

# Case study: Fight for your right in domain grabbing cases



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OF YOUNG LAWYERS

AIJA Pre-Congress Seminar  
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Prague

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Nis Dommergaard, Pascal Böhner

# Why talking about domains?

- Can you imagine a business without online presence?
- Each entity, branch, trademark or product (person) has its own “website” – and therefore needs its own domain name
- Domain names are at least as important as trademarks and company names, you can build up a whole business just on a domain name
- What about your firms, companies, profiles?
- New focus: Top-Level-Domains



## Case study



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LONGCHAMP

[Startseite](#) [Anmelden](#)

Suchbegriff

[Startseite](#)[Neue Produkte](#)[Specials](#)[Anmelden](#)

## Kategorien

- > Longchamp große Tote
- > Longchamp Tote Medium
- > Longchamp Handtaschen Kleine
- > Longchamp Handtaschen Medium
- > Longchamp Eiffelturm
- > Longchamp Tragbare Double
- > Longchamp Grid
- > Longchamp Tote Darshan
- > Longchamp Jacquard
- > Longchamp Le Pliage 1623
- > Longchamp Folding Handtaschen
- > Longchamp Hobo
- > Longchamp Le Pliage Rucksack
- > Longchamp Messenger
- > Longchamp Kosmetik

## Neue Artikel [mehr]



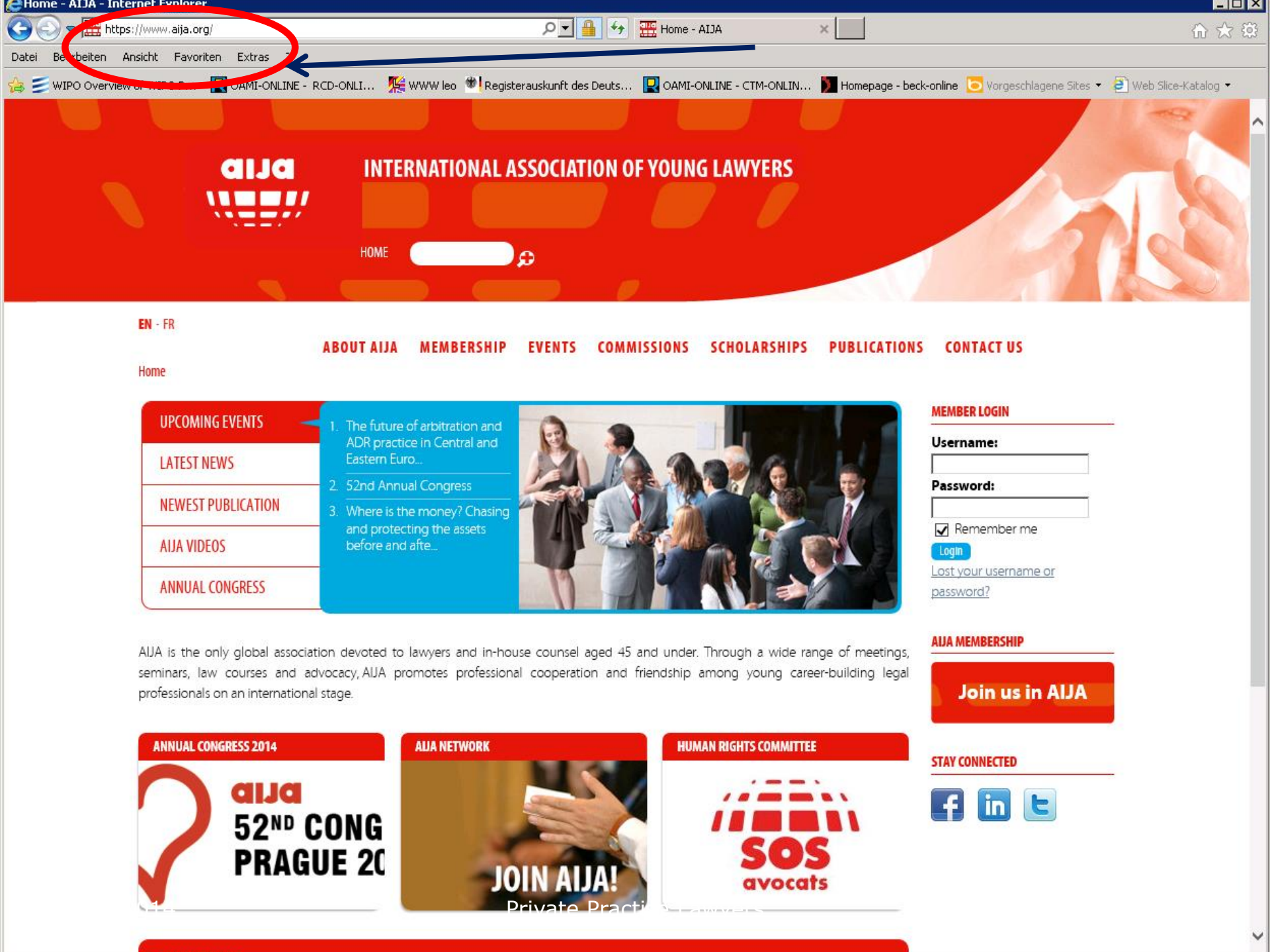
2013 Longchamp Outlet Le Pliage Rucksack Praline

