



what you need to know to start and grow your business

domain names

What is a domain name?

A domain name is simply a unique online address taking internet users to whatever website is linked to it.

There is an increasing range of different level domains available, for example:

Top Level Domains

Generic ('gTLDs')

- .com
- .net
- .org
- .biz
- .law

Likely to be more expensive

Country code ('ccTLDs')

- .uk
- .nl
- .fr

Second Level Domains

- .co.uk
- .org.uk
- .net.uk
- .me.uk

Often less expensive than TLDs, they still direct internet users from anywhere in the world to the website linked to the address

Who manages domain names?

You need to know your domain registry from your registrar from your registrant:

Registry

Independent organisation managing and recording registration of names with particular level domains on a non-profit basis.

Nominet manages the UK domains registry.

Registrar

Any commercial company accredited by a generic/country code top-level domain registry such as ICANN (Internet Corporation for Assigned Names and Numbers) that registers a domain name with the relevant registry and then sells it to you, recording you as owner.

Registrant

You, your company or any other business that buys a domain name.

Choosing the right domain name

You may want a domain name for your main business website or for a particular product or service. Either way, think about a domain name that replicates or includes the business name or product or any relevant trade mark you have, or have applied for, and is consistent with your branding strategy.

Don't feel you need to register multiple domain names, at least to start with: this can get expensive.

SEARCH TRADE MARKS AND COMPANIES REGISTERS IN ADVANCE

If someone has already used the name/phrase as their registered trading or company name or as a trade mark, they may challenge your ownership of the domain name. Avoid if you can.

Buying a domain name

- Go to the website of your chosen registrar: choose an established, reputable registrar that can offer, for example, email security and storage
- Type in the domain name (the trade mark/business name element) and the suffix (.com, etc.) to check availability
- If available, go ahead and make the purchase to register the domain name in your name for a selected number of years.
- If not available, you may be able to find who the owner is on WHOIS (an internet search will bring up the right whois search facility for the relevant domain name registry).
- This will only work if the registrant has given consent to their details being published (data protection compliance). If owner details are not available, you may be able to request the relevant domain name registry operator to reveal contact details of the owner if you can demonstrate you have a legitimate interest (see below).

PRIVACY

Your personal/business name (whichever buys the domain name) and certain details may in some circumstances be listed publicly, although recent data protection legislation means the position has changed. You can request that your information is kept off the registry if you prefer.

What if someone is using my name in their domain name?

You may find that someone has already registered the domain name you want, using your business name or trade mark. There may be a legitimate reason for this, for example if the owners are already using the business name or mark you were planning to use. If so, there may be little you can do. However, if you think someone has registered or uses a domain in 'bad faith' or in an 'abusive' way (cybersquatting) you may be able to take action using the relevant domain name registry's dispute resolution process to have the domain name transferred to you or cancelled. You should consider instructing a trade mark lawyer to assist.

CYBERSQUATTING

Registering or using a domain name in bad faith: either to sell back to you at an inflated price or perhaps to sell goods or services via a website linked to the domain name in order to unfairly benefit from the goodwill you have in your business name or trade mark.

This could also take the form of TYPOSQUATTING: registering a domain name very similar to your business name/trade mark in order to get traffic from your (potential) customers who accidentally misspell your name, or perhaps using homophones or certain letters from different alphabets.

There are specific dispute processes for some of the new gTLDs. Well established services for other domains include:

NOMINET (UK REGISTRY) DISPUTE RESOLUTION SERVICE

- Handled by Nominet itself
- Complainant must show:
 - They had rights in a business or product name or trade mark the same as/ similar to the domain name at the time the owner acquired/registered it AND
 - 'Abusive' registration/use: taking advantage of/unfairly detrimental to your rights (NOTE: using domain name solely for criticism or tribute may be considered non-abusive).
- Mediation: if this fails, Nominet expert decides
- Can appeal to final decision of 3 experts
- Takes 1-2 months
- Costs - £1,000 (full decision) - £3,000 (appeal) + attorney fees

ICANN (gTLDs including '.com') UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

- Handled by World Intellectual Property Organisation (WIPO) Arbitration & Mediation Centre
- Complainant must show:
 - They had rights in a trade mark identical/ confusingly similar to domain name at the time the owner acquired/registered it AND
 - Owner has no rights or legitimate interests in the domain AND
 - 'Bad Faith' registration/use (eg primarily to sell/ rent to complainant; disrupt business of competitor; create confusion to attract website visitors for financial gain)
- No mediation, can appeal decision to court
- Takes 1-2 months
- Costs \$1,500 (one expert, 1-5 domains) up to \$5,000 (3 experts, 6-10 domains) + attorney fees

How can I minimise this risk?

- Buy the domain names you need before registering your business name or trade mark (company and trade mark registers are open to the public).
- Defensive registrations of domain names with misspelling/phonetic similarities or with different domain name suffixes.
- Monitor renewals of 'your' domain names owned by others: buy relevant domains that become available.

What other claims could I bring?

TRADE MARK INFRINGEMENT

Domain name disputes are relatively quick and inexpensive compared to trade mark infringement proceedings, but if you are unsuccessful or suspect associated infringing activity by the person/company in question, you may consider a separate claim for infringement of your registered trade mark or passing off their goods/services as your own.

Also think about

- Selling online: website creation, online sales regulation • Data Protection • Trade Marks • Copyright • Intellectual Property Rights • Brands & Marketing • Online Copying

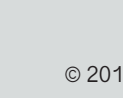
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