

PRESERVING YOUR DOMAIN

ON THE INTERNET, A RECOGNIZABLE OR EASILY REMEMBERED
DOMAIN NAME CAN BE A VALUABLE ASSET

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As Internet users know, domain names are unique identifiers that serve as a person's or company's name on the Internet and may be used for both Web site and e-mail purposes.

For example, a company named "Red Plastic" might obtain the domain name "RedPlastic.com," making its Web site address (sometimes called an "URL") *http://www.RedPlastic.com*. Red Plastic can then set up various e-mail addresses such as *BossMan@RedPlastic.com* and sub-pages like *http://www.RedPlastic.com/newsreleases* or *http://www.RedPlastic.com/BossMan*.

It is useful to have a domain name similar or even identical to the company's name, so that potential customers or other browsers are able to easily find and remember the company's Web address.

Domain names are currently obtained for a nominal fee, on a first-come, first-served basis, from the Internet Network Information Center (InterNIC), which is currently run by Network Solutions Inc. (NSI).

Often, however, a desired domain name is already registered by another person. For example, when Joshua Quittner, a reporter for *Wired* magazine, found out that McDonald's Corp. had no registered site on the Web, Quittner registered "*mcdonalds.com*" for himself. In another well-known case, former MTV "VJ" Adam Curry registered the domain name "*mtv.com*."

Such situations can lead to disputes and litigation, especially when the company denied the use of the domain name owns a trademark similar or identical to the domain name. Often a so-called "cyber-squatter" will regis-

ter dozens or even hundreds of domain names, intending to part with the domain name for a price.

The law in this area is still evolving, but various theories have been asserted by trademark owners in an attempt to obtain a domain name held by another. For example, some trademark owners have been successful in asserting that the domain-name registrant's use of the domain name dilutes or infringes the trademark.

NSI has been dragged into several of these disputes, despite its understandable desire to remain above the fray and to avoid legal costs of defending such actions. In an attempt to avoid being involved in disputes over domain names, NSI has promulgated various versions of its so-called "Domain Name Dispute Policy," the latest incarnation of which became effective in September 1996.

This policy attempts to settle disputes between domain-name registrants and trademark owners by placing a disputed domain name on "hold" or by depositing it within the registry of a court, all the while keeping NSI out of the litigation.

The success and longevity of the current incarnation of the policy remains to be seen, but it remains controversial within the Internet community. Some have argued, for example, that trademark owners' availing themselves of NSI's policy to place another person's domain name on hold can be a type of "trademark misuse."

The law in this area continues to evolve, as does the organization of the Internet and the responsibility for assigning domain names. For example, under the plan proposed in February by the International Ad Hoc Committee (IAHC), disputes between trademark owners and domain name holders would be arbitrated by "domain name challenge panels."



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The IAHC's plan would also create seven new top-level domains (the extensions such as ".com" in "RedPlastic.com") — for example, ".firm" for businesses or firms and ".arts" for arts-related sites. The plan would also dissolve NSI's domain-name issuing monopoly, by establishing up to 30 new domain-name registrars. Only time will tell whether Internet addresses will remain the sole domain of NSI. ☉

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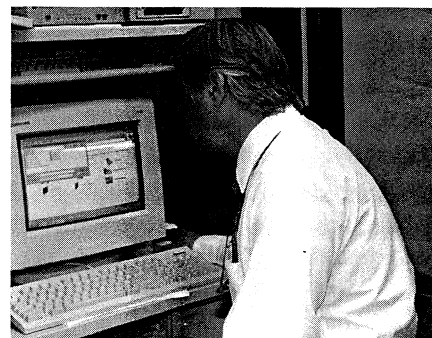
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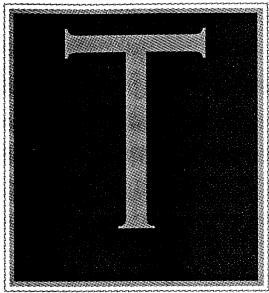
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THE LAW & THE INTERNET



he Internet has very quickly become a force to be reckoned with in the law as in so many other areas of contemporary life. The Internet has spawned a new realm of legal issues, as traditional areas of law intersect with ever-encroaching cyberspace.

The following group of articles about various legal issues related to the Internet was prepared by lawyers belonging to the Internet and Computer Network Practice Group in the Philadelphia-based law firm of Schnader Harrison Segal & Lewis.

We wish to thank Karen M. Balaban, a member of our Editorial Board and a member of Schnader Harrison, who helped arrange this effort, along with her colleague Carl A. Solano, who served as the firm's internal editor/coordinator and as the liaison with the editorial staff of *The Pennsylvania Lawyer*.

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— *The Editors*

