

## **INTERNET DOMAIN NAMES PROTECTION**

A domain name is an identification label that defines a realm of administrative autonomy, authority or control on the Internet. Domain names are host names that identify Internet Protocol (IP) resources such as web sites. Domain names are formed by the rules and procedures of the Domain Name System (DNS). An important purpose of domain names is to provide easily recognisable and memorisable names to numerically-addressed Internet resources. This abstraction allows any resource (e.g. website) to be moved to a different physical location in the address topology of the network, globally or locally on an intranet. Such a move usually requires changing the IP address of a resource and the corresponding translation of this IP address to and from its domain name.

The original role of a domain name was to provide an address for computers on the Internet. The Internet has, however, developed from a mere means of communication to a mode of carrying on commercial activity.

With the increase of commercial activity on the Internet, a domain name is also used as a business identifier. Therefore, the domain name not only serves as an address for Internet communication, but also identifies the specific Internet site. In the commercial field, each domain name-owner provides information/services, which are associated with such a domain name.

Originally, Domain Names were conceived and intended to function as an address, but with an increasing number of cases of registered domain names being illegally occupied (cyber squatting), it has posed additional problems on how to handle trademark disputes in cyberspace. Cyber squatting as an offence relates to the registration of a domain name by an entity that does not have an inherent right or a similar or identical trademark registration in its favour, with the sole view and intention to sell them to the legitimate user in order to earn illegal profits. An address in cyber-space is imperative in the new e-economy for companies and individuals to be easily traceable by their consumers with the emergence of the Internet as an advertising forum, recruiting mechanism and marketplace for products and services whereby companies doing business have a strong desire to register domain names akin to their products, trade names or trademarks. For example, owners of famous trademarks, such as Haier, typically register their trademarks as domain names, such as [www.haier.com](http://www.haier.com). Domain names may be valuable corporate assets, as they facilitate communication with a customer base. With the advancement of Internet communication, the domain name has attained as much legal sanctity as a trademark or trade name and, therefore, it is entitled to protection.

The legal protection of such domain names is a serious issue which must be dealt with. In order to do so, the Internet Corporation for Assigned Names and Numbers ('ICANN'), a domain name regulatory authority, adopted a Uniform Domain Name Dispute Resolution Policy ('UDRP'), which is incorporated into the Registration Agreement. It sets forth the terms and conditions in connection with a dispute between the registrant and any party other than the registrar over the registration and use of an Internet domain name registered. Upon entering into the Core Registration Agreement with ICANN while registering a domain name, one agrees to submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy.

With the advancement of e-commerce, the domain names have come to acquire the same value as a trademark or the business name of a company. When a person gets a domain name registered in bad faith, i.e. in order to make huge profits by registering a domain name corresponding to a trademark of another person, with an intent to sell the domain name to the trademark owner at a higher price, such activities are known as 'cyber-squatting'. The IT Act does not deal with the domain name issues. In India the domain name infringement cases are dealt with according to the trademark law.

However, with most of the countries providing for specific legislations for combating and curbing cyber squatting, India also needs to address the issue and formulate legal provisions against cyber-squatting. For settlement of Disputes, WIPO has introduced a new mechanism called ICANN (Internet Corporation for Assigned Names and Numbers) for settlement of disputes relating to domain names. As the parties are given the right to file a case against the decision of ICANN in their respective jurisdictions, the decisions of ICANN only have persuasive value for the domain users.

Thus, a Domain Name requires strong, constant and instant protection under all the legal systems of the world, including India. This can be achieved either by adopting harmonisation of laws all over the world or by jealously protecting the same in the municipal spheres by all the countries of the world.

The protection of domain name under the Indian legal system is stands on a higher footing compared to a simple recognition of right under the UDNR Policy. The ramifications of the Trademarks Act, 1999, are much wider and capable of conferring the strongest protection to the domain names in the world.

References:

- (1) Praveen Dalal, Domain Name Protection Law In India.
- (2) Praveen Dalal, Intellectual Property Rights In The Digital Era
- (3) Praveen Dalal, Domain Name Protection: An Indian Perspective
- (4) Praveen Dalal, Online Dispute Resolution In India