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Territorial Trademarks vs. Global Domains: Reconciling Jurisdiction in the Digital Age

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Abstract:

The rise of the Internet and the domain name system has exposed a persistent tension between the *territorial* nature of trademark rights and the *global*, borderless character of domain names and online services. This paper analyses the doctrinal conflict across private international law, trademark law, and Internet governance. It examines how national courts and policy bodies have responded - through statutes, administrative policies, country-level dispute systems and case law - and evaluates whether the current patchwork reconciles territorial rights with the realities of global networks. The paper identifies key legal provisions affected, surveys representative case studies, and proposes a pragmatic framework (targeting + effects + layered enforcement) for reconciling territorial trademarks with global domains while preserving sovereignty, free expression, and the stability of the Domain Name System.

Keywords: Trademarks, Domain Name, Jurisdiction

1. **Introduction**:

The digital age has fundamentally altered the way commerce, communication and culture operates across borders. With a single click, a consumer in New Delhi can order a product from New York, browse advertisements targeted from London, or access services hosted on servers in Singapore. This unprecedented interconnectivity has raised critical questions for intellectual property law, particularly in the field of trademarks.

Traditionally, trademarks have been governed by the principle of territoriality. Rights over a mark are granted, recognized, and enforced by individual states, often confined strictly to their territorial boundaries. The logic is straightforward: trademarks serve to distinguish goods or services in the marketplace of a particular jurisdiction, and enforcement requires a sovereign authority capable of regulating commerce within that jurisdiction. This principle is embedded in international agreements such as the Paris Convention for the Protection of Industrial Property and the TRIPS Agreement, both of which reinforce that trademarks are territorial in scope, even while encouraging harmonization of standards.

By contrast, domain names—the virtual addresses of the Internet—operate in a borderless environment. Administered through the Domain Name System (DNS) under the coordination of ICANN (Internet Corporation for Assigned Names and Numbers), domain names are global identifiers accessible instantaneously across all jurisdictions[1]. When a registrant in one country acquires a domain name that incorporates another's trademark, the potential conflict transcends borders: harm may occur in any jurisdiction where the mark has reputation or recognition, irrespective of the registrant's physical location.

This disjunction creates a serious doctrinal conflict. How do courts reconcile a system that is inherently territorial (trademarks) with one that is inherently global (domain names)? Can a trademark owner in India or the United States stop a cybersquatter in another country from registering a conflicting domain? If so, on what jurisdictional basis and through what remedies? Conversely, how can the rights of legitimate domain name holders, free speech advocates, and international commerce be safeguarded against over-expansion of trademark rights?

National courts and international bodies have attempted to answer these questions through a combination of legal doctrines, statutory innovations, and administrative dispute-resolution mechanisms. The U.S. Anti-cybersquatting Consumer Protection Act (ACPA) introduced strong statutory remedies, including statutory damages, against bad-faith domain name registrations.[2] ICANN's Uniform Domain-Name Dispute-Resolution Policy (UDRP) created a global, quasi-arbitral

[1] ICANN, The Domain Name System (DNS) / What Does ICANN Do? (icann.org).

[2] Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) (1999).

mechanism to resolve disputes quickly and uniformly, though limited to the remedies of transfer or cancellation[3]. India has developed its own system in the form of the .IN Domain Name Dispute Resolution Policy (INDRP), operating alongside the Trade Marks Act, 1999, which recognizes both infringement and dilution[4].

Judicial doctrines have also evolved to grapple with jurisdiction. Courts have invoked principles such as the effects doctrine (where foreign conduct causes substantial domestic harm), purposeful targeting (where the online activity is directed at the forum state), and real-world nexus requirements (sales, advertisements, or customers within the jurisdiction). Case law across the globe—Panavision v. Toeppen in the United States, LICRA v. Yahoo! in France, Google France v. Louis Vuitton in the EU, and several INDRP awards in India—illustrates both the diversity of approaches and the underlying struggle to balance sovereignty with the borderless nature of the Internet.

The problem is not merely doctrinal but also practical. A U.S. judgment under the ACPA may be difficult to enforce against a registrant in Russia. A UDRP award may achieve transfer but cannot award damages or broader injunctive relief. National courts may issue orders requiring global takedowns, but such orders risk clashing with other states' legal systems, raising questions of comity and enforceability.

