

Domain Names – estudiar y discutir el sistema que arregla

Fredrik Roos, Researcher
Viktoria Institute & Department of Informatics
University of Göteborg, Sweden
roos@viktoria.se

Domain names have become a great asset as trademarks and intellectual property and the systems regulating different national and international Top Level Domains are therefore very important. These systems are not yet fully developed and are very different. This makes the study of one system interesting for other countries as an example of a solution. This paper will study and discuss the system regulating the assignment of domain names in the Swedish top level domain “.se”.

"Domain names" como marca de fabrica y propiedad intelectual ha sido un gran acceso y los sistemas que arreglan diferentes "top level domains" nacionales e internacionales por eso son muy importantes. Estos sistemas no están todavía completamente desarrollados y son muy diferentes. Esto hace el estudio de un sistema interesante para otros paises como un ejemplo de solución. Esta composición quiere estudiar y discutir el sistema que arregla la distribución de "domain names" en el "top level domain" sueco ".se".

Introduction

The domain name system requires everyone on the Internet to have a unique address. But at the same time different companies in different countries or different kinds of business do have similar or identical names. This is the problem with domain names and it has caused trademark disputes, lawsuits, cybersquatting¹ etc.

Sweden has tried to solve this problem in an original way which is interesting to study. The Swedish system has been criticized and discussed for the last couple of years. This resulted in that the government formed The Committee on Domain Name Administration² and ordered it to evaluate the domain name system. The result was the preparatory work SOU 2000:30, .se?³. The committee suggested rather substantial changes but, partly due to that the states power over the Swedish top domain is not clear, it is not yet certain to what extent changes will be made.⁴ The committee's evaluation and the process of changing the regulation will also be described below.

¹ Cybersquatting is when someone registers a domain name that is identical to a company or trademark name in order to sell it to the owner or use it to publish negative information.

² SOU 2000:30 p 17

³ SOU 2000:30, .se?

⁴ Yttrande över SOU 2000:30, .se?

The importance of domain names

Since the domain name is the address that enables people to find other people, companies or organizations it is important. Today there are about 90,000 separate .se domains⁵, i.e. approximately one domain per 100 inhabitants. The large interest in domain names alone proves that it is an important asset. But what is important is not just to have a domain name; it is just as important that the domain name is good, i.e. easy to remember and able to be noticed on the Internet.⁶ For businesses the commercial importance of domain names, as trademarks, can be tremendous.⁷

The right to a domain name is a form of proprietary brand asset. The right can provide a competitive advantage that contributes to the equity of the brand.⁸ If the brand is already used as a trademark it is of great importance to the trademark holder to have also the right to the domain name.

Generic domain names consisting of keywords describing the offered product or service are considered to supply a marketing advantage. Not only are they easier to remember⁹, when for instance heard or seen in commercials, but the keywords will also help the website to rank higher on searches in a search engine.¹⁰ In SOU 2000:30 domain names were said to be an important, perhaps even deciding, factor when it comes to doing business online.¹¹