## Longchamp große Tote

Zeige 1 bis 15 (von 18 Artikeln)

1 2 [Nächste &gt;&gt;]

Longchamp Tasche Le Pliage  
Large Folding Tote Lange Griff  
schwarz~~€105.00- €47.50~~  
Sie sparen 55% !Longchamp Tasche Le Pliage  
Large Folding Tote Stiel Beige~~€105.00- €47.50~~  
Sie sparen 55% !Longchamp Tasche Le Pliage  
Large Folding Tote Stiel Curry~~€105.00- €47.50~~  
Sie sparen 55% !Longchamp Tasche Le Pliage  
Large Folding Tote Stiel  
Fuchsia~~€105.00- €47.50~~  
Sie sparen 55% !Longchamp Tasche Le Pliage  
Large Folding Tote Stiel Grape~~€105.00- €47.50~~  
Sie sparen 55% !Longchamp Tasche Le Pliage  
Large Folding Tote Stiel  
Graphite~~€105.00- €47.50~~  
Sie sparen 55% !



# Case study

- **aija.org**
- **What about other „aija“ domain names?**
- **Available:**

.fr	.uk	.lu	.sk	.pl
.academy	.attorney	.associates	.brussels	.camp
.club	.community	.education	.events	.institute
.lawyer	.london	.moscow	.press	.sexy



# Case study

- What about other „aija“ domain names?
- Taken:

.com	.net	.org	.info	.biz
.cn	.com.cn	.ru	.eu	.cz
.de	.dk	.nl	.se	.tk



**What will happen to all these AIJA domains ???**



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# The dark side of domain registration

*Speaker*

**György Wellmann**

*Szecskay Attorneys at Law*

Budapest



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# „It Only Happens to Others.” No, it does not!

aija.net
Lookup

[Provide Feedback](#)

Showing results for: aija.net  
Original Query: aija.net

### Contact Information

Registrant Contact	Admin Contact	Tech Contact
Name: Domain Hostmaster, Customer ID : 60520655806409 Organization: Whois Privacy Services Pty Ltd Mailing Address: PO Box 923, Fortitude Valley QLD 4006 AU Phone: +61.730070090 Ext: N/A Fax: +61.730070091 Fax Ext: N/A Email: 60520655806409-aa6dc0@whoisprivacyservices.com.au	Name: Domain Hostmaster, Customer ID : 60520655806409 Organization: Whois Privacy Services Pty Ltd Mailing Address: PO Box 923, Fortitude Valley QLD 4006 AU Phone: +61.730070090 Ext: N/A Fax: +61.730070091 Fax Ext: N/A Email: 60520655806409-aa6dc0@whoisprivacyservices.com.au	Name: Domain Hostmaster, Customer ID : 60520655806409 Organization: Whois Privacy Services Pty Ltd Mailing Address: PO Box 923, Fortitude Valley QLD 4006 AU Phone: +61.730070090 Ext: N/A Fax: +61.730070091 Fax Ext: N/A Email: 60520655806409-aa6dc0@whoisprivacyservices.com.au

aija.info
Lookup

[Provide Feedback](#)