Ultimately, the debate over territorial trademarks and global domains encapsulates a broader challenge of the digital age: how to adapt historically territorial legal doctrines to a borderless technological environment without sacrificing predictability, fairness, or sovereignty.

This paper explores the doctrinal and practical responses developed over the last three decades and proposes a calibration of jurisdictional tests and enforcement tools that reconciles territorial trademark doctrines with global digital realities.

2. **The territorial Principle in Trademark Law**:

The territoriality principle is the cornerstone of trademark jurisprudence worldwide. It posits that trademark rights are granted and protected within the sovereign boundaries of each state, meaning that ownership, validity, and enforcement are tied to the territory where the mark is registered or has acquired distinctiveness through use. Unlike copyright, which enjoys a measure of automatic international recognition through conventions like the Berne Convention, trademarks do not have extraterritorial validity by default. A trademark registered in India confers rights only within India's borders, and a U.S. registration provides protection only within the United States. This principle was historically justified by the nature of commerce, which was primarily localized and national; trademarks functioned as badges of origin in specific markets, and sovereign states had the exclusive authority to regulate their domestic trade and consumer protection.

This principle finds reinforcement in international instruments such as the Paris Convention for the Protection of Industrial Property (1883)[5], which obliges member states to protect trademarks registered in other member states but does not erase the territorial boundaries of rights. Similarly, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, 1994)[6] obliges World Trade Organization members to provide a minimum standard of trademark protection and effective enforcement, but leaves intact the idea that protection remains jurisdiction-specific. In practice, this means a trademark owner seeking global protection must register the mark in each jurisdiction of interest, either directly or through international filing systems like the Madrid Protocol. Courts have consistently upheld this principle, as seen in cases like Grupo Gigante SA v. Dallo & Co. [7], where the court emphasized that foreign trademark use does not automatically confer rights in the United States unless the mark has achieved sufficient recognition domestically. Thus, territoriality remains a defining limitation: while the reputation of a mark may spill over borders, the enforceability of rights still depends on recognition within each forum.

3. **The Global nature of domain names and the DNS:**

Unlike trademarks, which are inherently territorial, domain names and the Domain Name System (DNS) function in a borderless digital environment. The DNS operates as a global addressing mechanism that translates human-readable website names (such as amazon.com) into numerical IP addresses, enabling seamless navigation across the internet. Unlike a trademark that requires registration within the boundaries of a specific state, a domain name registered with an accredited registrar under the Internet Corporation for Assigned Names and Numbers (ICANN) or a country-code top-level domain

[3] ICANN, Uniform Domain-Name Dispute-Resolution Policy (UDRP) (1999), available at https://www.icann.org/resources/pages/help/dndr/udrp-en

[4] National Internet Exchange of India (NIXI), *.IN Domain Name Dispute Resolution Policy (INDRP)*, available at https://www.registry.in/indrp; The Trade Marks Act, 1999, §§ 29, 29(4) (India)

[5] Paris Convention for the Protection of Industrial Property (1883): World Intellectual Property Organization (WIPO), *Paris Convention for the Protection of Industrial Property*, available at: https://www.wipo.int/treaties/en/text.jsp?file_id=288514.

[6] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, 1994): World Trade Organization (WTO), Agreement on Trade-Related Aspects of Intellectual Property Rights, available at: https://www.wto.org/english/docs_e/legal_e/27-trips.pdf

[7] *Grupo Gigante SA v. Dallo & Co.*, 391 F.3d 1088 (9th Cir. 2004)

(ccTLD) becomes instantly accessible worldwide. This universality of access makes domain names inherently global identifiers, indifferent to geographic borders or national jurisdictions. The internet's technical infrastructure ensures that once a domain is registered, it can be viewed and accessed by users across the world, giving domain names an almost universal effect that stands in contrast to the territorial limits of trademarks.

This global character of domain names creates unique challenges for legal systems rooted in territoriality. A single domain name can have cross-border implications, especially when it mirrors or incorporates an existing trademark. Conflicts become inevitable when businesses in different jurisdictions use identical or similar marks but find themselves competing for the same global online presence. For instance, while two companies may legally own identical trademarks in different countries under the territorial principle, only one can control the corresponding global domain name. To address such disputes, mechanisms like the Uniform Domain Name Dispute Resolution Policy (UDRP), administered by the World Intellectual Property Organization (WIPO), were introduced to resolve conflicts on an international scale. These mechanisms underscore the global nature of domain names and highlight the inherent tension between territorial trademark rights and the borderless reach of the DNS.

