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Beauty lies in the 'domain' of the highest bidder

Parminder Jeet Singh



MIRRORS AWAY: It is difficult to understand how Ican is getting away with the problematic plan of putting up parts of our language for privatisation. AP

Icann, the global authority dealing with domain names, is hastening the threat of monopolisation on the internet through its new scheme to sell generic words

L'Oréal has applied for *the top level domain (TLD) .beauty* to the Internet Corporation for Assigned Names and Numbers (Icann), the global authority dealing with domain names on the Internet. TLDs are what we see on the right side of the dot in domain names — for example, .com and .net. If L'Oréal gets .beauty, which seems very likely, it will be able to reserve this top level domain name just for its own use. Unlike .com, .org, .net etc, which are public TLDs, .beauty will be a private TLD. What this means is that, for instance, "Raji Curls," a beauty salon, will not be able to ask for www.rajicurls.beauty, as one could have in the case of .com. L'Oréal will have the exclusive use of .beauty, as its private property. If L'Oréal were to seek a trademark for "beauty," it will be flatly refused. The word is too generic for anyone to be given monopoly rights over it. It is therefore surprising that L'Oréal should be able to get global monopoly rights on .beauty, just because it is willing to pay \$1,85,000, the application fees for new TLDs, to Icann.

How L'Oréal will leverage this privileged association with a key symbolic term of our culture will be an interesting exercise to follow. But the goldmine is there for anyone to see. It can certainly begin by propagating the term ".beauty" in all its communications and expressions. With time, demonstrating the long association, it could also seek trademark rights on ".beauty," and so will go on the saga of how L'Oréal became beauty, and beauty, L'Oréal! Incidentally, L'Oréal is also seeking private ownership of .makeup, .skin, .hair and .salon.

The case of Amazon

The problem becomes even more pernicious when the whole business of a company is digital. Amazon, for instance, has applied for .book as a private exclusive TLD. Soon, book, or at least the digital book — which is what .book would signify — *will be what is offered by Amazon*. One would think that this is too large an unfair advantage to hand over to Amazon which already engages in monopoly practices in the area of digital books, through the "locked-in" Kindle model.

(Well, it can name "Kindle" .book now!) If this is getting a bit disconcerting, what about ".cloud" being the name of *the* online computing system that Google runs, since Google would most likely soon have the exclusive use of .cloud? Cloud computing is expected to be an industry that will be based on unprecedented vertical and horizontal integrations. In such a scenario, awarding exclusive use of .cloud to one company only makes the problem worse.

Private rights on public words

Words as parts of language are our common heritage. It is obvious that language, and its specific uses, have to be zealously protected, as public domain, that is equally accessible to all. Words used in some forms however are unique identifiers, which cannot be shared. Trademarks and domain names are two examples of such unique identifiers. Trademark authorities are very strict about not allowing generic names as trademarks. Authorities registering names of companies, organisations, etc are similarly very cautious and exacting, in terms of seeking very good reasons for claiming anything that may appear to interfere with common

ownership of names, words, phrases and language. Icann, however, seems to have thrown all caution to the winds. It is not only .beauty, .book and .cloud that are being taken, and privatised. A host of other generic words like, .love, .school, .kid, .music, .apps, .home, .buy, .mail, .eat, .movie, .car, .author, .joy, .green etc are also up for sale. Those words that attract more than one suitor will be auctioned.

Owners of most existing TLDs, like .com and .org, are obliged to make second level domain names (like “thehindu” in www.thehindu.com) available to the public in the open market. It is also useful that, till now, TLDs have largely been confined to three letters, which arrangement greatly limits the semantic possibilities that can be associated with TLDs. It is not evident what public interest is served by giving a go-by to these two very sensible provisions of the earlier TLD policy in this round of allocations, allowing private (as against public) TLDs that employ full generic words. In fact, Esther Dyson, the founding chairman of Icann, has said that there was no reason at all to establish new TLDs.

Icann must understand that it is a governance system with the responsibility of protecting and promoting public interest. It is not a private company offering products and services with an aim to maximise profit. For this reason, it may have to be more prudent than innovative. Icann is taking important decisions on behalf of people of the whole world. Giving off generic words as private TLDs is a zero sum game. What it gives to a private party for exclusive use is denied to everyone else to that extent. Icann is providing a few companies highly privileged association with some very important symbolic terms, thus compromising the common ownership of these elements of our cultural heritage.

‘Titles’ on monopoly empires

It is an unfortunate fact of the emerging digital ecology that a few companies have begun to monopolise complete segments of our civilisational system — one company claims to be organising the world’s knowledge for us, another positions itself as *the* space for social networking, a third one is *the* global distributed instant media, one company has always sought to be *the* digital office suite, another is emerging as *the* music store.... and so on. This is a rather disturbing trend.

Instead of providing counter-measures to the emergent threat of monopolisation in the digital realm, Icann is accentuating it further through the new TLD programme. It is allowing mega corporates, interested in “representing” whole segments of our civilisational system, exclusive use of corresponding generic words like .book, .music, .media, .school, .beauty, .cloud, etc. Such benevolence on Icann’s part greatly helps cement the business plans of these corporates, who can employ their proprietorship over these words to redesign and shape the associated cultural phenomenon in the image of their own narrow interests, and then extract perpetual rents. No business model could be more remunerative. Over time, demonstrating long standing exclusive usage, these corporates may also seek trademark rights on these generic words, or at least the words with a dot before them.

To take just one example, Google already owns close to 90 per cent of the search market. It now wants Icann to give it the “official stamp” for its monopoly position through an exclusive ownership of .search. Marketing manager for British domain-name registrar Names.co.uk, Stephen Ewart, calls this as “a silent privatisation of the Web.” “Once you own these spaces, you can write your own terms and conditions,” he says, adding how “big brands can decide who can be there and decide what can be put in that space.”

It is difficult to comprehend how such a hugely problematic plan of allowing private TLDs employing generic names has managed to get through the numerous committees associated with Icann. Apart from the problem of corporate monopolies discussed here, there are other kinds of serious issues involved with applications that have been made for TLDs like .church and .islam. While Icann has an open window for public comments on the new TLD applications till September 26, any objection must pertain to specific TLD applications and not to the general policy itself. Hopefully, it will still be possible to save beauty from Loreal, and the book from Amazon.

(Parminder Jeet Singh is Executive Director, IT for Change, in special consultative status with the United Nations Economic and Social Council.)

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