movies based on a domain name dispute over www.irokotvmovies.com. iROKO Partners' complaint was three fold: the disputed domain name was confusingly similar to iROKO Partners, iROKOtv trademark, secondly it was being used in bad faith and, thirdly, that the other party had no rights or legitimate interests in respect of the disputed domain name. This complaint was filed on 18 April 2012 with the World Intellectual Property Organization Arbitration and Mediation Centre (WIPO) and was filed under the Uniform Domain Name Dispute Resolution Policy (UDRP). iROKO Partners was represented by a United States Law Firm Sideman & Bancroft LLC. On 1 June 2012, the World Intellectual Property Organization (WIPO) arbitration panel agreed with all three issues and ruled conclusively in favour of iROKO Partners. In summary, the panel decision was that, the Respondent registered the disputed domain name with knowledge of the Complainant's term 'irokotv' and with the intention of taking advantage of the Complainant's rights in that term. The panel concluded that by using the disputed domain name in connection with an unauthorized service which competes directly with the Complainant's own 'irokotv' service, the Respondent is using the disputed domain name in 'bad faith'. Hence, for the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <irokotvmovies.com>, be transferred to the Complainant. It may be noted that a number of cases have reached the court, particularly in the US and UK. These cases are used because there are not much Nigeria cases and decisions on this issue. These cases could serve as a guide to our jurist and the decisions also persuasive.

6. Conclusion and Recommendations

Domain names serve the same functions online that trade marks perform offline in business dealings and transactions. Domain names increase the contact value of businesses from any remote area of the world. They are indispensable tools in trade and commercial activities on the internet used to reach existing and prospective customers in various geographic locations and hence requires protection. The protection of domain name is very beneficial to the owner, consumers and the general public. It should be noted that there is no one single legislation on the protection of domain names, the existing legislations are not comprehensive and do not provide for strong protection. The requirements for registration of domain names are fluid. However, it is recommended that:

1. There should be one single comprehensive legislation on domain names in Nigeria, which is to be enacted by the National Assembly.
2. There should be strict requirements for the registration of domain Names, such as procedure requirements, first come, first serve should be abolished, requirement for registration of company by the Corporate Affairs commission should be adopted.
3. Owners of domain names should defensively register variation of domain names, so as to limit the opportunity for scammers to register them to make money or confuse prospective consumers.
4. There should be public enlightenment on the protection of domain names, how disputes can be resolved and remedies available for infringement.

⁷⁰ *Ibid*

⁷¹ Administrative Panel Decision, WIPO Arbitration and Mediation Centre, 'iroko Partners Limited v. Iroko TV Movies: Case No. D2012-0829, <https://www.wipo.int/amc/en/domains/decisions/text/2012/d2012-0829.html>, accessed on 14/4/2025.

⁷² BitLaw, *Op cit*

⁷³ *Ibid*

⁷⁴ *Supra*