4. **Legal Instruments and Dispute Mechanism**:

A. International: TRIPS and WIPO Guidance

The TRIPS Agreement (1995) and the Paris Convention provide the backbone of international trademark protection. TRIPS does not override the territorial nature of trademarks but sets minimum standards that every WTO member must follow, such as ensuring that trademarks can be registered, protected, and enforced effectively in their domestic systems. This means that while protection remains territorial, there is a baseline of consistency across countries.

The World Intellectual Property Organization (WIPO) plays a central role by issuing guidance, promoting harmonization, and providing dispute resolution mechanisms. Through its Arbitration and Mediation Center, WIPO administers many proceedings under the Uniform Domain Name Dispute Resolution Policy (UDRP). This allows trademark owners to challenge abusive domain registrations globally, rather than going to court in multiple countries. While these instruments help promote a more predictable international system, they still respect each state's sovereignty by leaving the final enforcement of trademark rights to national laws.

B. ICANN and the UDRP

The Internet Corporation for Assigned Names and Numbers (ICANN) is the global body responsible for managing the Domain Name System (DNS). To address conflicts between trademarks and domain names, ICANN developed the Uniform Domain-Name Dispute-Resolution Policy (UDRP), which applies to most generic top-level domains (gTLDs) such as .com, .org, and .net.

Under the UDRP, a complainant must prove three things:

i. The Domain Name is identical or confusingly similar to their trademark.
ii. The Domain owner has no legitimate rights or interest in the domain.
iii. The domain was registered and is being used in bad faith.[8]

If successful, the remedies are limited: the domain can be transferred to the complainant or cancelled, but there are no monetary damages. This makes the UDRP much quicker and cheaper than traditional litigation, often resolving cases in a matter of months. Importantly, UDRP decisions do not replace national court actions—parties can still approach domestic courts if they are dissatisfied. This balance makes the UDRP a practical global tool while still respecting the territorial principle of trademarks.

C. National Laws and National Dispute Policies:

United States – ACPA

The Anti-Cybersquatting Consumer Protection Act (ACPA), codified at 15 U.S.C. §1125(d)[9], was introduced in 1999 to address the growing problem of cybersquatting—the practice of registering domain names that are identical or confusingly similar to trademarks, with the intent to sell them or exploit their goodwill. Unlike the UDRP, which is an administrative process, the ACPA gives trademark owners a direct statutory cause of action in U.S. courts.

Under the ACPA, a plaintiff must show that –

i. The mark is distinctive or famous,
ii. The defendant's domain name is identical or confusingly similar to the mark, and

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[8] UDRP Requirements: Ibid; see also WIPO Arbitration and Mediation Center, UDRP Overview, https://www.wipo.int/amc/en/domains/

[9] Anti-Cybersquatting Consumer Protection Act (ACPA), 15 U.S.C. §1125(d) (1999), available at: https://www.law.cornell.edu/uscode/text/15/1125

iii. The domain was registered in bad faith intent to profit.[10]

Courts can order the transfer or cancellation of the domain name and award damages, including statutory damages up to $100,000 per domain name. This makes ACPA not only a remedial but also a deterrent mechanism, since cybersquatters risk heavy financial liability. It complements UDRP by offering stronger remedies and enforceability within the U.S. legal system.

India – The Trade Marks Act and INDRP

India regulates trademark rights primarily through the Trade Marks Act, 1999, which codifies the law relating to registration, protection, and enforcement of trademarks. The Act recognizes both registered and unregistered marks (through the concept of passing off) and includes detailed provisions on infringement. Section 29 of the Act lists the acts that amount to infringement — for example, using an identical or deceptively similar mark in relation to the same or similar goods/services, or using a mark in a way that takes unfair advantage of or is detrimental to the distinctive character of a well-known trademark. This recognition of well-known marks is particularly important in the digital age, where even if a mark has no registered presence in India, its global reputation may still be protected from misuse in domain names. Courts in India, such as in Yahoo! Inc. v. Akash Arora (1999)[11], have also treated domain names as equivalent to trademarks, acknowledging their role in identifying source and goodwill.

