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A New Kind of Cybersquatting

Facebook, Twitter and Online Social Media Sites

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A company's online presence and online brand identity, as traditionally conveyed through its website, is extremely valuable. Historically, a website was its sole mode of online communication with customers and as a matter of course protecting its domain names was (and remains) of paramount importance. As companies seek new ways to reach their customers online, including setting up corporate profiles on social networking sites such as Facebook and Twitter, it is critical that they be vigilant and proactive to protect their trademarks.

FACEBOOK

Facebook "usernames" will become the new "domain names" on the Facebook social networking website. Beginning Saturday, June 13th at 12:01 a.m. U.S. EDT, current users of the Facebook website will be permitted to create personalized usernames (instead of an ID #) for their Facebook pages (facebook.com/yourname). To discourage individuals from creating Facebook accounts just to register a username, registration of usernames is limited to those who created a Facebook account before 3:00 p.m. on June 9, 2009, when the username policy was announced. New Facebook users may register a username after 12:01 a.m. on Sunday, June 28, 2009.

Anticipating potential abuses of brand owner's rights, Facebook has created online forms for trademark owners interested in preventing their trademarks from being registered as usernames by Facebook users. Filing the trademark protection form with Facebook is free and simply requires insertion of the company's name, title, e-mail, exact trademark and trademark registration number. Completing the Facebook trademark owner form is a simple, inexpensive defense which can be done any time, but filing before the Sunday registration opens may prevent initial abuses. If you miss the deadline, Facebook provides a Notice of IP Infringement form for brand owners who want to contest a username registered by a non-owner.

[Click here to complete "Preventing the Registration of a Username."](#)

To the extent companies desire to use Facebook and other social networking sites for marketing, Facebook's new personalized username is very attractive. It is also likely that generic terms used to identify a company's product or service will be registered as usernames. To stave off abuses, Facebook users can register only one username for their Facebook page and profile. The username cannot be amended or transferred to third parties. Though these restrictions are not a cure for a potential infringement, this rule should help prevent Facebook username cybersquatters and typosquatters from hijacking multiple usernames that belong to brand owners or that are variations on third-party brands.

TWITTER

Another avenue of potential trademark infringement is through Twitter, the popular social messaging (micro-blogging) website. Twitter usernames, sometimes referred to as "handles," incorporating well-known company names and brands have been registered by third parties also attempting to trade on the goodwill associated with trademarks. As demonstrated over the years, domain name cybersquatting causes consumer confusion, brand dilution, increased expense and loss of sales for trademark owners, and laws and organizations have been put in place to prevent these abuses. Twitter "handlesquatting" could yield the same result, yet there are no laws specifically directed to this type of infringement to date and Twitter has not issued any trademark protection policy like that of Facebook's. Brand owners will have to rely on traditional trademark law causes of action (e.g., infringement and unfair competition) and typical trademark resolution procedures (e.g., cease and desist letters, court litigation, mediation, etc.).

The surge in popularity of Twitter (which had almost 17 million visitors in April, *Source: comScore, April 2009*) and other online social media sites has been coupled with a rise in squatters on those sites. Some sites have even been created to provide a platform for "handlesquatters" to purchase and sell Twitter handles, similar to how some have profited from

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cybersquatting on domain names. If you anticipate abuses or simply want to prevent others from registering your name or mark with Twitter, sign up for Twitter accounts with the name of your entity and your more important trademarks to prevent “handlesquatters” from doing so.

Marketing and advertising considerations—and ultimately, whether you believe your brands will be abused by others—will determine your company’s registration and use of social media sites. If you have any questions about protecting or defending your trademarks, service marks, company names or other identifying designations in cyberspace, or would like to discuss the foregoing in further detail, please contact [Gary Bush](#), [Michele Schwartz](#) or [Sean Wooden](#).