Showing results for: AIJA.INFO  
Original Query: aija.info

### Contact Information

Registrant Contact	Admin Contact	Tech Contact
Name: Marcus Hornig Organization: Mailing Address: Rollberg 34, Wedel 22880 DE Phone: +49.1795184320 Ext: Fax: Fax Ext: Email: marcushornig@aol.com	Name: Marcus Hornig Organization: Mailing Address: Rollberg 34, Wedel 22880 DE Phone: +49.1795184320 Ext: Fax: Fax Ext: Email: marcushornig@aol.com	Name: Hostmaster EINSUNDEINS Organization: 1&1 Internet AG Mailing Address: Brauerstr. 48, Karlsruhe 76135 DE Phone: +49.7219600 Ext: Fax: +49.72191374248 Fax Ext: Email: hostmaster@1und1.de



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Original Query: aiija.biz

## Contact Information

### Registrant Contact

Name: Domain Admin  
 Organization: PrivacyProtect.org  
 Mailing Address: ID#10760, PO  
 Box 16, Nobby Beach Queensland  
 QLD 4218 Australia  
 Phone:  
 Ext:  
 Fax:  
 Fax Ext:  
 Email: contact@privacyprotect.org

### Admin Contact

Name: Domain Admin  
 Organization: PrivacyProtect.org  
 Mailing Address: ID#10760, PO  
 Box 16 / Note - Visit  
 PrivacyProtect.org to contact the  
 domain owner/operator, Nobby  
 Beach Queensland QLD 4218  
 Australia  
 Phone: +45.36946676  
 Ext:  
 Fax:  
 Fax Ext:  
 Email: contact@privacyprotect.org

### Tech Contact

Name: Domain Admin  
 Organization: PrivacyProtect.org  
 Mailing Address: ID#10760, PO  
 Box 16 / Note - Visit  
 PrivacyProtect.org to contact the  
 domain owner/operator, Nobby  
 Beach Queensland QLD 4218  
 Australia  
 Phone: +45.36946676  
 Ext:  
 Fax:  
 Fax Ext:  
 Email: contact@privacyprotect.org

### Registrar

WHOIS Server:  
 URL:  
 Registrar: PDR LTD. D/B/A  
 PUBLICDOMAINREGISTRY.COM

### Status

Domain Status: clientTransferProhibited



## WHOIS search

**aiija.eu: Not available for registration**

If you believe you have the right to a .eu domain name that is already registered, you may [dispute the registration](#).

For privacy reasons, the registration data of private persons is not fully disclosed. You may request this data under strict conditions by completing a [personal data disclosure form](#).

If you believe the registrant data for this .eu domain name is **inaccurate**, you may file a [complaint](#).

If you wish to **transfer** this domain name, you will require a [transfer authorisation code](#). If you are unable to obtain the authorisation code from your registrar or via the [.eu End-user Extranet](#), you may [request an emergency authorisation code](#).

### Domain

Name	aiija
Status	REGISTERED <a href="#">(what this means)</a>
Registered	June 7, 2006
Expiry Date	June 30, 2015
Last update	January 30, 2012, 12:11 pm

### Registrant

Language	Dutch
Email	info@pmolk.com

### Technical

Name	R.L.M. Broekman
Organisation	Bloxem Internet Services
Language	Dutch
Address	Oranjesingel 76 6511 NZ Nijmegen Netherlands
Phone	+31.243605040
Fax	+31.243605030
Email	info@bloxem.nl

### Registrar

Organisation	Bloxem Internet Services
Website	www.bloxem.nl

### Name servers

- dns4.bloxem.nl
- dns5.bloxem.nl



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aija.net - Internet Explorer

http://www5.aija.net/

Datei Bearbeiten Ansicht Favoriten Extras ?

WIPO Overview of WIPO P... OAMI-ONLINE - RCD-ONLI... WWW leo Registereinsicht des Deuts... OAMI-ONLINE - CTM-ONLIN... Homepage - beck-online Vorgeschlagene Sites Web Slice-Katalog

Verwandte Links: Sonderangebote Digitalkamera Abnehmen

**aija.net**

Anzeigen

[Ingolstadt Outlet](#)  
www.ingolstadtville.com  
Outlet Shopping in stilvollem Ambiente - ganzjährig 80% reduziert

[Protect YourBrand.Website](#)  
radixregistry.com/DotWebsite  
The 1st real alternative to .com Sunrise Ends soon. Register now!