Alongside statutory protection, India has a dedicated system for resolving disputes over ".in" country-code domain names — the .IN Domain Name Dispute Resolution Policy (INDRP). The INDRP is administered by the National Internet Exchange of India (NIXI) and is modeled on the international UDRP framework. Under the INDRP, a trademark owner can file a complaint if a domain name:

i. Is identical or confusingly similar to their mark,
ii. Has been registered by a person with no legitimate rights or interests, and
iii. Has been registered or is being used in bad faith (for example, for cybersquatting, misleading users, or selling the domain at a profit).

The proceedings are conducted by appointed arbitrators, and remedies are limited to either cancellation of the domain or transfer to the complainant. Unlike court litigation, the INDRP is faster and more cost-effective, but if a party is dissatisfied with the arbitral award, they can still approach Indian courts under the Arbitration and Conciliation Act, 1996. This creates a dual-layer protection in India: trademark owners can proceed under the Trade Marks Act, 1999 for statutory remedies like injunctions and damages, while also using the INDRP for quicker relief specifically against abusive ".in" domain registrations.

5. Jurisdictional Doctrines Applied to Online Trademark Disputes:

When courts face disputes involving trademarks and domain names in the online environment, the main challenge is determining which court has jurisdiction over conduct that is global in nature but may cause harm in a particular country. To address this, courts have applied different jurisdictional doctrines to strike a balance between protecting domestic rights and avoiding excessive extraterritorial reach.

A. **Effects Doctrine**:

Under the effects doctrine[12], a court can assume jurisdiction if conduct occurring outside the forum state causes substantial effects within its territory. In the trademark context, this means that even if the defendant is located abroad, jurisdiction may be asserted if their online activity damages the reputation, goodwill, or consumer base of a trademark owner within the forum country. For example, if a website hosted in another country uses a famous Indian mark in a misleading manner, Indian courts could claim jurisdiction if the brunt of the harm is felt in India.

This doctrine is useful because it helps trademark owners address harm that originates abroad but is felt domestically. However, critics argue that it risks overreach—as multiple courts could simultaneously claim jurisdiction, leading to conflicting judgments and undermining legal certainty. U.S. courts have often invoked this test in IP disputes[13] (for instance, the Calder v. Jones case[14] in the defamation context established the "effects test"), and Indian courts too have occasionally relied on it when substantial harm within India is demonstrated.

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[10] Ibid; see also *Panavision Int'l, L.P. v. Toeppen*, 141 F.3d 1316 (9th Cir. 1998) (illustrating application of ACPA standards)
[11] *Yahoo! Inc. v. Akash Arora*, CS(OS) 1846/1999 (Delhi High Court, 1999).
[12] Restatement (Third) of the Foreign Relations Law of the United States § 402 (1987); see also WIPO, *Jurisdiction in Intellectual Property Disputes*, https://www.wipo.int/
[13] Ibid.
[14] *Calder v. Jones*, 465 U.S. 783 (1984).

B. **Targeting and purposeful Availment**

The targeting test (sometimes called the "purposeful availment" test)[15] looks at whether the defendant has intentionally directed their conduct toward the forum state. This requires more than mere accessibility of a website; courts ask whether the defendant:

i. Offers goods or services to consumers in the forum,
ii. Uses the forum's language, currency, or domain suffix, or
iii. Runs advertising campaigns deliberately aimed at that market.

This doctrine narrows jurisdiction to cases where there is a clear intent to engage with the forum's market, rather than accidental or incidental contact. For instance, a U.S. court may find jurisdiction if a foreign website sells products in U.S. dollars and ships goods to American consumers. Similarly, Indian courts may find jurisdiction if an online seller uses ".in" domain names or specifically caters to Indian customers. The targeting test is widely considered more balanced than the effects test because it respects sovereign boundaries while still protecting trademark owners from deliberate online infringement.

C. Location of harm and Real-World Nexus

Some courts have insisted that mere online accessibility is insufficient to establish jurisdiction. Instead, there must be a real-world nexus between the online conduct and the forum. This approach looks for tangible connections such as actual customers in the forum, sales contracts, delivery of goods, physical presence of servers, or targeted advertising campaigns. The idea here is to avoid a scenario where a company could be sued anywhere in the world just because its website is visible globally. By requiring proof of actual harm or activity within the forum, courts ensure that jurisdiction is exercised only where there is a genuine local impact. For example, if a foreign website uses an Indian trademark but has no Indian customers, no sales in India, and no targeting of Indian consumers, Indian courts may decline jurisdiction. This approach reflects a cautious balance—protecting domestic markets while avoiding universal jurisdiction that could lead to legal uncertainty for online businesses.

