

# THE (DIS)HARMONY OF OPINIONS REGARDING DOMAIN NAMES IN THE CZECH REPUBLIC

**Radka MacGregor Pelikánová**

***Abstract:** The Internet is a key venue for business conduct in the 21<sup>st</sup> century and the address on it, the domain name, has a potential to satisfy a myriad of functions and to become a valuable intangible asset. Domain names are not only vital for business conduct regarding practically all types of goods and services, but they themselves can become commodities to be marketed. A research, meta-analysis and critical comparative re-assessment of the already published data was confronted with information extracted from a unique target questionnaire survey completed by a homogenous poll of respondents from the Czech Republic with a superior knowledge about the intellectual property and with a potential to be domain name adviser or even registrant. The principal objective was to assess the understanding and perception of domain names by such a homogenous group, based on their answers to questions targeting five critical hypotheses. The outcome was highly surprising and with an extremely low level of reconciliability. Plainly, intellectual property specialists from the Czech Republic fully endorse the importance of domain names and recognize their in rem regime, but they are incapable to identify domain names with the highest potential and to calculate their price. The asymmetry of information by Czech specialists in this arena is not sustainably acceptable.*

***Keywords:** Business significance, Domain name, Internet, Price, Questionnaire, Value.*

***JEL Classification:** A12, K11, L21, M30, O34.*

## **Introduction**

Business life, as well as private life, in the 21<sup>st</sup> century society cannot be imagined without the use of information technologies, and the employment of the Internet for business conduct in the EU seems to be a must [14]. The Internet has a myriad of functions and its principal services cover the www system, DNS, e-mail correspondence, online communication, file sharing, social nets services, etc. [13]. Namely, the key system within the Internet, the World Wide Web (www), mandates the access of computers or other information technology devices set via the hierarchy of domains [20]. There are large domains (TLDs) and each of them is further divided into sub-domains (second level domains), sub-domains of sub-domains (third level domains), until the lowest level, i.e. the device is reached [13]. This ultimate device has a numeric code which is translated into a verbal form, a domain name and the entire system is called the Domain Name System (DNS). Technically, the DNS consists of the hierarchically built Domain name space, administrative Name servers, and communicative Resolvers [5]. The domain name appears to be close to a trademark and even closer to a business billboard [21] and serves as an address, reference, and marketing instrument [11].

All categories of e-shopping (www presentation, e-commerce, integrated services of e-commerce and e-business conduct) had better be an integral part of the strategy consideration of European businesses [2]. Both, the web-side content and its verbal address, the domain name, deserve consideration with respect to the building of a competitive advantage and an effective and efficient business conduct. Czech consumers are active users

of the Internet and EU experts on the e-comparing of prices, so they definitely recognize the importance and business significance of domain names, although at a lower level than in Germany [12].

At the Czech academic level, the business significance of domain names was well described and it was even pointed out that the DNS multi-stakeholder delegated framework can serve as a positive model [10]. Hence, at least a part of Czech academia recognizes the importance of the domain name, and this with respect to its pre-dot part [11] as well as its post-dot part [12]. However, the discussion abroad has already moved on to higher levels, such as about the best methodology to calculate the value of domain names. The reports and analysis about completed sales of domain names with prices easily exceeding 1 000 000 USD, such as insurance.com or business.com [3] are recently complemented by cases determining the exact value of domain names and requiring their reporting as an intangible asset on balance sheets and even taxing their use [19]. Various methodologies of calculation are suggested and the first quality price index regarding a benchmark for domain names was presented [7].

Much less information is available about the Czech businesses' perspective and virtually no information is available about the perspective of Czech practitioners, supposed to advise Czech businesses. Certainly, *scientia potentia est* - knowledge is power [1] and thus it is highly instructive to search and study the perception of domain names, their importance and business potential as shared by Czech intellectual property professionals and compare it with the already in place, by academia and praxis, established conclusions. *Thusly, the principal objective focuses on evaluating and analyzing answers of Czech intellectual property experts to questions testing key hypotheses about the nature, regime and value of domain names. Such an assessment has a strong potential for practical implications, because these experts advise businesses and other interested parties about domain names and influence their choices. This type of study has rarely, if ever, been performed and published before in the Czech Republic.*

