



Obama-UN Internet Surrender: It Ain't Over 'til It's Over

The September 30 deadline has come and gone. Congress adjourned on September 28 for a six-week recess without challenging the Obama administration's determination to transfer a key Internet supervision function to an unaccountable international "multi-stakeholder" entity on October 1. An [11th-hour lawsuit by four state attorneys general](#) requesting an emergency delay of the transfer failed on Friday, September 30, as Judge George Hanks, Jr., of the U.S. District Court for the Southern District of Texas, ruled that the plaintiffs failed to prove that "irreparable harm" would result from the handover.



So, is the transfer a done deal? Is it "irreversible" and "irrevocable" as many so-called experts — both pro and con — are saying? And does it really matter; after all, isn't the Internet still functioning the same as always?

First of all, it's important to know that the de facto transfer of the "stewardship" of the database containing domain names and numeric addresses that allow computers to connect to, and communicate with, one another, is not irreversible. It's just that the fight will get messier and more complicated now, as it moves to multiple battlefields, with Congress, the states, the courts, private citizens, private corporations, and private nonprofits as combatants/participants.

Besides the host of arcane technical matters involved, a big part of the problem for most Americans in coming to grips with the central issues in this controversy is sorting through a plethora of acronyms and the complex web of operational and legal relationships among the players.

At the center of the controversy is the Internet Corporation for Assigned Names and Numbers (ICANN), which is incorporated as a "California nonprofit public-benefit corporation" (its bylaws can be accessed [here](#)). An ICANN subsidiary, the Internet Assigned Numbers Authority (IANA) oversees global Internet addressing function through its domain name system (DNS). Until October 1, ICANN operated pursuant to a contract administered by the National Telecommunications and Information Administration (NTIA), which is part of the U.S. Commerce Department. ICANN, therefore, was answerable, in some measure, to Congress and the American people.

However, the Obama administration, which, in every other area is obsessed with federalizing and controlling every private function and abolishing private property rights, in this particular case, for some strange reason, is obsessed with "privatizing" the Internet. Hence, he has claimed the authority to transfer the stewardship of the Internet to ICANN.

Most of the commentary in the establishment media has applauded the move and has ridiculed concerns of opponents. However, with much of the world's economy and commerce, not to mention government services, telecommunications, emergency services, and infrastructure critically tied to the



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Internet, concerns about national security, privacy, stability, and censorship under the new ICANN regime should not be laughed off.

As we [pointed out](#) last week,

ICANN's [board of directors](#) is overseen by the [Government Advisory Committee](#) (GAC) that includes members from 111 countries, including many communist, "former" communist, Islamist, socialist, and authoritarian regimes notorious for currently censoring and policing the Internet and punishing netizens for politically incorrect and religious expression. GAC members include China, Russia, Iran, Turkey, Saudi Arabia, Cuba, Turkmenistan, Bulgaria, Venezuela, and other paragons of less-than-angelic virtue.

Moreover, although the "mainstream" commentators would have us believe that only "tin foil hat conspiracy wackos" are concerned about a United Nations takeover of the Internet, the Obama-led transfer to ICANN is a steppingstone in that direction. *The New American* has been reporting for years on the various UN conferences aimed at taking over the Internet (see [here](#) and other articles linked below this story). Even many "progressives" became alarmed when the plan to put the United Nations International Telecommunications Union (ITU) in charge of the Internet surfaced a couple of years ago. The ITU already had a bad reputation as an apologist/agent for repressive regimes, but it got worse in 2014 when [ITU member governments and dictatorships overwhelmingly selected Houlin Zhao of Communist China](#).

As to be expected of a Communist Party functionary, Comrade Houlin Zhao faithfully channels the Party line in his ITU office, including defending China's repressive Internet policing and censoring.

So, the current NTIA transfer to ICANN may be better than an immediate transfer to ITU, but only marginally. Besides the issue of the influence of various totalitarian regimes through ICANN board of directors and GAC, ICANN has a [history of non-transparency](#) and operating in violation of its own bylaws and the terms of its contract.

In addition, it has already shown, repeatedly, that it cannot provide security from external threats. In 2015 ICANN admitted an audit of its operations showed that hackers had compromised its security at least 330 times between April 17, 2013 and 17 March 17, 2014.

The Register, a UK newspaper, [reported](#):

In December 2014, the organization admitted that a number of its systems had been compromised including the Centralized Zone Data System (CZDS) — where the internet core root zone files are mirrored — the wiki pages of the Governmental Advisory Committee (GAC), the domain registration Whois portal, and the organization's blog. That incident revealed that ICANN did not use even basic two-factor authentication for many of its systems.

And those are just the security breaches that ICANN has owned up to. In an extensive paper published by dot-com registry and maintainer of the internet's root zone Verisign late last year, a long list of technical and security problems at ICANN were highlighted. It noted a "growing list of examples where ICANN's operational track record leaves much to be desired."

It's Not Too Late

In a thorough and thoughtful [analysis](#) of Judge George Hank's September 30 decision, Berin Szoka, a lawyer and president of TechFreedom, a technology policy think tank, offered a number of scenarios and strategies that may still be employed to prevent the Obama Internet transfer scheme.



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The ruling, Szoka noted, does not “resolve the underlying legal questions raised by the states. Nor does it mean the Transition is a done deal.” The judge, he pointed out, “merely ruled that the states had not shown ‘irreparable injury’ if these two [NTIA-ICANN] contracts lapsed. This is, in general, a very high bar. But even more than that, letting the contract lapse does not make the Transition permanent: If a court eventually rules that NTIA could not lawfully relinquish its responsibilities, it will essentially be saying that, when the contracts lapsed, control over the Root Zone File remained with NTIA, that ICANN had been exercising control unlawfully in the interim, and that if ICANN would need to negotiate a new contract with NTIA if it wants to continue exercising the IANA functions.”

“Such a declaratory judgment,” says Szoka, “would be easy to enforce: both ICANN and VeriSign are U.S. corporations, and can be enjoined from making any changes to the root without affirmative authorization from NTIA. We will be right back where we started.” Szoka notes that “even if this lawsuit fizzles, some other plaintiff could raise the issue in the future — and there’s every reason to think that it will come up in litigation between ICANN and the companies that run top level domains or sell second level domains to consumers. There is no statute of limitations on the issues raised by the plaintiffs. This issue could cast a long shadow over ICANN for years until a court finally rules on the merits.”

Szoka then summarizes five of the open legal concerns that must be addressed by the courts and Congress:

1. The U.S. government has long exercised exclusive control over who may edit the Root Zone File that ties together the Internet, and that abandoning this government property right requires Congressional authorization;
2. Absent a firm guarantee that ICANN will protect free speech, converting what has been a public forum into a private one would violate the First Amendment;
3. NTIA violated administrative law by failing to build an adequate record and respond to public comment on the matter;
4. NTIA lacks statutory authority to cede responsibility over the Domain Name System; and
5. By failing to secure U.S. ownership of .GOV, NTIA is tortiously interfering with the contracts that states hold for their .GOV domain names.

As that famous philosopher (and sometime baseball legend) Yogi Berra sagely remarked, “It ain’t over ‘til it’s over.” And the battle for control over the Internet is far from over. Despite a huge public outcry, Congress avoided its duty and ducked out of this fray 48 hours before Obama’s ICANN transfer was set to take place. That outcry must continue — and grow — and Congress must be put on notice that this fraudulent transfer is unconstitutional and unacceptable. It can be, and must be, reversed.

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