

What's in a Domain Name?

There is no longer any doubt that the Internet and Internet marketing are here to stay. The value of a domain name has never been greater. As a result, in instances where your domain name is well known to the public, third parties and competitors may seek to trade off of your domain name for their own business. Similarly, where you have a well-known trade name, competitors may seek to use a domain name that is confusingly similar to your trade name.

One example of a competitor using your domain name for its own business purpose is called "typo-squatting." In these types of situations, a competitor uses your domain name but changes one or two letters in the domain name in order to divert customers who mis-type your domain name to the competitor's site. For instance, the owner of the domain name *scentiments.com* (an online perfume retailer) had competitors using the domain names *scentaments.com* and *scentiment.com*.

Another type of problem that occurs with domain names is "cybersquatting." In these situations, your business may own a well-known trademark (registered or unregistered) and the third party is using a domain name based upon your mark. For instance,

Mazda can't use the domain name *Ford.biz* to market and/or sell its vehicles.

There are legal remedies to address both of these types of situations. One method of dealing with these types of situations is the Uniform Domain Name Dispute Resolution Policy, which is followed by all accredited domain name registrars. This is an inexpensive administrative proceeding to challenge a party's use of a domain name. In order to prevail in this type of proceeding you must demonstrate: that you own a trademark (either registered or unregistered) that is confusingly similar to the offending domain name; the offending party has no legitimate interest in the domain name; and the offending domain name was registered or used in bad faith. If successful in this proceeding, you can have the offending domain name cancelled or transferred to you.

Alternatively, inappropriate use of your domain name can also be addressed in Court with claims brought pursuant to the Anticybersquatting Consumer Protection Act of 1999 ("ACPA"). Similar types of issues as those considered in the previously mentioned administrative proceedings are considered by the Court to determine whether the claimed use of the

domain name is in bad faith. If you prevail in Court, you can similarly seek the cancellation or transfer of the subject domain name. In addition, under the ACPA, a successful party can seek to recover actual damages, profits earned by the offending use of the domain name and/or statutory damages (of not less than \$1,000 or greater than \$10,000 per domain name).

This column addresses general issues that may vary based upon your particular situation. Any detailed questions about perceived cybersquatting or typo-squatting should be addressed with your legal counsel. **S**



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My thoughts

The Importance of Culture

*I*n reaching out to new markets we often follow the rules by focusing on the target market, our product benefits, distribution channels and the other business essentials we know are necessary in order to achieve success. Perhaps the one fundamental that we most often overlook is culture. There are two types of culture we need to be aware of as we expand our businesses.

The first is the internal culture of a business, meaning the way people are motivated and trained and the way they interact with the products they sell and each other. In an interview after the

recent Procter and Gamble Gillette merger, A.G. Lafley, the CEO of P&G remarked, "culture was a big issue in deciding to do this deal". Essentially, Lafley was saying that the key to the merger's success is the integration of the two cultures.

The alternative meaning for culture in a business setting is the way people interact with each other with a market and the way they relate to the products and services being offered to them. The way they interact may open up opportunities for word-of-mouth campaigns and mass marketing, and the way they interact with

products or services will give a company an understanding of how to position themselves and how to establish a perception of value and a unique selling proposition.

Underestimating the importance of culture could lead to a difficult and slow expansion. Paying heed to culture means that we will recognize if and when there is a need to make adjustments so as to remain compelling and appealing to the marketplace.

Culture is a key component to growing your business. Keep it in mind as you move forward.