⁵ Internets Infrastruktur i Sverige 2001

⁶ SOU 2000:30 p 52

⁷ Lindqvist, T. *Domännamn – stöld, strategi och utveckling*

⁸ Aaker, D. *Building Strong Brands*

⁹ <http://www.rubrikmakarna.se/press/553.htm>

¹⁰ Beal, A. *Is Your Domain Name Optimized?*

¹¹ SOU 2000:30 p 52

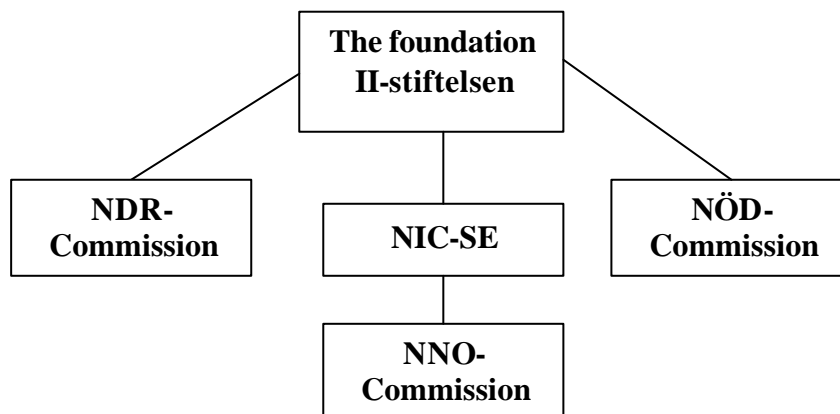
The Swedish system

In 1997 the responsibility for the top domain .se was transferred to the non-profit foundation IIS, Internet Infrastructure in Sweden (profits from operating the Internet in Sweden are invested in research and development). Earlier, from 1985-1997 the responsibility had been assigned to a single person, Björn Eriksen. The IIS foundation formed a company named NIC-SE (Network Information Centre Sweden AB) that is responsible for the marketing and administration of the top-domain .se.¹² In order to evaluate and develop the principles of assignment of domain names the foundation IIS also created a couple of commissions.

The NDR-commission creates and develops the rules concerning the assignment of domain names. NIC-SE then applies these rules when they receive an application for a registration of a new domain name. The applications for new, and the updating of existing, domain names are supplied by authorized representatives. These are often Law-firms or Patent-firms. The rules from the NDR-commission are supposed to minimize the possibility of cybersquatting, i.e. domain names being registered with the purpose of selling them. The rules are also supposed to make sure that the right company is represented by the domain name similar to the company name.

The NNO-commission was founded by NIC-SE and is the first possibility to appeal a decision by NIC-SE. The foundation IIS has also created one additional appeal court, the NÖD-commission.

The purpose of these commissions is to provide a quick and economical alternative to have a decision reconsidered. The decisions of NIC-SE and the commissions can also be taken to a public Swedish court.



¹² Internets Infrastruktur i Sverige 2001

The regulations

The regulation now in force is named *Regulations for the registration of domain names under the ".se" top domain Version 2.0 (Domain Name Regulations in Sweden)*.¹³ I will describe the part of the regulations that are the most important, how they differ from other countries and the regulations that have caused the most problems.

General regulations

“REGULATION A:

A domain name in Sweden (.se) can consist of the letters a-z, the numbers 0-9 and the hyphen. It must be started and ended by a letter or a digit, and cannot consist of just digits.

The domain name should contain at least three characters, and have a maximum of 63 characters.”¹⁴

This is the opening rule in the regulations. It has been the subject for criticism by companies and organizations wanting to register domain names with less than three characters. According to the Appendix of the regulations there is a possibility to make exceptions from the rule:

“In order for a domain name which consists of fewer than three characters to be able to be registered, it is required that the applicant can show that the domain name applied for is generally known in Sweden. For example, OK (OK Marknadsservice AB, ok.se), LO (Landsorganisationen, lo.se) [the Swedish Trade Union Confederation] and SJ (Statens Järnvägar, sj.se) [Swedish Railways].”¹⁵

However, it has proved to be difficult to get an exception. For example the magazine *Privata affärer* was not allowed to register pa.se¹⁶, M2 Engineering Aktiebolag was not allowed to register m2.se¹⁷ and CD.SE Sverige AB was not allowed to register cd.se.¹⁸

A domain name must reflect the name of an enterprise

“REGULATION B:

The domain name shall refer to an enterprise with a connection to Sweden, and reflect the name of the enterprise as this is stated on the registration certificate issued by the Swedish authorities.

If the name contains national characters (for example å, ä or ö), these shall be transliterated in accordance with Appendix 2.”¹⁹

¹³ Regulations for the registration of domain names under the ".se" top domain (Domain Name Regulations in Sweden) Version 2.0

¹⁴ a.a.

¹⁵ Appendix 1 Explanation Regulation A, *Domain Name Regulations in Sweden Version 2.0*

¹⁶ NÖD decision 2001-11-15

¹⁷ NÖD decision 2001-11-10

¹⁸ NÖD decision 1998-10-29

¹⁹ *Domain Name Regulations in Sweden Version 2.0*

Regulation B is the most important regulation in the Swedish domain name system. By demanding a domain name to refer to a registered company name the possibility to register domain names are limited. Since it is not allowed to register a generic name or a name describing a type of business as a company name the result is that one cannot register such a name as a domain name either. Generic domain names are considered to be one of the most efficient ways to market a product or service on the Internet²⁰ and therefore this regulation has been criticized and resulted in a number of appeals to the commissions.

