

Should owners of websites be anonymous? This question underlies a debate unfolding in the United States and at the Internet Corporation for Assigned Names and Numbers (ICANN), says *Bruce A. McDonald*

The great domain debate

ICANN is the non-profit California corporation created by the US Congress in 1998 to administer the Internet Domain Name System (DNS). Pursuant to the terms of a contract with the US Department of Commerce known as the Joint Project Agreement (JPA), ICANN is required to provide for the maintenance of a publicly accessible, searchable online database of contact data for the owners of domain names in the generic Top Level Domains (gTLDs), i.e., '.com,' '.org,' '.net,' '.info,' '.edu,' '.biz,' and the newer variants coming online.

The database called for by the JPA is required to identify the registrar, registrant (including address and other contact information), the name server, Internet Protocol address, and the creation and expiration dates for each registered domain name. This repository of information, known as the 'Whois' database, has no single location but exists as an agglomeration of electronic information collected by registrars and (except for .com and .net domains) reported to the registry responsible for the particular gTLD. The obligation to ensure current contact data in the 'Whois' database devolves upon the registries and registrars in the form of their registry agreements or registrar accreditation agreements with ICANN.

The debate over 'Whois' information in the gTLDs is driven by a conflict between consumers and intellectual property owners, on one side, who maintain that the identification of ownership of commercial websites should remain accessible, and privacy advocates on the other, who have been urging ICANN to shield website



owners from public identification. Calls for the protection of privacy in data about website ownership emanate from a variety of sources, including individuals and organisations with genuine privacy concerns as well as parties with ulterior reasons for preserving anonymity. According to consumers and trademark owners, anonymous website ownership benefits fictitious entities who conceal their identity to avoid liability for phishing, cybersquatting, and other illicit commerce.

When an Internet user encounters false contact data or other problems in attempting to identify the owner of a domain name in one of the generic Top Level Domains, he can report the problem at wdprs.interic.net.

Reports submitted at this website are forwarded to the appropriate registrar for handling, and the progress of the report is tracked. However, web site owners are allowed weeks to correct their registration information, and there is little guarantee that the new information will be accurate either – problems that mean the process is of limited assistance when the millions of current

websites are taken into consideration.

Responsibility for information about the ownership of country code Top Level Domains (ccTLDs) is vested in the corresponding countries and outside the jurisdiction of ICANN. Internet users seeking access to ownership information about domain names, in particular ccTLDs, must contact the operator for that country. These operators are listed at: www.iana.org/domains/root/db.

While the 'Whois' debate at ICANN over anonymous website ownership does not affect websites in the top level country-code domains, European businesses have an interest in the outcome of the debate because a substantial portion of international commerce on the Internet is conducted in the '.com' domain. Thus, under the 'Whois' regime contemplated by the Joint Project Agreement between ICANN and the US Department of Commerce, an individual in Europe attempting to identify the owner of the website at www.americanbusinessproducts.com would be able to consult the 'Whois' database for that purpose.

As this debate is sure to continue between those advocating for complete website anonymity and those promoting transparency for consumer protection purposes, each stakeholder will continue to make their case for the Internet policy that is most meaningful from their perspective. 

About the author

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