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## Frequently Asked Questions: Domain Name

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### **Q: What do I need to know when I select a domain name?**

A: You should use due diligence when selecting a domain name to ensure that you are not appropriating someone else's legitimate trademark rights. In addition, you should act in good faith, you should not include a famous or well-known trademark in the domain name, and you should not engage in cybersquatting.

### **Q: What is "cybersquatting"?**

A: "Cybersquatting" (also "cyberpiracy") is the practice of using someone else's trademark (or a similar variant) as all or part of the domain name for an unrelated site. Sometimes a person may select a domain name containing another person's trademark, or something very similar, in order to divert traffic that was intended for the trademark owner, or in hopes of selling the name back to the trademark owner. Depending on the specific facts, such conduct potentially may violate federal trademark law.

### **Q: Doesn't the Internet registry screen domain names for trademark infringement?**

A: No. Generally, registries do not conduct a trademark search of the domain name. This means that the registry generally permits anyone to register a domain name on a first come, first served basis, even if the domain name potentially infringes another person's trademark.

### **Q: How do I protect my domain name?**

A: There are many things you can do to protect your domain name, including: Monitor and renew your registrations on time. Make certain that you control the ownership and password for your domain name, because if these are owned by a third party service provider then you may lose control if the third party goes out of business. Actively monitor your domain name and similar variants, and act on potential infringements. Register domain names for your important trademarks. If you do business in other countries, consider registering those country-specific domain names.

### **Q: How do I identify the owner of a domain name?**

A: A quick way is to use one of the global search tools such as Whois.Net, Geektools, or Uwhois.com. Sometimes, however, it may not be possible to identify the true owner of a domain name if registration is made through a proxy.

### **Q: If someone uses my trademark as part of the domain name for another site, what can I do?**

A: It is possible that use of your trademark by another in its domain name constitutes infringement or creates confusion. A letter may persuade the domain name registrant to stop using your trademark. If the non-permissive use of your trademark continues, Internet Corporation for Assigned Names and Numbers' (ICANN) Uniform Domain Name Dispute Resolution Policy (UDRP) allows trademark owners to challenge domain names registered by others.

### **Q: How do I formally challenge the use of my trademark in another person's domain name?**

A: The UDRP permits you to file a complaint with a dispute resolution service



provider approved by ICANN. As the trademark owner, you must show that: the offending domain name is identical or confusingly similar to your trademark; the domain name registrant has no rights or legitimate interest in the trademark; and the domain name has been registered and is being used in bad faith.

**Q: Is an ICANN decision binding in court?**

A: No. While the dispute resolution proceeding is expedited (a decision must be rendered within fourteen days of a panel's appointment), there is no appeal process. However, the non-prevailing party may bring an action in federal court.

**Q: Can I register my domain name with the U.S. Patent and Trademark Office?**

A: Maybe. Registering a domain name does not automatically confer any trademark rights to that name. To qualify for trademark registration, you must be using the name as a trademark to indicate source, not merely using it to indicate your domain name address.

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