



ARI KAPLAN: THE HOT LINE

WINNING THE DOMAIN NAME BLAME GAME

RECENTLY, MARILYN CADE, THE DIRECTOR OF E-COMMERCE and Internet policy for AT&T, mentioned to me that, with this summer's introduction of new top-level domains, ICANN's UDRP will soon be the name of the game for all enterprises registering .biz or .info Web sites. ■ What does that mean for e-business managers? When registering these new Web site

names, they need to be sure they are not inadvertently cybersquatting and thus opening themselves up to a challenge under the Uniform Domain-Name Dispute-Resolution Policy.

You can find yourself the target of a UDRP administrative proceeding if your domain name is identical or confusingly similar to someone else's trademark or service mark. And, if you have no rights or legitimate interests in the name that has been registered or you

are using the name in bad faith, you may not be the master of your domain for long. A UDRP panel can force you to give up ownership of your URL.

Evidence of bad faith includes registering a name just to sell, rent or transfer it to the trademark owner. In a nutshell—if you use a name just to screw someone else, the UDRP may throw a wrench into your plans.

To combat a cybersquatting claim, the UDRP does allow a legitimate own-

er to demonstrate credible use of his or her name. So if you use the name along with a bona fide offering of goods and services, you may be OK. The same applies if you have been commonly known by the name at issue even without a trademark or service mark.

The person filing a UDRP complaint pays the fees—between \$700 and \$800

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per name plus possibly a couple of thousand for legal fees—although occasionally the domain name holder may have to pony up some dough. If you are worried about losing your house

on a domain dispute, though, don't call the movers just yet—the UDRP allows only for cancellation or transfer of your domain name, not monetary penalties. But keep in mind that this type of proceeding does not bar judicial intervention, so the whole thing could wind up in court.

So, this summer, make sure you do not play any games with your domain name; otherwise, ICANN's UDRP may say you cannot keep it. **e**

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