[FSK18 Uncut Filme](#)  
www.best-trade.de/Filme  
50.000 Uncut Filme, Top Preise Best-Trade: Ihr Uncut DVD Shop!

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invest-zvg.de  
Kompetente Hilfe für Ihr Problem. 20 Jahre Erfahrung & Sachverstand.

[Online Outlet bis -70%](#)  
online-outlet.vente-privee.com  
Hochwertige Marken online shoppen. Kostenlos anmelden & bis 70% sparen

Verwandte Links  
Autos  
Brickwork Profiles  
Companies Profiles  
Billigflieger  
Beziehungen  
Musik downloaden  
Lotto  
Stellenmarkt  
Shoppin  
Filme

NameDrive Die auf dieser Seite bereitgestellten Listings kommen von dritter Seite und stehen mit Domain-Inhaber oder NameDrive in keiner Beziehung.

DOMAINS PARKEN

Privacy Policy

Start

DE 15:14 01.08.2014



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# What can typically go wrong?

## – Plans of bad guys

- Criticism sites such as
  - [bridgestone-firestone.net](http://bridgestone-firestone.net);
  - [wal-martsucks.com](http://wal-martsucks.com);
  - [airfrancesucks.com](http://airfrancesucks.com).
- Parking page with links to landing pages and pay per click advertisements (such as [aija.net](http://aija.net) at the moment)
- Passive holding (such as [aija.biz](http://aija.biz) at the moment)
- Operation of an exclusive web site/shop
- Competitor gets an unfair competitive advantage due to misdirected inquiries and messages



# **Why should bad guys register?**

## **- evidence of bad faith registration**

- **Domain name was registered after the trademark was registered**
- **Registration of multiple domain names which are similar to the trademark**
- **Willful Blindness – registration through automated processes**
- **Evidence of offers to sell the domain name**
- **Presence of automatically generated advertisement links**
- **Use of privacy or proxy registration services**



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# The UDRP System

*Speakers*

Nis Dommergaard, *Bech-Bruun*, Aarhus

Jan Roliński, *WKB Wierciński, Kwieciński, Baehr*, Warsaw



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# The UDRP system

- **Uniform Domain Name Dispute Resolution Policy (UDRP)**
- **A domain name dispute resolution service offered by WIPO**
- **Covers gTLD's and +65 ccTLD's**
- **An alternative to litigation (fast, cheap and efficient)**

# The UDRP system

- Give the possibility to have a domain name
  - Cancelled
  - Transferred
- The domain is non-transferable during the proceedings
- Proceedings are initiated by sending a complaint to WIPO
- Cases are decided by 1 or 3 panelist

# The UDRP system

- **Conditions for winning a UDRP case**
  - 1. The domain name must be identical or confusingly similar to the complainant's trademark.**
  - 2. No legitimate interest in the domain name**
  - 3. The domain name must be registered and used in bad faith**

# The UDRP system

- What happens if the complainant is successful?
- The domain name is either transferred or cancelled
- The registrant may bring the decision before the ordinary courts
- Our recommendation?



# Our recommendation

## 1. Identical or confusingly similar to AIJA's trademark



AIJA



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# Our recommendation

## 2. Right or legitimate interest?



# Our recommendation

## 3. Registered and used in bad faith?

### aija.com registry whois

---

Domain Name: AIJA.COM

Registrar: XIAMEN CHINASOURCE INTERNET SERVICE CO., LTD.

