

ARE YOUR CUSTOMERS ACCESSING YOUR WEBSITE?

You have established your website to better serve your customers. However, are you sure it is **your** website that your customers are actually accessing?

Companies have come to rely on the Internet to market and distribute their products and services. Their corporate website is the means to reach and serve customers in a convenient, efficient, and cost-effective way twenty-four hours a day. If you are operating a company website, unfortunately, as that website becomes more attractive to your customers, your domain name also becomes appealing to domain name pirates who seek to profit from the goodwill you have created.

The following scenario will illustrate how a domain name pirate is able to create confusion with your customers and trade upon your reputation. A hypothetical company named Virtual Seascapes, Inc. ("Virtual") sells photos of seaside scenes through its website, virtualeascapes.com. Virtual's business is doing well. However, one day a customer calls and asks Virtual if they have changed their website because the customer wanted to re-order a product they had purchased previously from Virtual but were unable to find the product on the website. After talking to the customer, Virtual learned that the customer mistyped the domain name. Instead of typing "virtualeascapes.com", the customer typed "virtualeescapes.com". When the customer went to virtualeescapes.com, the customer was presented with a series of links to other websites. Some of the links sent the Virtual customer to the websites of Virtual's competitors. This explained the customer's inability to find Virtual's products on the website.

After some additional searching, Virtual found that the mistyped domain name was registered to a domain name pirate. Virtual also found that the same pirate had registered "virtualeascape.com". Using a technique called "typosquatting", the domain name pirate selects the domain name for a business with an active website and then registers domain names that are misspelled versions of that company's domain name.

If you find your company in a situation such as the one described for Virtual Seascapes, the first step may be to send an appropriate letter to the pirate requiring that the misspelled domain name be transferred to you and also demand that the pirate agree in writing not register any similar domain names. Pirates are generally not responsive to these requests. They are also often located outside the U.S., so filing a lawsuit against them can be costly and problematic.

There is another means available to stop the typosquatter. You may pursue the pirate using the dispute resolution process established by the Internet Corporation for Assigned Names and Numbers ("ICANN"). The dispute resolution process is designed provide resolution in a few months rather than the years required for a typical litigation matter. In the situation described above, a complaint would be prepared which would include the required claims as specified in the ICANN rules. The complaint along with a required fee would then be submitted to one of the ICANN approved dispute resolution organizations which include the National Arbitration Forum ("NAF") and the World

Intellectual Property Organization ("WIPO"). After the complaint is submitted, the arbitration organization assigned an arbitrator to the case and a copy of the complaint is sent to the alleged pirate. The pirate must respond to the complaint within a limited time period, usually thirty days. After the pirate responds or after the time period for response passes (if the pirate does not respond), the arbitrator decides the case. If Virtual is successful, the arbitrator can order the disputed domain to be transferred to Virtual. While this dispute resolution does not permit recovery of other types of monetary damages, it is a quick means of stopping the pirate from using the misspelled domain name to direct your customers to your competitors.

If you think someone is pirating your domain name, please contact Anne C. Keays at ackeays@lgattorneys.com.