

The Domain-Name System

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Internet Law

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Class 18

Where we are

- Part I: Public Law
- Part II: Private Law
 - Control over Computers
 - Domain Names
 - Copyright
 - Innovation
 - Case Studies

In today's class

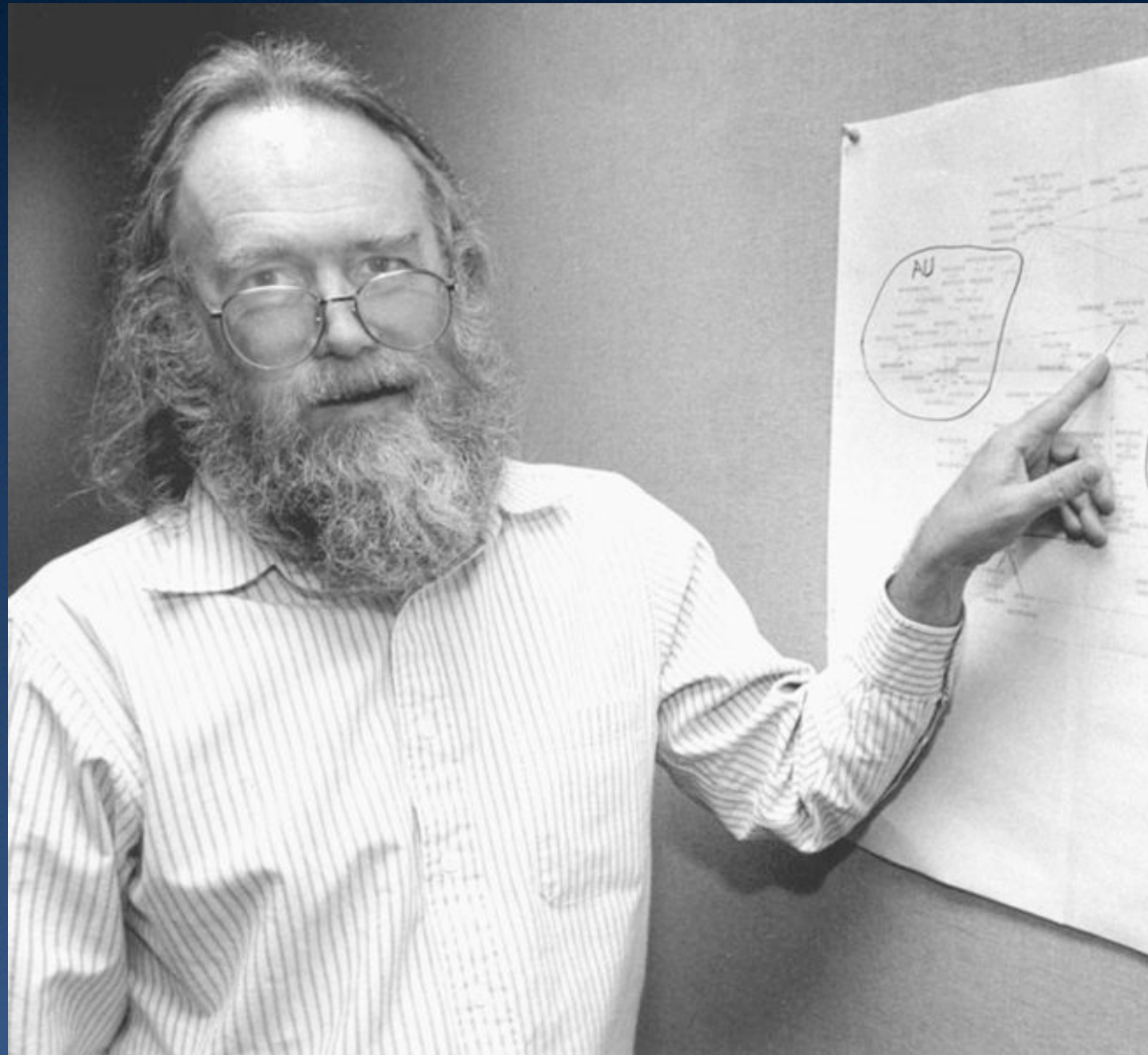
- A little history
- A little law
- A special guest

History

In the beginning was the NIC

- On the old ARPANet, the Network Information Center (NIC) at Stanford kept track of what computers were online
- Jon Postel is the guy at Stanford who keeps track of things

Jon Postel (1943–1998)



“Be conservative in what you do, be liberal in what you accept from others.”

The Internet grows and grows . . .

- 1983: Switchover to TCP/IP, and to DNS
- Jon's role is gradually formalized as the Internet Assigned Numbers Authority
- Late 1980s: The Internet is gradually opened to purely commercial uses
- 1988: U.S. government gives IANA a contract to administer the root DNS servers

. . . and grows some more

- 1992: U.S. gov't asks for bids on a contract to handle public domain registration
 - Network Solutions (NSI) is the only bidder
- And then this Internet thing hits critical mass and registrations go through the roof
- 1995: NSI allowed to charge \$100 per registration

Controversy! Exclamation points!

- The NSI contract becomes fabulously lucrative, and they have the Internet at their mercy
- But they're also making up the rules as they go along (see *Lockheed Martin*)
- January 1998: Jon Postel tells DNS admins to make his computer the root, not NSI's
 - The government tells him to knock it off

From this chaos, ICANN was born

- The Internet Corporation for Assigned Names and Numbers is established over the course of 1998 by the U.S. government
- It's to be a private body responsive to various Internet stakeholders, including the public at large around the world
- Its authority to take charge is formalized in a Memorandum of Understanding

ICANN, registries, and registrars

- ICANN separates *registries* (which administer .com, .uk, .tv, and so on) from *registrars* (which compete to sell registrations to the public)
- A system of contracts runs from ICANN to the registrars to the public
- NSI (today Verisign) grudgingly gives up its monopoly stranglehold on .com
- Domain prices plummet

Law

ACPA

- The Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), enacted in 1999, gives an *in rem* cause of action to order the transfer of a domain name registered or used “in bad faith” that’s confusingly similar to a registered trademark
- A similar provision protects personal names, 15 U.S.C. § 1129(1)(A)

The Truth in Domain Names Act

- Enacted in 2003 as part of the PROTECT Act (which gave us Amber Alerts)
- 18 U.S.C. § 2252B(a): “Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be fined under this title or imprisoned not more than 2 years, or both.”

Uniform Dispute-Resolution Policy

- ICANN promulgates the UDRP in 1999, and requires all domain registrants in the gTLDs (.com, .net, .museum, and so forth)
- Mandatory arbitration of complaints of bad faith registrations confusingly similar to trademarks
- Lose, and the registrar hands over the domain—unless you file suit within ten days

David R. Johnson

Witness to history

Next time

Why copyright ate the Internet