The regulation is however not absolute; the Appendix supplies the possibility to make certain discrepancies between the domain name and the name of the enterprise. It is ok to register a name “if the discrepancies correspond better with how the enterprise is known by the majority of those who use the products or services of the enterprise. A condition is however that the domain name is closely linked to the registered name of the enterprise.”²¹ It is also allowed to change the form or sequence of the words and to register only the business name dominant or the equivalent.²²

By applying to register only the business name dominant some companies have managed to get generic domain names. Examples are Golfbutiken Sverige Aktiebolag registering golfbutiken.se²³ (which translates as golfstore.se), Aktietrend Stockholm AB registering aktietrend.se²⁴ (which translates as stocktrend.se), Enkelt Sverige Aktiebolag registering enkelt.se²⁵ (which translates as simple.se) and Intelligence Sverige AB registering intelligence.se²⁶ But this does not mean that it is simple to get a generic domain name in the .se top domain. On the contrary it is very difficult to register a generic name as a company in Sweden.

å ä ö – dodging the regulations

There is however a loophole in the regulations that is used to register good domain names. Elbolaget i Norden AB applied for registration of elbolaget.se (which translates as theelectricitycompany.se) but the application was denied by NÖD because elbolaget is a descriptive word and that it also was too similar to other domain names.²⁷ Despite this the domain elbolaget.se does exist and takes you to the homepage of Elbolaget i Norden AB. The explanation is that Elbolaget i Norden AB registered a daughter company named Elböläget AB. Elböläget does not mean anything in Swedish so there was no problem with registering it as a company. Elböläget AB then applied for registration of elbolaget.se using the transliteration rules²⁸ to remove the dots over o and a.

The possibility to take advantage of the characters å ä ö and the transliteration rules does not always work. NIC-SE and the commissions might find that the name does not reflect the company name and not allow registration of the business name dominant. The result in the case above would be that Elböläget AB would not get the domain name elbolaget.se but

²⁰ Artikel om Domain 1 Europe

²¹ Appendix 1 Regulation B, *Domain Name Regulations in Sweden Version 2.0*

²² Appendix 1 Regulation B, *Domain Name Regulations in Sweden Version 2.0*

²³ NÖD decision 2000-05-16

²⁴ NÖD decision 2000-04-27

²⁵ NÖD decision 2000-04-17

²⁶ NÖD decision 2000-03-22

²⁷ NÖD decision 2000-04-25

²⁸ Regulation B and Appendix 2 which allows å ä ö to be transliterated to respectively a a o.

elbolagetab.se²⁹, which is not as attractive. Examples are that Mäil Handelsbolag³⁰ was not allowed to register mail.se³¹ and w&w&w Svenska Handelsbolag were not allowed to register www.se.³²

Despite this attempt by NIC-SE and the commissions to apply the regulations strict in order to prevent registrations of generic domain names many have succeeded to do so. A Swedish company called 1-domain, Europe has the business idea of registering generic domain names and sell them.³³ The company is now offering 330 Swedish domain names generating 250.000 visitors per month.³⁴ Several of the names have been acquired by using the characters å, ä and ö the same way as Elbolaget did.³⁵ Selling domain names is of course not allowed by the Swedish domain name regulations but the company has solved this problem by selling the entire enterprise that registered the domain name and not only the name.³⁶

Abbreviations and acronyms

The Appendix to Regulation B also offers the possibility to register business name abbreviations and acronyms if “the abbreviation is well-known in Sweden as the distinctive mark for a certain enterprise, and that the abbreviation is connected in a natural way with the registered name. For example: Luossavaara-Kiirunavaara Aktiebolag has been established under the business name abbreviation LKAB, and is thus registered as lkab.se.”³⁷

This part of the Appendix can be questioned because it does not allow companies themselves to best decide how to shorten their names when wanting to go on the Internet. The established abbreviation is not necessary suitable as a domain name and all companies does not have an established abbreviation. A company might want to create a new trademark more suitable for the Internet. Examples in cases are that Investment Technology Sweden AB was not allowed to register investtech.se,³⁸ AC Cleaning Accessories AB was not allowed to register acca.se³⁹ and I.N.C Internet Communications AB was not allowed to register inc.se.⁴⁰

What kind of enterprise can be registered?

