

Tools for Combating Cybersquatting



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Cybersquatting is the practice of registering, trafficking in, and/or using an Internet domain name with a bad faith intent to profit from the goodwill of a trademark belonging to someone else.

Have you ever encountered a domain name that is identical or similar to your trademark? If so, you may have been the victim of cybersquatting.

Cybersquatting comes in different forms. There is typo-squatting or domain spoofing, where a bad actor registers a domain name with a slight change or typo (think google.com vs. google.com). Often, these bad actors advertise similar services and profit from third-party links on their site, or worse, they copy copyrighted content from the legitimate website to trick visitors into purchasing goods or services from their fraudulent site and/or submitting personal information as part of a larger scam.

Cybersquatters may also register variations of well-known trademarks in an effort to sell the domain variations back to the trademark owner at a high mark-up. Cybersquatters often register domains through a proxy service to protect their identity, which makes contacting them directly to resolve the matter more difficult.

What can a business do if it discovers a cybersquatter attempting to profit from the business's goodwill in its brand? The Uniform Domain-Name Dispute Resolution Policy ("UDRP") provides trademark owners with a cost-effective, quick method for obtaining relief from cybersquatting.

Under the UDRP, the owner of a trademark (either a registered mark or a common law trademark) can seek to cancel or gain control of infringing domains by filing a complaint in a private arbitration proceeding, even if the cybersquatter is located outside of the United States and/or cannot be identified. All registrars who control the registration of domain names, such as GoDaddy and Network Solutions, are subject to the UDRP, which is why it is such a powerful and efficient tool to combat cybersquatting and protect trademark owners' rights.

To seek relief under the UDRP, a trademark owner must first file a complaint with

a recognized UDRP service provider, such as the Forum or the World Intellectual Property Organization ("WIPO"). The trademark owner (the "Complainant") must demonstrate that the disputed domain is identical or confusingly similar to the Complainant's trademark or service mark, that the registrant of the disputed domain has no legitimate interest or rights in the disputed domain, and that the registrant registered the disputed domain in bad faith. If the Complainant's trademark is unregistered, the Complainant must set forth additional supporting facts surrounding its trademark use, including duration, sales information, advertising, and customer recognition.

Once a UDRP complaint is filed, the registrar responsible for the disputed domain is notified and is required to notify the registrant of the dispute concerning the domain. At that point, the registrant may file an answer in response to the complaint. Often, the registrant does not respond.

Once an answer is filed or the deadline to file an answer passes, the dispute resolution provider, either the Forum or WIPO, assigns the case to a single or a three-person administrative panel to consider the filed papers. If the panel finds that the Complainant met its burden by establishing the three elements discussed above, the panel issues a decision in the Complainant's favor and the registrar must, at Complainant's option, either cancel the disputed domain or transfer it to the Complainant. Transferring the domain is the preferred option because it prevents the domain from being registered by another bad actor in the future. If the panel decides that the Complainant failed to meet its burden, the disputed domain remains with the registrant. Finally, it should be noted that UDRP proceedings can be appealed through a federal lawsuit.

From the filing of a complaint to domain transfer, the entire UDRP process takes approximately 60 days and is, in almost all cases, significantly less expensive than litigation because it involves fewer filings and no formal discovery. While it is always preferable to prevent cybersquatting by registering all of the relevant domain names and variations your business may need, if you do discover a cybersquatter, the UDRP is a powerful and efficient tool to stop infringement and protect your business's goodwill.


Kate Sherlock, Esq. is a Partner at Archer & Greiner, P.C. She has won numerous UDRP actions on behalf of her clients. If you have questions regarding the UDRP process, please contact Kate at ksherlock@archerlaw.com or 856-673-3919. 



Photo: Getty Images/Stockphoto/frankpeters

Cybersquatting is more common than you may think. The Uniform Domain-Name Dispute Resolution Policy ("UDRP") provides trademark owners with a cost-effective, quick method for obtaining relief from cybersquatting.