

Publisher's Note

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Burshtein

The Law of Domain Names and Trade-marks on the Internet

This publication considers the commercial and legal realities of how trademarks and domain names are used and perceived on the Internet in the context of established trademark and related legal principles. It sets out the history of, the technology underlying, and the legal issues relating to, the international domain name system. The publication analyzes whether a domain name is property or some other type of right, and it considers the WHOIS database directory of domain names. The text comprehensively deals with the acquisition and violation of trademark and related rights on the Internet. It also analyzes the many practices and techniques that have emerged on the Internet that, when effected in association with a trademark, trade name or individual name, pose fundamental challenges to the essence of trademark and related laws. These practices and techniques include references to trademarks which are typically the subject of national rights on websites which are available on a global basis.

This release features updates to the case law and commentary in Chapter 8 (CIRA Domain Name Dispute Resolution Policy: Procedures and Remedies); Appendix JJ is updated through cases 00382.

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Highlights:

- **CIRA Domain Name Dispute Resolution Policy — Procedures and Remedies:** Emails between counsel for the parties marked “for settlement purposes,” “for settlement purposes and without prejudice,” or “without prejudice or admission” were held to be strictly confidential, subject to settlement privilege and inadmissible in a CDPR proceeding: *Williams-Sonoma Inc. v. Bensabath*, CIRA-00372, 2018 CarswellNat 5741 (C.I.R.A. (B.C.I.-C.A.C.)).
- **CIRA Domain Name Dispute Resolution Policy — Procedures and Remedies:** The government of France obtained a transfer of the domain name “france.com” after two other parties settled litigation between themselves over the domain name. It was held in the suit by the government that the use of the domain name and related trade-marks violated the rights of the government. The defendant in that suit then sued the French government in the United States.