## **1 Statement of problem**

The prior assumption about the Czech businesses' and consumer's recognition of the importance and business significance of domain names, as established regarding individual and legal entities from other EU member states, was openly challenged by the results of the observation study of the behavior of Czech consumers [12]. In particular, Czech consumers follow similar patterns of value recognition with respect to domain names as in other EU member states [6], but at a dramatically lower level [12]. Regarding Czech as well as e.g. German businesses, it can be stated that for the same types of industries, domain names are more important than for others [18], but in Germany the recognized values of domain names [6], i.e. prices for which these domain names were really sold, are dramatically higher than in the Czech Republic.

Regarding Czech potential advisers and registrants regarding domain names, no similar study has been presented and thus, it is highly instructive to set hypotheses based on the known information in professional circles abroad and see whether Czech professionals will confirm or reject them.

In total, 5 key hypotheses were set, based on prior research and a corresponding 10 questions were included in the survey questionnaire. The majority of questions were set

in the form ‘yes-no’ and several questions were intentionally overlapping and verifying already provided answers.

H1: The majority of respondents are aware about the difference between the domain and domain name.

H2: The majority of respondents endorse, along with the *in personam* regime, the *in rem* regime with respect to domain names Domain v Domain Name.

H3: The majority recognizes the importance of the domain name in its entirety, of the pre-dot part of the domain name and of the post-dot part of the domain name.

H4: The majority of the respondents find, as the best domain, names from TLD.com with a wording providing a general reference, such as business.com.

H5: The majority of respondents admit that certain domain names can have a very high value and be legally sold for large sums, perhaps even for sums almost without any limitation.

## 2 Methods

Since no special studies were conducted, processed and reported with respect to the perception and valuation of domain names by Czech professionals with the capacity to use domain names for their own business purposes and/or to provide information in this respect to businesses, an appropriate survey and its assessment was chosen as highly desirable. An active approach based on the explicit ways of data collection, realized by a questionnaire survey [15] was selected, and thus it was critical to identify a relatively homogenous group of respondents, with a higher level of potential to be, or to work for, a domain name registrant, and to make group members complete and return the questionnaires. The questions were set in a simplified and self-controlling manner, allowing predominantly yes-no answers and not excluding additional comments. Hence, the results of this active and explicit data indication on hardcopies of questionnaires could be quantitatively assessed, while at the same time facilitating employment of qualitative methods, the meta-analysis and comparative critical analysis. Thus both qualitative as well as quantitative aspects were reflected.

Namely, the primary data was generated by the explicit data collection based on a questionnaire completed by 50 respondents who attended, on 11<sup>th</sup> April, 2014, an International conference, entitled “Domain Names and Their Significance for Business”, in Prague. Each attendee obtained a hardcopy of the questionnaire at the very start of the conference, anonymously completed it while identifying him- or herself by a unique code, and returned it in the collection box in the front-room.

The questionnaire allowed for collecting explicit data, with the respondents’ consent, and to guarantee their anonymity, and thus there were no issues related to implicit data collection methods [16] and the legality of the survey, per se. In addition, the rather quantitatively oriented questionnaire did not exclude an even stronger participation of respondents, and they took advantage of this opportunity and did not hesitate to add their comments, explanations and even short analytical notes.

All questionnaires were returned, and the limit of 50 respondents for general statistical purposes was met. The quantitative element with respect to the poll was complemented by the qualitative element, i.e. the poll did not consist of randomly selected individuals with an uncertain potential to ever be involved in an operation and business with domain names.

Each and every respondent was a college graduate with an intellectual property proficiency, and equipped with a capacity to either be an active registrant of a domain name to be used for business conduct, or to advise about it.

The questionnaire included 10 questions and prepared fundament to address 5 hypotheses. The author of the questionnaire and of this article took a conservative approach and expected a strong endorsement presented by a qualified majority (2/3rds) of respondents, i.e. confirmation of all 5 hypotheses based on data provided by 67% of respondents. The information provided by the respondents in the questionnaire met the author's expectation only regarding the first 3 hypotheses, and partially about the 4<sup>th</sup> hypothesis. The most important, the 5<sup>th</sup> hypothesis, was plainly rejected.