Whois Server: whois.cnolnic.com

Referral URL: <http://www.zzy.cn>

Name Server: NS1.CNOLNIC.COM

Name Server: NS2.CNOLNIC.COM

Status: clientTransferProhibited

Updated Date: 16-jul-2014

Creation Date: 27-nov-1997

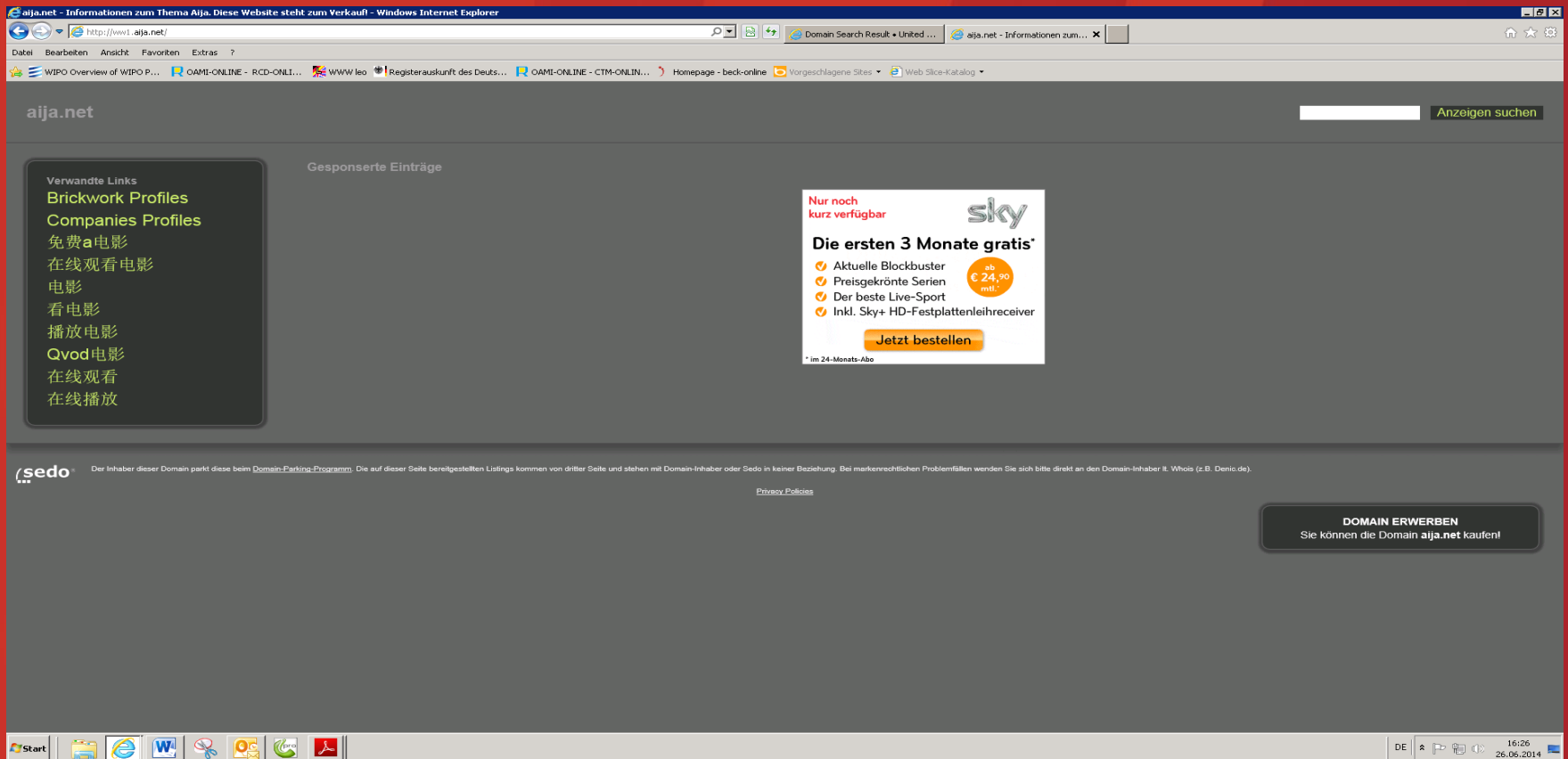
Expiration Date: 26-nov-2017



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# Our recommendation

- Registered and used in bad faith?



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# Grim Business with ccTLDs

*Speaker*

**Pavel Savitsky**

*Attorneys at Law Borenus (Russia)*

St. Petersburg



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# A nightmare or a lawyer's lucky ticket?