In the U.S., courts rely on both the effects doctrine and purposeful targeting, allowing broad jurisdiction when foreign conduct impacts the domestic market or intentionally targets U.S. consumers. Indian courts emphasize a real-world nexus, requiring tangible connections like customers, sales, or targeted advertising before asserting jurisdiction.

6. Case Studies:

6.1. Panavision International v. Toeppen[16]

Dennis Toeppen registered domain names containing famous marks (e.g., panavision.com) and offered them for sale. Panavision sued. The U.S. courts (district and Ninth Circuit) treated Toeppen's conduct as tortious, finding his registration and sale of third-party trademarks violated trademark laws (dilution/infringement) and supported assertion of jurisdiction where the trademark owner suffered harm. The case is foundational in treating bad-faith domain registrations as actionable and in recognizing that domain-name conduct can have territorial effects warranting national court intervention.
This case established that cybersquatting is actionable under U.S. law, even if the registrant is physically located elsewhere, as long as it harms the trademark owner.

6.2. LICRA v. Yahoo! (France) - Cross-border enforcement tension

In this case, French plaintiffs brought a lawsuit against Yahoo! because its U.S.-based website allowed auctions of Nazi memorabilia, which is strictly prohibited under French law. The French courts held that Yahoo! had to block French users from accessing these auctions, asserting jurisdiction because the harmful content was accessible in France and Yahoo! was effectively targeting French users.
Yahoo! challenged this injunction in U.S. courts, arguing that enforcing it would conflict with U.S. free speech protections and national law.[17] The U.S. courts faced a dilemma: whether to enforce a foreign court order that contradicted domestic law, highlighting the limits of extraterritorial enforcement. The case illustrates the tension between applying territorial laws to websites that are globally accessible and shows how difficult it can be to reconcile national legal standards in the borderless digital space.[18]

6.3. Yahoo! Inc. v. Akash Arora[19]

Yahoo! operated auction websites accessible in India. Akash Arora registered domain names that included "Yahoo" and offered similar services. The Delhi High Court held that even though Yahoo! was based abroad, the use of its mark online

[15] WIPO, *Internet Jurisdiction and Trademark Law*, https://www.wipo.int/
[16] *Panavision Int'l, L.P. v. Toeppen*, 141 F.3d 1316 (9th Cir. 1998).
[17] *Yahoo! Inc. v. La Ligue Contre le Racisme et l'Antisémitisme (LICRA)*, 433 F.3d 1199 (9th Cir. 2006).
[18] Ibid; see also WIPO, *Internet Jurisdiction and Cross-Border IP Enforcement*, https://www.wipo.int
[19] *Yahoo! Inc. v. Akash Arora*, CS(OS) 1846/1999, Delhi High Court, 1999

caused harm in India. The court recognized that domain names can function like trademarks and Internet accessibility alone is enough to establish jurisdiction when Indian consumers are affected.[20]
This case demonstrates India's willingness to assert jurisdiction over foreign defendants if Indian customers are impacted, reflecting the effects doctrine in a digital context.

6.4. Tata Sons Ltd. v. Arno Palmen

A foreign registrant registered tata.in without authorization[21]. Tata Sons filed a complaint under INDRP.[22] The arbitrator held that the domain was identical/confusingly similar to the well-known Tata trademark, and registered in bad faith, ordering the transfer of the domain to Tata Sons.
This shows how India's INDRP mechanism provides a fast, arbitration-based remedy for domain name disputes, complementing statutory trademark protection under the Trade Marks Act.

7. **Provisions affected**:

The territorial nature of trademark law often comes into direct conflict with the global accessibility of domain names. The following statutory provisions and administrative rules are directly affected by this tension, as they must adapt to reconcile national laws with the borderless internet.

7.1. International Instruments:

- **TRIPS Agreement (WTO) :**

TRIPS requires member states to ensure protection and enforcement of trademark rights. However, it is premised on the territorial principle, meaning protection stops at national borders. When domain names allow global infringement (e.g., a cybersquatter in one country harming a brand in another), TRIPS leaves the burden on national courts to provide remedies.[23]
Thus, TRIPS highlights the gap: it obligates protection but does not resolve cross-border enforcement issues, forcing courts to interpret territorial rules in an online setting.

