

DOMAIN NAME DEVELOPMENTS

Buying domain names is a huge and rapidly growing business. It is estimated that the market for registering and trading domain names could reach \$2.5 billion in 2006.¹ Many Internet visitors find sites by going to search engines such as Google and Yahoo. Others get there by “direct navigation.” They type website addresses directly into browsers. Companies register thousands of names every day, trying to guess domain names that will attract visitors using direct navigation. Seeking to take advantage of direct navigation users who avoid search engines, Google, Yahoo and others provide advertisements to the owners of the domain names. The domain sites themselves are usually nothing more than a venue for displaying these ads. The registrations for domain names that do not attract many hits are cancelled.

There is also an aftermarket for the names. Sites such as Sedo.com and SnapNames.com operate auctions for names that the domain name owners want to sell. An example of an aftermarket sale is diamond.com, that sold for \$7.5 million. Sites containing typos also sell for high prices. Morgage.com sold for \$242,400. Note that these names are not distinctive or famous, so registering and using the names do not violate federal trademark laws.

By now there are few valuable dot.com names that have not been registered. However, ICANN has established several new top level domain names (TLDs) recently. Consequently, domain name investors are buying names using these TLDs. Diamond.com may no longer be available, but no one may have registered diamond.pl yet. “Pl” is the TLD for Poland.

A new form of typosquatting involves TLDs.² Domain name investors register names such as weather.cm, seeking to capitalize on weather.com. This practice is known as registering a “DNS wildcard.”

PROBLEM

On August 22, 2006, Microsoft filed several lawsuits against persons who registered hundreds of domain names seeking to take advantage of Microsoft’s trademark.³ Microsoft alleges, inter alia, violations of the Anticybersquatting Consumer Protection Act. One of the disputed names is “1microsoftoffice2003activation35.”

¹ Paul Sloan, *Staking a claim on domains beyond dot-com*, CNN Money.com, August 29, 2006.

² Larry Seltzer, *Typo-Squatting, DNS Wildcards and the Sucky State of Domain Affairs*, eWeek, Aug. 28, 2006.

³ *Microsoft Cybersquatting Actions Take Aim At Persons Chasing Web Traffic, Ad Dollars*, BNA, Electronic Commerce & Law Report, Aug. 30, 2006.

- 1) Is this domain name an example of cybersquatting?
- 2) Is this domain name an example of typosquatting?
- 3) Is registration of this name a violation of the ACPA?