

Protecting Your Asset

Get your .com and addresses that are similar

DOMAIN NAMES ARE addresses. But, of course, a domain name generates traffic, which means it is also a major sales source. The traffic could result from those typing in your name in the address bar of the browser, or it could be from search engines grading your website higher because of the close relationship between a search and your domain name. The value is self-evident. Yet, rarely do we find clients with a clear understanding of how to protect this asset. There are state and federal laws that protect a domain name if you are using it to identify your goods or services. But there are some common sense, easy and inexpensive steps you can take to protect this asset:

Make sure you "own" the name

Don't just find a domain name that is available and decide to use it as your business name. It's a good idea to get a trademark clearance opinion from your attorney before beginning use. The goal is to make sure that you are not infringing on someone else's mark.

Make sure you get the .com

Don't even think about launching a business without the .com name. If you are successful, you are setting yourself up for a very rude awakening when the owner decides to join the affiliate program of your biggest competitor (or a porn site). The goal is to protect your brand and secure the traffic intended for you.

Buy the common misspellings

One recent study found that 13 percent of all traffic was coming from typed-in addresses in the web browser. This means there is a real opportunity for misspellings to occur. Do a search-engine search on the misspelled variations of your domain name to get a feel for the frequency of misspellings. The goal is to buy the common misspellings so that domain-name holders running automated "tasting" programs don't get them first.

Monitor the web

Be proactive in policing your domain name. There are various tools for monitoring online trademark and domain-name use. Some are free. Search on the major search engines and look for affiliates, competitors and others using your domain names in text, redirects, meta tags and adver-



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tising. The goal is to prevent others from looking like you and stealing your traffic.

Buy domain names

Yes, you heard me. Go out and buy up domain names, just like if you are buying generic, pay-per-click search terms, and see what kind of traffic they generate. For instance, if you are selling flowers, buy flower-related names, but always avoid trademarks of others. Set up the right type of redirect, filter out the bots from your log files and run some analytics. If you like the numbers keep the name.

We represent some very large domain-name holders, and our law firm itself owns thousands of domain names. You certainly don't have to engage in high-volume, domain-name management to achieve the objectives of protecting your property and position in the marketplace. Be proactive, be aggressive and use good judgment in deciding on your domain-name strategy. But be careful with the tactics and execution, because if you are not careful you may unwittingly enter into the high-risk world of trademark infringement and cybersquatting. 

The information in this article is not intended to be legal advice. Always consult your attorney when faced with legal issues.

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