- **WIPO Guidance:**

WIPO has attempted to fill this gap through its Arbitration and Mediation Center[24]. It administers UDRP cases and provides soft-law guidance. The effect is significant: WIPO mechanisms **create a harmonized, non-court path** to resolve disputes that would otherwise be bogged down in conflicting territorial laws. Without WIPO's intervention, cross-border enforcement of trademark rights in the domain space would remain fragmented and costly.

7.2. ICANN / Administrative Policy:

- **Uniform Domain Name Dispute-Resolution Policy (UDRP)**:

Administered under ICANN[25], the UDRP provides a global administrative mechanism to address conflicts between domain names and trademark rights. It tests disputes on three criteria:
- The domain name is identical or confusingly similar to a trademark.
- The registrant has no legitimate rights or interests in the domain.
- The domain was registered or is being used in bad faith.[26]

Remedies are limited to transfer or cancellation of the domain, ensuring speedy, low-cost resolution without relying on court proceedings. By being incorporated into most gTLD registration agreements, UDRP acts as a pre-emptive harmonizing tool, helping mitigate conflicts arising from territorial trademark laws applied to globally accessible domains The UDRP reduces forum-shopping, accelerates dispute resolution, and avoids inconsistent national judgments. However, its remedies are limited (transfer/cancellation only), showing how global administrative solutions cannot fully substitute for national legal remedies like damages.

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[20] Ibid; see also Section 29, Trade Marks Act, 1999 (India) for statutory infringement provisions.
[21] Tata Sons Ltd. v. Arno Palmen, INDRP Case No. 001/2002, National Internet Exchange of India (NIXI)
[22] National Internet Exchange of India (NIXI), *.IN Domain Name Dispute Resolution Policy (INDRP)*, https://www.registry.in/indrp
[23] WIPO, *Intellectual Property and Cyberspace: Cross-Border Enforcement Challenges*, https://www.wipo.int
[24] World Intellectual Property Organization (WIPO), Arbitration and Mediation Center, https://www.wipo.int/amc/en/
[25] Internet Corporation for Assigned Names and Numbers (ICANN), https://www.icann.org
[26] WIPO, *Uniform Domain Name Dispute Resolution Policy (UDRP)*, https://www.wipo.int/amc/en/domains/rules/

7.3. United States:

- **Lanham Act (15 U.S.C §1125):**

Originally drafted for a territorial market, the Lanham Act's application to online disputes required judicial expansion. Section 43(a) is now invoked against websites and domains accessible globally, but courts had to rely on doctrines like "effects" and "targeting" to assert jurisdiction.
The law had to stretch its territorial scope into cyberspace, raising risks of extraterritorial overreach when domains are registered abroad.

- **Anti-Cybersquatting Consumer Protection Act (ACPA):**

ACPA explicitly targets cybersquatting and allows U.S. courts to order injunctions, damages, and domain transfers. It complements the UDRP by offering stronger deterrence through statutory damages.
ACPA shows how **domestic law expands its reach into global digital space**, potentially clashing with other nations' sovereignty when registrants are outside the U.S. It strengthens protection for U.S. trademarks but fuels **jurisdictional friction** in cross-border disputes.

7.4. India:

- **Trade Marks Act, 1999:**

Section 29: Recognizes infringement even in online contexts (e.g., use of a domain name confusingly similar to a registered mark). This extends trademark protection into the digital marketplace.
Section 11(6): Recognition of **well-known marks** allows Indian law to block domains even if the infringer is not directly targeting Indian consumers, since reputation itself creates territorial nexus.
The Act adapts territorial rules to shield Indian consumers and businesses from global online misuse, but enforcement against foreign registrants remains procedurally difficult, showing the limits of domestic law in the global domain system.

- **.IN Domain Name Dispute Resolution Policy (INDRP):**

INDRP, modeled on the UDRP, specifically handles disputes for ".in" and ".bharat" domains.[27] It is arbitration-based, quicker than litigation, and directly tied to Indian trademark law principles.
INDRP ensures that India retains control over its national ccTLDs (country-code top-level domains). However, for global domains like .com or .org, Indian parties must still rely on UDRP or foreign courts, exposing the fragmentation between global and national regimes.[28]

Each of these provisions shows how traditional territorial laws are being stretched, adapted, or complemented by global administrative frameworks (like UDRP/INDRP). Together, they form a patchwork system attempting to reconcile the local protection of trademarks with the global operation of domain names, but gaps remain — especially regarding damages, enforceability, and conflicts between sovereign legal systems.