### 3 Problem solving

The backbone of this article is the critical assessment of the information provided by the respondents regarding 10 questions in the light of 5 pre-set hypotheses.

#### **H1: The majority of respondents are aware about the differences between the domain and domain name.**

In order to assess H1 the following three yes-no questions were included in the questionnaire.

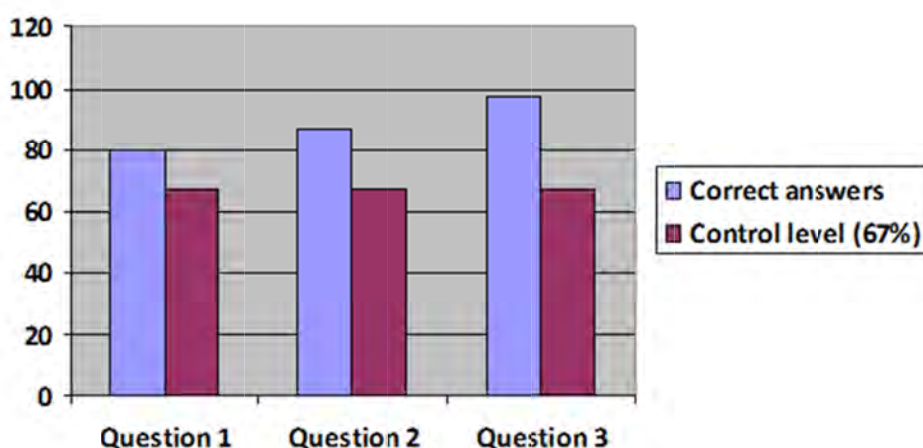
Q1. Do you consider the domain and domain name as synonymous i.e. do they mean the same thing?

Q2. Do you consider the domain to be a part of the Internet network and the domain name to be the name of such a part?

Q3. Do you think that a domain name is or should be a subject matter of ownership?

The respondents replied in a unanimous predicted manner, they demonstrated their perfect understanding of the meaning and regime of domain names in 80% for Q1, 87% for Q2 and 97% for Q3. The control level 67% was passed, and H1 was confirmed.

**Fig. 1: Awareness about the meaning and basic nature of domain names - H1.**



*Source: Author*

In addition, several respondents added explanatory comments and expressed clearly that domain names “were, are and shall be” a subject matter of ownership and that they reject any attempts to “relativate” their legal regime. In sum, Czech intellectual property experts

perceive domain names as valuable intangible assets labeling part of Internet, and they are for their recognition and protection *ergo omnes*.

**H2: The majority of respondents endorse, along with the *in personam* regime, the *in rem* regime with respect to domain names Domain v Domain Name.**

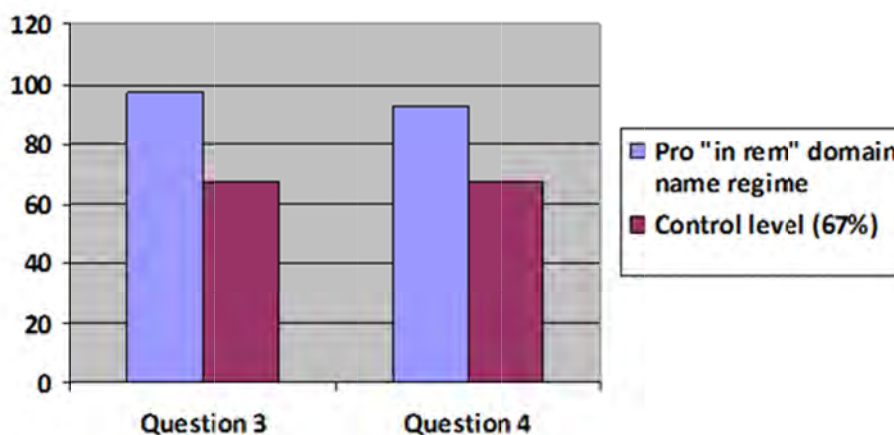
In order to assess H2 the following two yes-no questions were included in the questionnaire.

Q3. Do you think that a domain name is or should be a subject matter of ownership?