Regulation C states, “Only one domain name can be registered per enterprise name”.⁴¹ According to Regulation F this now also includes “both principal companies as well as secondary companies and parallel companies”.⁴² But this has not always been the case. Prior to this version of the rules, which came in April 2000, the regulation applied only to principal

²⁹ AB is the Swedish abbreviation for the word Aktiebolag which translates as Company Limited

³⁰ Handelsbolag is another Swedish form of company

³¹ NÖD decision 2001-11-21

³² NÖD decision 2001-12-05

³³ <http://www.1-domain.se>

³⁴ Sajter med vanliga ord som domänadresser får fler besökare

³⁵ Artikel om Domain 1 Europe

³⁶ Lindberg, A., Westman, Daniel, *Praktisk IT-rätt*

³⁷ Appendix 1 Regulation B, *Domain Name Regulations in Sweden Version 2.0*

³⁸ NÖD decision 2000-09-12

³⁹ NÖD decision 2000-08-15

⁴⁰ NÖD decision No date – appeal of NIC-SE decision 1998-11-23

⁴¹ Regulation C, *Domain Name Regulations in Sweden Version 2.0*

⁴² Regulation F, *Domain Name Regulations in Sweden Version 2.0*

company names. The change has resulted in a substantial liberalization and increased possibilities to register domain names. The SEB case is an interesting example of the application of the prior regulations and perhaps one of the most important reasons for changing them.

The SEB case

One of the biggest banks in Sweden SE-banken had registered sebank.se and used that address as the homepage for online-banking services, (which is very popular in Sweden both for companies and consumers). SE-banken later merged with one of Sweden's largest insurance companies Trygg-Hansa and they decided that the new company was to work and be marketed under the new trademark SEB. The change to the new trademark was prepared by substantial measures⁴³. NIC-SE and its appeal organ the NNO-commission did however deny the registration on the basis of Regulation C; one enterprise could only have one domain name. SEB appealed to the NÖD-commission who, realizing the importance of the large investments made to launch the new trademark and the large pool of consumers that were likely to use the new domain, granted the registration changing the NNO-commissions decision.⁴⁴

Two months after the NÖD decision to grant the registration of seb.se NIC-SE made a decision to cancel the former domain name sebank.se. The reason was the same regulation⁴⁵ that one enterprise could only have one domain name. SEB did of course appeal and claimed that canceling the domain name sebank.se based on the fact that NÖD allowed the registration of seb.se was not possible. It would be a breach of the agreement between NIC-SE and the bank concerning the domain name sebank.se, it would be incompatible with the principle of predictability and it would lead to unacceptable consequences for the bank. NÖD allowed the bank to keep the two domain names but based its ruling on that the new company name was so unlike the old one.⁴⁶

Other obstacles to domain name registration

Regulation D contains a number of obstacles that prevents a name from being able to register as a domain name:

“A domain name cannot be registered:

- if it is identical to a previously registered domain name under the same domain,
- if it refers to a sub-domain of an already registered domain name,
- if it is evidently designed to cause offence or is in breach of good custom,
- if it is designed to mislead the general public,
- if it consists solely of a geographical word. “⁴⁷

⁴³ NÖD decision 1998-11-18

⁴⁴ a.a.

⁴⁵ Regulation C, *Domain Name Regulations in Sweden Version 2.0*

⁴⁶ NÖD decision 1999-05-26

⁴⁷ Regulation D, *Domain Name Regulations in Sweden Version 2.0*

Examples of cases are that Connect IT i Göteborg Aktiebolag were not allowed to register connectit.se because connect-it.se already existed⁴⁸ and that Flashback Media Group AB were not allowed to register fuck.se.⁴⁹

Trademarks

Regulation G state that “if the domain name refers to a trade mark, this must be registered under the .tm.se”⁵⁰ main domain. There are no exceptions to this rule. An example is that House of Prince Aktiebolag was not allowed to register prince.se.⁵¹ The use of the possibility to register trademarks under the .tm.se sub level domain has proved to be minimal.

The trademark must also be protected either by registration at the Swedish Patent and Registration Office (PRV), protected in accordance with the so-called Madrid protocol or as a Distinctive mark, which by means of registration, such as the European Community trade mark, have legal force in Sweden.⁵² The fact that the trademark is required to be registered is a further limitation. This does of course cause problems for other trademark holders, companies that cannot afford to register their trademarks and the creation of new trademarks.

