

In response auDA's request for commentary with regards to its May 2007 Issues Paper, Sedo submits a comment herein with regards to the issue of whether registrants should be able to sell .au domains. Sedo hereby supports the sale of .au domain names with the purpose of encouraging international e-commerce and growth of the Australian online community.

Under the current policy scheme, a domain registrant is not a domain "owner" per se, but merely has a license to use that domain.¹ The .au Registrant Agreement prohibits the sale or transfer of a domain name, unless the transfer falls into one of eight narrow situations. Secondary market sales are strictly prohibited with the purpose of reducing rates of cyber-squatting and other unfair business practices.² The secondary domain name market has become an integral part of international e-commerce and entrepreneurialism on the internet. Furthermore, the secondary domain market has evolved into a driving force in domain industry due to the unavailability of premium domain names. Sedo.com, as a secondary online marketplace for domain names, has become a transparent leader in the secondary domain industry. We have become the premier marketplace for buying, selling, and auctioning domain names and websites. Sedo, in an attempt to be a market leader, has established several policies and procedures to specifically combat against the infringement of third party rights, such as trademarks rights. Sedo's Rights Protection Program, which can be found on our site³, is a transparent procedure for intellectual property holders to notify Sedo of potential infringements. We have been extremely successful in this venture and have opened lines of communication amongst trademark holders and domain owners.

The Panel cites two fundamental flaws with the current .au policy. It argues that there are no adequate remedies for trademark and other rights holders. It

¹ 2007 Names Policy Panel Issues Paper, May 2007, page 8.

² 2007 Names Policy Panel Issues Paper, May 2007, page 9.

³ http://www.sedo.com/about/policy.php?page=rights_protection&tracked=&partnerid=&language=us

further cites the ability of .au registrants to curtail the policy by concealing the purpose of the transfer as if it fell within one of the eight narrow exceptions. Sedo agrees with this contention and further believes that the sale of domain names in a secondary market is essential to the continued growth of international e-commerce. Sedo further agrees with the Panel's assertion that a "secondary market would increase options available to both registrants and prospective registrants, and would facilitate the efficient re-use of domain names." There is no evidence to suggest that the existence of a secondary domain market would increase the number of cyber-squatters or other criminals who seek to commit internet fraud. Sedo believes that the Australian online community must not disregard the legitimacy of domain transactions such as owning domains over licensing, domain auctions, domain sales, and the monetizing of domain traffic. If so, it is failing to accept the concept of a free marketplace, while stifling business growth and creativity in both the domain industry and those managing small "brick and mortar" businesses as they search for domains pertinent to their trade.

The Panel also states that in the initial stages of the .au registry, a prohibition against the sale of domains was instituted out of a fear that it would not create a fair, "first come, first served" system for domains⁴. Now, because most of what the .au considers to be "good" domain names have been registered, this fear has been greatly reduced.⁵ The recognition of the lack of available premium domains further reinforces the need for a secondary market. We support the .au Panel policy change to allow the commercial selling of .au domain names. By allowing the new policy to exist, it will foster economic growth for Australian business and economy. The revision of the .au policy will further legitimize the international domain name

⁴ 2007 Names Policy Panel Issues Paper, May 2007, page 9.

⁵ 2007 Names Policy Panel Issues Paper, May 2007, page 9.

industry as well as other related commercial interests which will benefit Australia and domain owners alike.