Q4. Do you think that the rights to a domain name are or should be only relative (*in personam*, i.e. only towards parties) or relative and absolute (*in rem* and *in personam*)

The increasing awareness about domain names, their regime and true function along with the new Czech Civil Code, Act 89/ 2012 Coll., should induce the respondents to indicate that domain names may, or even do, reach the objective right regime – *in rem* (such as ownership rights) in addition to their contractual relative right regime – *in personam* [11] (such as claims from a contract). This assumption materialized and the respondents confirmed answers in Q3 by their clear endorsement of *in rem* regime in Q4.

**Fig. 2: Recognition of ownership of domain names and their *in rem* regime - H2.**



Source: Author

The H1 and H2 were closely related and they even shared one overlapping question, Q3. The impressive 97% for ownership of domain names and 93% for “*in rem*” demonstrates that the times of labelling domain names as mere private notes in contractual databases without any impact with respect to third parties are definitively over. The confirmation of H1 and H2 opens the door for the full recognition of the importance (H3) and value (H5) of, at least certain (H4), domain names.

**H3: The majority recognizes the importance of the domain name in its entirety, of the pre-dot part of the domain name and of the post-dot part of the domain name.**

In order to assess H3 the following three yes-no questions were included in the questionnaire.

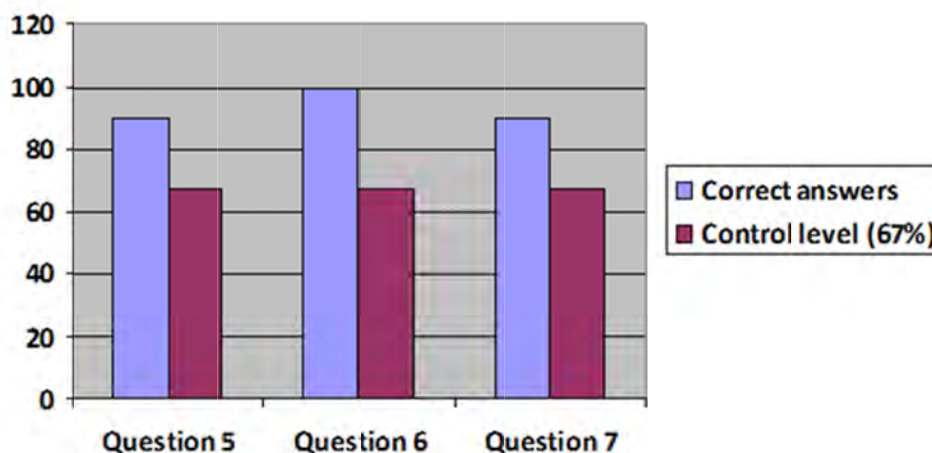
Q5. Is it important under which TLD is a (sub)domain and domain name?

Q6. Is it important, the part of a domain name BEFORE the dot?

Q7. Is it important, the part of a domain name AFTER the dot, i.e. the ending abbreviation?

The pre-dot part of the domain name was addressed by Q6 and the post-dot part of a domain name was addressed by Q5 and Q7. The duplication and position of Q5 and Q7 was intentional in order to test the consistency and understanding of the respondent's replies.

**Fig. 3: The importance of pre-dot and post-dot part of domain names - H3.**



Source: Author

The 90% for Q5 and 90% for Q7 demonstrates the quality of the respondent's replies and their strong feeling about the importance of the TLD indicating part of the domain name, which is generally perceived as less significant than the pre-dot part. The unbelievable 100% for the importance of the pre-dot domain name wording is the strongest possible confirmation of the significance of domain names. With the argument *a minori ad maius* and related deduction, it can be concluded that since 100% of the respondents consider even a part of a domain name as important, then the importance of the domain name in its entirety is as well confirmed. Thus, H3 is fully confirmed and along with the confirmed H1 and H2 emerges the last stage, the selection of the most valuable domain names and setting their price range.

**H4: The majority of the respondents finds, as the best domain names from TLD.com with a wording providing general reference, such as business.com.**

In order to assess H3 the following two “fill-in” questions were included in the questionnaire.

Q8. What TLD would you select for your domain and registration of your domain name?

