

APRIL 19 SUNRISE DEADLINE TO REGISTER BRANDS IN ALTERNATIVE ROOT DOMAINS SUCH AS (DOT)NFT

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Posted in Intellectual Property



A new internet frontier is opening, one that is not associated with or controlled by the Internet Corporation for Assigned Names and Numbers (ICANN) and shares little in common with the more well-known and used TLDs such as .com, .net, .org., and .biz. These new TLDs, called Alternative Root Domains, depend on blockchain as a means to access content. A working knowledge of these Alt Root domains is important to protecting a company’s intellectual property. More specifically, one company that has established eight such Top Level Domains, Unstoppable Domains, has advised the public that it will close its Sunrise registration period for brands on April 19, 2022. The Top Level Domains affected by this deadline are: .zil, .crypto, .coin, .wallet, .bitcoin, .x, .888, .nft, and .dao. These domains are in addition to the 1000 plus new generic Top Level Domains that have been added to the ICANN Domain Name System since 2012.

Alt Root domains do not use the Domain Name System (DNS)—the system that permits a TLD to associate a human-readable name (such as “lewisroca.com”) with a numeric IP address that actually delivers the webpage to the user. Where DNS is an authoritative naming system used by multiple TLDs, an Alt Root domain instead uses an alternative root name server which is not a part of the ICANN authorized Domain Name System. In addition, Alt Root domains commonly employ blockchain, Non-Fungible Token (NFT), and smart contract technologies. For example, a brand owner can use Alt Root domain services to designate NFT-accessed content without having to personally remember or input the long, unwieldy, and numerical NFT itself. In this regard, the NFT operates as an address mechanism or “key” to access or open the content that is accessible through the NFT. It’s important to note, however, that the content may in fact be stored elsewhere.

Unfortunately, ICANN’s rules applicable to its accredited registrars and its Rights Protection Mechanisms do not apply because Alt Root domains are operated outside of ICANN’s purview. As such, the familiar ICANN remedies for handling online intellectual property infringement—such as Trademark Clearinghouse registration, Uniform Rapid Suspension (URS), and Uniform Domain-Name Dispute Resolution Policy (UDRP)—are not available for addressing an infringing Alt Root domain name. Moreover, companies operating these Alt Root domains appear to have no mechanism for an intellectual property owner to takedown infringing uses.

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Alt Root companies have in some cases adopted a mechanism from the ICANN model known as “Sunrise” registrations. The Sunrise period permits businesses to register their brands with the Alt Root domain provider for a nominal fee (or even for free). Registering your brand with these services results in the Alt Root domain provider reserving the name for your brand which operates in the same manner as a defensive registration in the DNS in that it is less expensive than litigation. Alt Root domain companies have also maintained that ownership of an Alt Root domain lasts forever and does not need to be renewed.

The internet landscape is changing quickly, and we urge intellectual property owners, and brand owners in particular, to carefully review the field of Alt Root domain names to determine whether proactive protection of their brands in Alt Root Domains is appropriate.

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