

Kentucky Court Rules That Domain Names Aren't Craps Tables

by [Andrew McDiarmid](#) [1]
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Kentucky's Court of Appeals correctly ruled this week that a domain name isn't subject to seizure and forfeiture because it is not a "gambling device" under a 1974 law providing for the confiscation of roulette wheels and craps tables. Although certainly not the most sweeping or surprising decision, the ruling is nonetheless a victory for CDT and other free expression advocates who recognize the threat that state seizure of domain names would pose to the smooth functioning of the Domain Name System (DNS) and Internet communication in general. At issue was an October 2007 state court order allowing Kentucky to take control of 141 domain names associated with Internet gambling sites, all of which were located outside of Kentucky, most outside of the United States. The judge asserted staggeringly broad jurisdiction, and determined that Kentucky could seize the domain names because they allowed access to activity (gambling) that violated Kentucky law.

CDT, the EFF, and the ACLU saw many glaring logical and Constitutional faults in the order and filed an [amicus brief](#) [2] in support of an appeal challenging the seizure order. One of our concerns was that the Kentucky order set a bad example for repressive regimes around the world - governments like China would happily try to seize critical websites that are located outside of China. Courts regularly move cautiously, issuing narrow, tailored rulings, and that was the case here. Rather than addressing the very real Constitutional concerns we raised in our brief, the Court granted the writ of prohibition because it "stretch[ed] credulity" to conclude that a domain name constituted a "gambling device."

CDT applauds this ruling and the implicit recognition of domain names' role in Internet communications. As we [wrote in December](#) [3], a stable and reliable DNS is crucial to the continued growth the Internet, and should not be interfered with lightly. The Commonwealth of Kentucky is appealing the decision, and CDT will continue to follow this case and advocate for a free and open Internet by filing a brief with the Kentucky Supreme Court. While the Court of Appeals decision achieved the right result, we will urge the higher court to address our Constitutional arguments against state interference with international Internet commerce.

- [Kentucky Supreme Court](#)
- [United States](#)
- [Kentucky](#)
- [Domain Name System](#)
- [Appellate court](#)
- [Commonwealth of Kentucky](#)
- [Domain name](#)
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[2] http://www.cdt.org/speech/20081113_ky_amicus.pdf

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