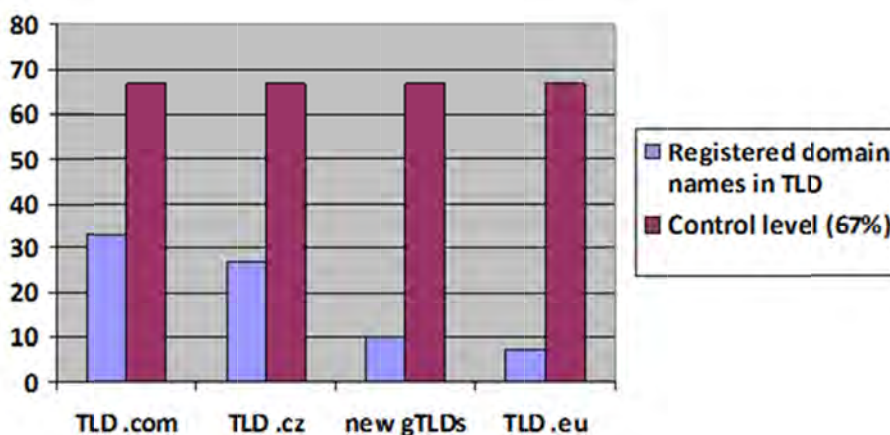
Q9. Please indicate the 5 most attractive domain names for a business, in your opinion.

With almost 120 000 000 registered domain names, with a reasonable pricing and with a free policy to accept an applicant and holder from the Czech Republic, TLD .com appears as the “best” TLD. Certainly, TLD .eu with almost 3 700 000 registered domain names is an option for Czech subjects, but despite the big EURid self-propagation and the general perception of the TLD .eu as a successful project [9], there are no signs of a massive shift by Europeans from TLD .com and their ccTLDs to TLD .eu. In the case of the Czech national ccTLD, TLD .cz, the number of registrants has recently passed the magic number of 1 000 000.

A good option for Germans, which are the largest TLD .eu registrants, is TLD.de and respective German analysis suggests that German individuals are inclined to select a domain name matching their name and German businesses are inclined to select a domain name matching their business name or possibly trademark, product or industry [18].

Following this logic, and recognizing Czech particularities, it was assumed that respondents would select TLD .com and mention names such as business.com. However, only a minority of respondents shared this view.

**Fig. 4: Distribution of preferences regarding TLDs - H4.**



Source: Author

The hypothesis was rejected, because only 33% of respondents selected as the best TLD .com, followed by 27% for TLD .cz and 10% for new gTLDs.

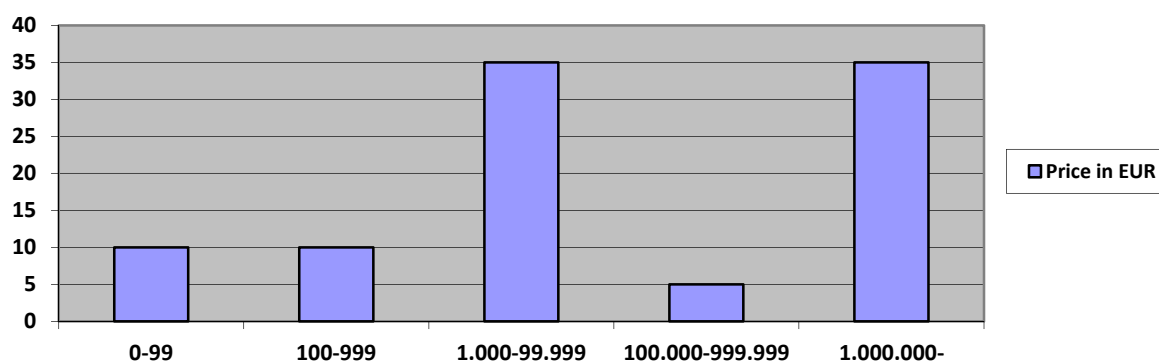
Regarding the qualitative part, i.e. Q9, no true pattern was established and a larger pool of respondents would be necessary for a scientific analysis. As a preliminary pronouncement, it can only be said that the majority of domain names proclaimed as “the best” included generic business terms, such as “business” or “podnik” and catchy “sex”, or search term “google”. However, even when two respondents indicated the same pre-dot part of domain names, they put them under different TLDs, e.g. “obchod.cz” a “obchod.eu” and thus it was not the case of the same domain name.