Registration under main domains

In order to widen the possibility to register domain names, as an answer to the criticism on that Regulation B allows only enterprise names to be registered, the NDR-committee has offered the possibility to register names under main domains. Those include the county domains for enterprises or organizations related to that county⁵³, .org.se for non-profit organizations⁵⁴, .parti.se for political parties⁵⁵, .press.se for Periodical publications (magazines)⁵⁶ and .pp.se for private individuals⁵⁷. The possibility to register names under main-domains has not been considered an attractive alternative by companies, organizations and private individuals and the use has, just as with the .tm.se main domain, been minimal.

⁴⁸ NÖD decision 1999-12-17

⁴⁹ NÖD decision 2002-02-05

⁵⁰ Regulation G, *Domain Name Regulations in Sweden Version 2.0*

⁵¹ NÖD decision 2000-06-14

⁵² Regulation I, *Domain Name Regulations in Sweden Version 2.0*

⁵³ Regulation N, *Domain Name Regulations in Sweden Version 2.0*

⁵⁴ Regulation O, *Domain Name Regulations in Sweden Version 2.0*

⁵⁵ Regulation P, *Domain Name Regulations in Sweden Version 2.0*

⁵⁶ Regulation Q, *Domain Name Regulations in Sweden Version 2.0*

⁵⁷ Regulation R, *Domain Name Regulations in Sweden Version 2.0*

Comments on the regulations

Most of the regulations are motivated by the idea of that “the right company” should get “the right name”, that no one should be able to register the name of a company in the “.se” domain. The question is however whether the regulations make it easier to find the company one is looking for or whether they are just unnecessary obstacles.

One example of a limitation is that a domain name has to have more than two characters, unless it is considered to be generally known in Sweden. It has proved to be very difficult for a name to be considered “generally known” and this way the regulation destroys the possibility to register good domain names with only two characters. Trademark law most likely protects the companies with names that would have been considered “generally known” by the NÖD commission anyway. This rule is therefore not necessary to protect company names from being stolen.

The demand for a connection between the domain name and the company name is a far more important restriction. The great value of a generic word as a domain name has caused a lot of criticism. The regulation definitely does make it harder for companies to reach their customers if they are not allowed to register generic words. In a way it seems like a waste not to allow domain names that are easy to remember.

The possibility to register generic words by registering companies with names containing the characters å ä ö and using the transliteration rules makes the situation even worse. The registration of domain names may then seem unfair and this has a negative impact on its legitimacy.

The difficulty to register abbreviations and acronyms is also restricting. Companies should be allowed to shorten and modify their names to the point where they intrude someone’s trademark right.

The regulations stating that domain names must not cause offence, must follow good custom and not mislead the public might seem reasonable but it can be questioned if they are necessary. General trademark- and marketing-laws apply to this area and there are special courts that are specializing in these areas in order to assure that they have the required competence. So why have special regulations and a different court only for domain names?

Trademarks are possible to register but only under the sub domain “.tm.se”. This is the rule that seems most unacceptable. If a trademark is registered why should it not be possible to register? Trademarks are probably even more important than company names to register and use as domain names.

The system with sub domains does not only apply to trademarks but also to political parties, magazines, newspapers and private individuals. The use of the possibility to register under sub domains has been minimal, simply because the address becomes more difficult to remember. Instead many have turned to other generic and national top domains instead, most of them has choose to register names in the “.nu” domain.

Comments on the organization

Lack of legitimacy

The Swedish system can also be criticized because of the organization governing it. The private organizations (the NDR-commission, NNO-commission and NÖD-commission) regulating the domain resemble governmental organs both in structure and names. The commissions consist of persons with different backgrounds working in companies, universities and courts and are all considered to have special competence in the area. The general principle in Sweden is however that a judge has to be totally independent. He is not allowed to have another work or assignment that might influence his judgments. This, of course combined with the criticism of the regulations, has caused the legitimacy of the commissions to be questioned.

Lack of predictability

In addition to the importance of legitimacy one of the basic functions of a regulation is to supply predictability in society. One example is that predictability is an important factor when investing in enterprises or new ideas. The system regulating Domain Names in Sweden does not provide sufficient predictability. The most important issue is connected with the questionable legitimacy. The organization with the power to change the regulation, the NDR-commission, differ much from the governmental legislator. In addition the regulation has already gone through some major changes.