- **Dispute resolution variations:**
  - Modified UDRP: UK (.UK), Netherlands (.NL), Spain (.SP), Italy (.IT) ...
  - Independently developed policies: EU (.EU), France (.FR), Poland (.PL) ...
  - No ADR or mediation: Germany (.DE), Russia (.RU), USA (.US) ...
- **How would it work in Russia (.RU, .РФ – the Russia's IDN):**
  - No ADR, only voluntary consent for alternative dispute resolution
  - Established court practice for typical scenarios
  - Specific legal tools to take down domains
  - Crafty ways to preserve domains

# AIJA.RU, AIJA.PФ, АИЖА.РФ, АЙИЖА.АФ...

- No UDRP and no ADR for .RU or .PФ domain name cases:  
Solution: Litigation. Russian courts love trademark owners. More expensive than ADR but still much cheaper and quicker (3-6 months per one instance) than litigation in some other jurisdictions.
- Domain name owner's details often are missing from WHOIS data.  
Solution: Send advocate request or sue the registrar.
- Natural persons residing in rural areas have to be sued where they reside.  
Solution: File a company name or a trademark infringement suit or sue the registrar, such cases will be heard by commercial courts.
- Courts do not recognize website print-outs and only accept documents in Russian.  
Solution: notarize the print-outs and obtain notarized translations.



# What can happen

- Local office, partner or ex-partner AIJA-RUSSIA.RU
- Hate or free speech web-site HATE-AIJA.RU
- No website, a “my pet” website, or a site for business not covered by AIJA’s TMs

Solution: Trademark infringement lawsuit. Good-faith use often may also be trademark infringement.

- AIJA has no trademark, or the domain is clearly NOT covered by the TM

Solution: Company name or commercial designation infringement, or an unfair competition claim.

- Typosquatting, spelling variations, reverse translations: AJIA.RU, AIDZJA.RU, AIYA.RU, АИЯ.РФ, МАМЮ.РФ, MAMY.RU, IAYL.RU ...

Solution: Obtain professional opinions of language experts.





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# Domain disputes concerning ccTLDs

*Speakers*

Nis Dommergaard, *Bech-Bruun*, Aarhus

Jan Roliński, *WKB Wierciński, Kwieciński, Baehr*, Warsaw



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# Domain disputes concerning ccTLDs

- most ccTLDs not covered by UDRP
- different dispute resolution methods
- arbitration (.pl)
- litigation (.de)
- alternative dispute resolution (.eu)

**.pl**

- **Arbitration**
- **„Almost mandatory” for the respondent**
- **No automatic transfer or cancellation**
- **Litigation also an option**
- **Infringement of third party rights**

# aija.pl

- **Currently not registered**
- **But if it were...**
- **Evidence that:**
  - registration infringes on AIJA's rights
  - respondent does not have a right or an interest in the domain name
  - Always helpful: respondent acts in bad faith

**.de**

- **Litigation (common court)**
- **Infringement of third party rights**
- **„dispute” entry**
- **Injunction claims**
- **Transfer or cancellation only in exceptional cases**

# aija.de

The screenshot shows a web browser window with the address bar displaying "www.domainmarkt.de/aija.de/direct". The page content includes a blue banner with "aija.de", a form for email and price, and four informational boxes at the bottom.

Domain steht zum Verkauf

**aija.de**

Ihre Email

**Preis anzeigen**

**Glückliche Kunden**

"Danke für den schnellen Transfer und guten Service!"

Thomas Schäfer  
i can eckert communication GmbH  
Würzburg

**Ihre Vorteile**

- keine Transfergebühren
- schnelle Abwicklung
- persönlicher Ansprechpartner

**Starke Partner**

**DENIC**  
**nomino.**

**PayPal**

**Direkter Draht**

Haben Sie Fragen? Unsere Domainexperten helfen Ihnen gerne!

**Jetzt kostenlos anrufen!**  
**0800 40 41 04 24**

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# aija.de

## Domain Query - Results

### Domain data

Domain: aija.de  
Latest update: 18.04.2014

### Domain holder

The domain holder is DENIC's contractual partner and hence holds the material rights to the domain.

Domain holder: Jiri Prochazka  
Organisation: Ondracek Vladavik Skynet A.S.  
Address: 4 Metallurgov street  
Postal code: 622023  
City: Nizhny Tagil  
Country: RU  
Phone: +7 3435 787 21 12  
Fax: +7 3435 787 21 12  
E-mail: ovskynet@gmail.com

### Administrative contact

The administrative contact (admin-c) is the natural person appointed by the domain holder to act as his/her authorized representative and who also has the duty towards DENIC of taking binding decisions in all matters concerning the domain aija.de.