Therefore, H4 is rejected, TLD .com is preferred, but less vigorously than expected by H4, and an ideal domain name was not found.

**H5: The majority of respondents admit that certain domain names can have a very high value and be legally sold for large sums, perhaps even for sums without any limitation.**

For over 20 years, domain names have been subject of a business per se. The majority of domain names have a nominal value close to the registration costs, but a segment of 1-5% of domain names typical for certain industries can be commercialized for prices exceeding millions of EUR and USD [13]. Thus, it was assumed by H5 that the highest and still “moral” price for a domain name indicated by the respondents will be very high, perhaps even without a limit. This, of course, provided that the readjusted and reinforced concept of good morals in the new Czech Civil Code, Act Nr. 89/2012 Coll., is observed [8]. However, only a minority of respondents felt that way and H5 was manifestly rejected.

**Fig. 5: Price range for the most valuable domain names without good moral breach**



Source: Author

These results are probably the most surprising part of the performed survey, perhaps of the entire search by the author. Within a professional homogenous group, for approximately 20% of respondents the price of a great domain name matches or just slightly exceeds the registration costs, while 35% of respondents go for possible premium under 100.000 EUR. The segment between 100.000 EUR and 1.000.000 EUR was more or less skipped by respondents and virtually all their rest, 35%, went for amounts over 1 000 000 EUR, or even stated that there should not be any limit.

#### 4 Discussion

Almost everyone from academia, professional and businesses abroad as well as the large majority of Czech academics and consumers perceive domain names as intellectual property assets, with *in personam* and *in rem* regime and with the importance of their wording. Since H1, H2, and H3 suggested the same and were confirmed by 80% or even more respondents, the symmetry of information and attitude was fully established. The confirmation about the importance of domain name wording was provided by each and every respondent and represents one of the very few cases when a total and absolute unanimity is actively established.

The assumption of the preference for TLD .com presented through H4 did not receive sufficient support, i.e. H4 was rejected, because only 33% of respondents selected as the best TLD .com, followed by 27% for TLD .cz and 10% for new gTLDs. Thus, the instances of indicating TLD .com are almost equal to instances of indicating TLD .cz. Even more interestingly, the respondents demonstrated serious interest in a brand new type of domain name, i.e. domain names from new gTLDs. The meager 7% for TLD .eu should worry EURid and maybe tells us something about the Czech attitude towards the EU and towards the Europeanization. In addition, a further study should be conducted in order to diagnose a possible asymmetry of information, or perhaps a confusing misinformation of, or in between, many specialists.

In the USA, as well as in the EU, it is accepted that the domain name has evolved into one of the most valuable information commodities and even the positive law starts to recognize it [21] and attempts to regulate it [17]. The prices for domain names have exceed 1 000 000 USD, e.g. insure.com for 16 000 000 USD, sex.com for 14 000 000 USD and business.com for 7 500 000 USD [3]. In the case of TLD .de, the most desirable domain names are to be found rather in a lower price range, namely between 100 000 EUR and 1 000 000 EUR [11]. The maximal prices for domain names from TLD .cz barely reach



1 000 000 CZK, i.e. they are under 40 000 EUR. However, respondents seemed either to overlook it or to reject it via questions linked to H5. Approximately 20% of respondents set the price of a great domain name only slightly over registration costs and 55% of respondents denied the existence and/or morality of prices over 100 000 EUR. At the same time, 35% of respondents went over 1 000 000 EUR, or even stated that there should not be any limit. Many of these respondents added their personal comments such as “if a domain name is attractive, then the price should be whatever the buyer is ready to pay” or “let’s decide via an auction” or “whatever amount, and good morals should not place any limits”. This part of the rather quantitatively oriented questionnaire was spontaneously equipped by many personal motivation comments of respondents. Thus a meta-analysis and qualitative aspects could be included in the assessment process.