8. Proposal for reconciliation:

To reconcile territorial trademark rights with global domain systems, a multi-layered approach is necessary — legal, policy, and technical — built on three guiding principles: targeting + proportionality + predictability.

8.1. Redefine Judicial Tests:

Adopt a tiered jurisdictional test:

- Step 1 (Targeting): Did the registrant purposefully target the forum (language, currency, shipping, localized advertising, geotargeting, use of national TLD, etc.)? If yes, jurisdiction is proper.
- Step 2 (Substantial Effects): If passive accessibility only, proceed to whether the conduct caused substantial, real-world harm (lost sales, reputation damage, consumer confusion) within the forum.
- Step 3 (Proportionality & Forum Utility): Even if steps 1–2 are met, court must weigh proportionality — the forum's interest in adjudication vs. burden and international comity.

This test narrows overbroad extraterritoriality while ensuring aggrieved trademark owners have a remedy when legitimately targeted.

8.2. Harmonize Administrative Remedies & Preserve Forum Choice:

- Encourage registries/registrars to maintain best practice harmonization between UDRP/INDRP and national laws: e.g., clearer definitions of bad faith, standardized timelines, and transparency in panel decisions.

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[27] National Internet Exchange of India (NIXI), *.IN Domain Name Dispute Resolution Policy (INDRP)*, https://www.registry.in/indrp
[28] Ibid

- Preserve litigants' right to choose between administrative (UDRP/INDRP) and judicial remedies but empower courts to stay actions where UDRP-like proceedings have already sufficiently remedied the dispute, to avoid duplication.

8.3. Cross-Border Recognition & Comity Protocols:
Negotiate multilateral or regional agreements to recognize certain types of domain dispute awards and streamline enforcement (e.g., preferential recognition of arbitral awards under an agreed framework), while allowing safeguards for fundamental rights (speech, due process).

8.4. Technical Measures with Safeguards:

- Use targeted technical measures like geo-blocking and DNS-level remedies only where narrowly tailored and subject to judicial oversight.
- Encourage registries to include clearer abuse reporting and expedited review processes for clear bad-faith registrations.

8.5. Improve Notice & Remedies for Innocent Registrants:
Not all conflicts involve bad faith; mechanisms should exist to protect bona fide registrants (prior use, legitimate interests). Remedies must therefore distinguish between cybersquatting and legitimate competition or descriptive use.

8.6. Capacity Building & International Cooperation:

- Support developing countries' capacity to implement ccTLD dispute policies consistent with international standards while reflecting local law.
- WIPO/ICANN could facilitate templates and training for national panels and courts.

9. Concluding Remarks:

The conflict between territorial trademarks and global domain names epitomizes the tension between traditional legal boundaries and the borderless nature of the digital world. Trademark law, rooted in territorial sovereignty, was designed for national markets, whereas domain names operate in a global ecosystem where a single registration can impact multiple jurisdictions simultaneously. This disparity challenges the enforcement, recognition, and harmonization of trademark rights across borders.

International frameworks like TRIPS and WIPO's administrative guidance, along with mechanisms such as ICANN's UDRP and India's INDRP, attempt to bridge this gap. However, they primarily offer procedural remedies—transfer or cancellation—without addressing compensatory relief or global enforceability. Domestic laws like the ACPA in the U.S. and the Trade Marks Act, 1999 in India extend trademark protection to cyberspace, yet their reach remains limited by jurisdictional boundaries. Courts have responded by developing flexible doctrines—the effects, targeting, and real-world nexus tests—to balance national interests with digital realities.

This study concludes that reconciliation lies not in abandoning territoriality but in redefining it for the digital era. A harmonized global framework should combine targeting and effects-based jurisdiction, integrate administrative decisions (UDRP/INDRP) with domestic laws, and promote international enforcement mechanisms under WIPO or WTO supervision. Additionally, states must enhance transparency, technological cooperation, and capacity building to ensure fair and uniform application.

Ultimately, territorial and global systems must coexist through mutual adaptation—where trademark law evolves to reflect the interconnected nature of commerce, and international mechanisms ensure predictability and fairness. The future of trademark protection depends on this cooperative balance: maintaining sovereignty while embracing a shared digital jurisdiction that upholds both justice and innovation.

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