Name: Frank Mueller  
Address: Kaiserswerther Str. 115  
Postal code: 40880  
City: Ratingen  
Country: DE  
E-mail: frankmuellerprivat@yahoo.de



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**.eu**

- **ADR procedure very similar to UDRP**
- **Transfer or cancellation**
- **The decision can be appealed to a common court**
- **But only within a month of issuing the decision**
- **The Czech Arbitration Court**
- **Litigation also an option**



**.eu**

- **Commission Regulation (EC) No 874/2004**
- **Conditions for finding of speculative or abusive registration**
- **domain name identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, and:**
  - **registered by its holder without rights or legitimate interest in the name; or**
  - **registered or is being used in bad faith.**

# aija.eu

The screenshot shows a web browser window with the address bar displaying 'www.aija.eu'. The browser tabs include 'Domain name disputes | EUR', 'ADR.eu - Index page', 'ADR.eu', 'eu adr rules.pdf', and 'www.aija.eu'. The website header features the 'Domeinenbank.nl' logo and a search bar. A navigation menu contains links: Home, Wat is een domeinnaam?, Waarom vastleggen?, Waarde, Overname, Huren, Referenties, and Contact. The main content area displays a red 'Pagina niet gevonden (Error 404)' message. Below this, a blue breadcrumb trail reads 'Je bent nu hier: Home » 404 - Pagina niet gevonden!'. A yellow warning box contains an exclamation mark icon and the text 'Oeps er is iets mis gegaan... Ik kan de pagina die je zoekt niet vinden (Error 404)'. Under the heading 'Laat me je helpen het te vinden:', there are three numbered steps: 1. Zoek hier naar: (with a search input field and a 'Zoek' button), 2. Als je een URL zoekt controleer dan de spelling en probeer de pagina te verversen., and 3. Start opnieuw met de Homepage.. The footer section, titled 'Projecten voortgekomen uit onze domeinnamen:', lists four projects: Telefoonboek.nl, Openingstijden.com, Places.nl, and Mokkels.nl, each with a brief description. The bottom footer contains copyright information '© 2013 Domeinenbank | Voorwaarden | Disclaimer' and a 'Naar Boven' link.

Domain name disputes | EUR x ADR.eu - Index page x ADR.eu x eu adr rules.pdf x www.aija.eu x

← → ↻ www.aija.eu

**Domeinenbank.nl** Zoek...

Home Wat is een domeinnaam? ▾ Waarom vastleggen? ▾ Waarde Overname Huren Referenties Contact

**Pagina niet gevonden (Error 404)**

Je bent nu hier: Home » 404 - Pagina niet gevonden!

**Oeps er is iets mis gegaan... Ik kan de pagina die je zoekt niet vinden (Error 404)**

**Laat me je helpen het te vinden:**

1. Zoek hier naar:  
Zoek naar:  **Zoek**
2. Als je een URL zoekt controleer dan de spelling en probeer de pagina te verversen.
3. Start opnieuw met de Homepage.

**Projecten voortgekomen uit onze domeinnamen:**

<p><b>Telefoonboek.nl</b></p> <p>Met Telefoonboek.nl vindt u eenvoudig het telefoonnummer, adres en aanvullende informatie van alle bedrijven en personen in heel Nederland.</p>	<p><b>Openingstijden.com</b></p> <p>Vind de openingstijden van alle populaire ketens en winkels in Nederland. Dagelijks worden er nieuwe openingstijden toegevoegd aan de database.</p>	<p><b>Places.nl</b></p> <p>Val op tussen uw concurrenten en trek meer bezoekers aan door de pagina van uw bedrijf volledig te maken. Start vandaag nog met een vermelding op Places.nl!</p>	<p><b>Mokkels.nl</b></p> <p>Informatie, nieuws en foto's van bekende en lekkere babes en alles wat sexy Nederland te bieden heeft door en voor liefhebbers ...</p>
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# **aija.eu**

- **Currently registered by a Dutch person**
- **For AIJA to successfully challenge such a registration:**
  - It is identical to AIJA's trademark and designation
  - Does the current holder have rights or legitimate interest in the name?
  - Did the current holder register the domain name or is using it in bad faith?

**Thank you for your attention**



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