The open misbalance, confusion and discrepancy of data provided in the questionnaire about the highest price of a domain name, i.e. about the best and, for the business, most valuable domain name, strongly suggests a dramatic asymmetry of information. A commodity existing in the marketplace for several decades deserves a good methodological approach, correct conceptual understanding and a proper implementation in the practical life, including getting a reasonable price setting mechanism. Despite, or maybe because of, the speed of the information system and information technology evolution in the last decades, the domain name is at this very moment an economic unknown, or at least unpredictable, for a large section of Czech professionals. The conclusion, directly implied by questionnaires, is even more alarming due to the fact that these professionals are supposed to advise businesses and help them to adopt an optimal strategy about IS/IT, especially e-business.

The situation is becoming even more complex if we follow the pattern of a contextual methodological approach covering the dynamic evolution of commodity prices with periodic collapses, with a possibility for certain commodities to be the subject of speculative bubbles [4]. It is pretty common that Czech specialists, including veteran top intellectual experts, make derogatory comments about domain names and proclaim the fictive nature of any commerce with them or through them and even conclude that studying domain names and discussing their potential is but a waste of time. A mere observation of business life in the EU and all over the world clearly demonstrates how ill informed and stuck in the past they are.

## **Conclusion**

The 21<sup>st</sup> society is a global information society where the competitive advantage can be achieved only if relevant and correct information is processed. The statistical data and already presented studies and papers makes it clear that over half of domain names are not really used and over 90% cannot be sold for more than nominal registration charges [6]. At the same time, the most desirable TLD for business conduct is TLD .com, and numerous domain names from TLD .com have sold for over 1 000 000 USD. It is thus interesting that Czech professionals with an enhanced knowledge about intellectual property fully recognize the meaning of the domain and domain names and proclaim the importance of domain names, but have an extremely hard time to indicate their opinion about an ideal domain name for business. It is even more amazing that they fairly split between TLD.cz, TLD .eu and TLD .com. However the least logical finding is that one cannot reconcile their answers about the highest legal price for a domain name without any violation of bones mores.

Czech consumers' particularities have been already determined, i.e. Czech consumers massively shop on-line and almost all of them go after the lowest price to be found by search comparative engines, period [2]. Since more than 90% of Czech consumers buy the product with the lowest price indicated by the comparative search IT device, they are EU champions in this 'price-sensitive' respect [2].

The data collected from, and based on the questionnaires, their critical comparative analysis and the employment with the meta-analysis makes it clear that Czech intellectual property professionals understand the meaning of domain names and they share the view about their importance. At the same time, they do not recognize the reason for this importance and are hesitant to identify attractive domain names for business. Most interestingly, the homogenous group of Czech intellectual property specialists creating the poll of respondents generated totally random answers regarding the highest legally and morally acceptable price of a domain name. A dramatic asymmetry of information and a paralyzing effect of methodological confusion hinders sound opinion and educated decision formation. With a touch of exaggeration, it can be stated that domain names are assets for which as the maximal (!) price is indicated by some Czech intellectual property specialists as 10 USD, by others more than 1 000 000 USD. This asymmetry of information is alarming, since domains with appropriate domain names and attached Websites is a must for a sustainable and successful business in the second decade of 21<sup>st</sup> century. Czech businesses are aware about it, probably more based on their good intuition than an advice from experts, and over 80% of them have their own domain with Websites. However, their foreign competitors are likely to get a professional robust and well-informed assistance and thus their information systems based on their domain names are more effective and efficient and this ultimately translates into their competitive advantage. The Czech recognition of the importance of domain names without the capacity to select the optimal domain name for a particular business and to determine its price creates an ambiguity, if not chaos, and has serious negative consequences, especially for Czech businesses. An enhancement of awareness, identification of criteria, formulating calculation formula and transposition into practical life are essential for sustainable and successful business development in the Czech Republic, especially with respect to small and medium size businesses. Czech consumers and businesses cannot afford to miss the domain name opportunity and they need top quality and up-to speed advice, such as the advice successfully provided to their foreign competitors.

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### Contact Address

**JUDr. Radka MacGregor Pelikánová, Ph.D., LL.M., MBA**

Metropolitan University Prague

Dubečská 900/10, 100 31 Prague 10

Email: [macgregor@mup.cz](mailto:macgregor@mup.cz)

Phone number: 725 555 312

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