An example of another problem is the Europolitan Case. In 1999 Europolitan Stores AB tried to register europolitanstores.se but the application was rejected. Europolitan appealed to the NÖD-commission but lost the case. The motivation was that only one domain name per concern was allowed and that Europolitan Stores AB already had registered europolitan.se.⁵⁸ The case is published on the IIS-foundations homepage as a guiding example of which kind of domain names that are possible to register.

Nevertheless the europolitanstores.se website is online and belongs to Europolitan. The explanation is that the regulations had been changed after the decision and that Europolitan must have applied for registration again.⁵⁹ That the NÖD-decision rejecting the application is still presented on the IIS website as an example of application of the regulations is a blunder that further damages predictability.

An important issue is of course the å ä ö-problem. That generic domain names are not allowed but are possible to register when using the transliteration rules. This has also had a negative impact on the belief in the systems predictability and legitimacy.

⁵⁸ NÖD decision 1999-05-28

⁵⁹ Olle Thysander, The IIS-foundation

The preparatory works SOU 2000:30 “.se”?

Due to the problems presented above the Swedish domain name system has been discussed and criticized, increasingly with the popularity and importance of domain names, since the responsibility for the Swedish top domain was transferred to the foundation five years ago.⁶⁰ Both the rules and the organization have been criticized.⁶¹ The present discussion is mostly concerned with the possibility to register trademarks. Ingmar Albertsson marketing director at Arla Foods wants the possibility to register trademarks directly under .se. That would enable companies like Arla to register their trademarks in the .se top domain instead of, as at the time being, in the .nu top domain.⁶²

The discussion and criticisms resulted in that the government formed The Committee on Domain Name Administration⁶³ and ordered it to evaluate the domain name system. The result was the preparatory works SOU 2000:30 “.se”?

The committee found that the Swedish system has been substantially criticized. The criticism has primarily concerned the rules and not the organization.⁶⁴

More Swedish companies have chosen to register under other national, or generic, top domains instead of under .se. Almost two thirds of all the Swedish users are registered under other top domains than the Swedish.⁶⁵ A lot of these users are unable to register under the Swedish domain .se due to the regulations.⁶⁶

The Swedish system does not achieve the demands that can be put on national domain – that it should be the natural domain for anyone with a connection to the nation. The reason is primarily considered to be the regulations.⁶⁷

Suggested changes in organization

The commissions opinion were that the assignment to handle the Swedish top domain .se should be formalized through an agreement between the Swedish government and the foundation IIS.⁶⁸

Suggested changes in the regulations

The committee SOU 2000:30 suggests that the regulations is changed from the present system into a system with clear and simple regulations without any requirements having to be fulfilled in order to be able to register a domain name. Everyone who wishes to register a

⁶⁰ Källberg, J. *Vi har väntat i fem år, men öppenhet saknas*

⁶¹ Källberg, J. *Avveckla IIS och gör Nic-Se till KTHs dotterbolag*

⁶² Halvarsson, Ulrika, *ditt_varumärke_här.se – snart möjligt*

⁶³ SOU 2000:30 p 17

⁶⁴ SOU 2000:30 p 51

⁶⁵ SOU 2000:30 p 55

⁶⁶ a.a.

⁶⁷ SOU 2000:30 p 12

⁶⁸ SOU 2000:30 p 15

domain name in the Swedish top-domain .se should be able to do so as long as the requested name is available.⁶⁹ The evaluation then adds a few requirements. The applicant must be domiciled in Sweden or have a business with connection to Sweden and must also agree to sign an agreement with certain terms including that Swedish law must be obeyed.⁷⁰

The committee also suggests that some names should be impossible to register⁷¹ and that a registered domain name has to be used.⁷²

The comments from different parties about whether or not a liberalization of the rules will cause trademark disputes varies from stating that it should be a big increase to that the risk of an increase is very little.⁷³ The committees view is that the problem with trademark disputes will be insignificant.⁷⁴ The agreement with the applicant will make it possible to cancel a registration that interfere with someone else's trademark rights. Besides, the public courts are able to deal with this kind of problem.⁷⁵ To make this process faster the committee suggests that a dispute resolution system similar to ICANN's should be created.⁷⁶

The committees view on main domains and trademarks

Consumers cannot be aware of the different main domains and which one to look in.⁷⁷ The committee thinks that the rules should be adjusted after the users and not the other way around?⁷⁸ Trademarks should therefore be possible to be registered right under the top domain .se without and not under the main domain .tm.se.

Despite that there now are possibilities to register other names than company names, like trademarks and personal names, there are still limitations. A trademark has to be registered to be possible to register as a domain name.⁷⁹ This rule might also result in an increased workload for the Patent Office and cost more money for the users.⁸⁰

⁶⁹ SOU 2000:30 p 58

⁷⁰ SOU 2000:30 p 59

⁷¹ a. a.

⁷² a. a.

⁷³ SOU 2000:30 p 65

⁷⁴ SOU 2000:30 p 66

⁷⁵ a. a.

⁷⁶ SOU 2000:30 p 67

⁷⁷ SOU 2000:30 p 57

⁷⁸ a.a.

⁷⁹ a. a.

⁸⁰ a. a.

IIS reply to the SOU and possible future changes

After the SOU 2000:30 the foundation IIS assigned the NDR-commission to develop suggestions for new regulations.⁸¹ The result was the regulations 2.5 and 3.0 whereof version 2.5 was only an evolvement from the present version 2.0 while version 3.0 was almost entirely new compared to the old rules.⁸² Version 3.0 is more like the more liberal regulations, that e.g. apply in Denmark, Germany and the UK, and puts the main responsibility for that the claim to a domain name is legitimate on the applicant.⁸³

These suggestions were sent out to different organizations and interested parties for comment in April 2001⁸⁴ A massive majority of the comments suggested that more liberal regulations than the present were preferred and the foundation IIS and NDR therefore started working on a revised regulation based on the suggestion 3.0.⁸⁵

The foundation IIS stated that the ambition is that the new rules will make it easier to acquire a domain name in the top domain .se and that the registration of trademarks directly under .se will be possible.

On the 27 of July 2002 the new suggestion of a revised regulation was sent out for comments. There are important differences between the suggestion and the present regulation. The new regulation will not require a connection between a company name and the domain name but will apply the “first come, first served” principle. It will also be possible for anyone with a connection to Sweden to register domain names directly in the “.se” top domain and not just under sub domains. A decision on the rules will be made during the fall of 2002.⁸⁶

The foundation IIS has also developed a Swedish version of ICANN’s Uniform Dispute Resolution Policy (UDPR) that will work as an alternative to the Swedish courts when it comes to solve the increased number of domain name disputes that the foundation IIS predicts will appear if the regulations are liberalized. The suggestion⁸⁷ is called ADR (Alternative Dispute Resolution).⁸⁸

⁸¹ Halvarsson, Ulrika, *ditt_varumärke_här.se – snart möjligt*

⁸² Från förprovning till efterprovning? NDR 2.5-3.0

⁸³ a.a.

⁸⁴ Halvarsson, Ulrika, *ditt_varumärke_här.se – snart möjligt*

⁸⁵ Enklare få domännamn under .se

⁸⁶ *Regelremiss 2002-06-27*

⁸⁷ Ett alternativt tvistlösningsförfarande (ADR) för domännamn i toppdomänen “.se”

⁸⁸ Domännamnstvister – en svensk UDRP – Inbjudan att lämna synpunkter

Conclusion and future work

The preparatory works SOU 2000:30 suggested a substantial liberalization of the regulations. It also suggested that the Swedish government should take control of the domain, although through an agreement with IIS. That a government withdraws the power over a national domain is a sensitive issue in the Internet Community. The governments of Canada and Switzerland have recently taken control over their national domains and this has caused strong objections. The IIS does not think that the government should be involved in the administration of the domain and it is not clear whether the Swedish government has a legal ground or power to take control. The development of this issue will be interesting to study.

After the preparatory works the IIS started working on revising the regulations and has now presented a final suggestion. The new regulation is very liberalized compared to the old system. Few of the original regulations remains and the new Swedish system will, if the suggestion is accepted, use the "first come, first served" principle and be much similar to the regulation in the international domains. Perhaps this gesture, to change the regulations much accordingly to the preparatory works, will prevent the Swedish government from attempting to take control over the domain.

As a final comment I find the Swedish Domain Name regulation to be an interesting example of an attempt to regulate a domain and prevent domain name disputes. Unfortunately it has proved to have caused a lot of problems. Now it seems as if the regulation finally is being liberalized and the domain set free. Hopefully this will be a better solution and as future work I would like to study the effects of the new Swedish Domain Name regulations.

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