

Reverse Domain Name Hijacking

In the competitive world of business, attempts by people to bring their businesses to the forefront often raise legal issues. One of these issues is called “reverse domain name hijacking.” Reverse domain name hijacking occurs when trademark owners abusively assert their trademark rights to strip domain names from rightful owners.

You may be the victim of reverse domain name hijacking if someone tries to intimidate you to give up your domain name under the guise of trademark ownership. This may occur even if use of your domain name does not violate any trademark laws. Reverse domain name hijacking is a serious problem and can cause you to lose your domain name and/or seriously damage your business. If you are the victim of reverse domain name hijacking, you may have a claim against the “trademark owner” under federal law.

Often what may occur is the “trademark owner” files a UDRP complaint against you and successfully obtains transfer of your domain name away from you.

Someone took my domain away!

How do you address this problem? At Greenspoon Marder, we believe it is always prudent to see whether amicable resolution is possible so as to avoid the expense and time involved in litigation. That is not always possible. Sometimes, you may need to file a lawsuit in order to recover your domain name. While situations vary, under the federal Lanham Act, generally you need to show that:

1. You are the registrant of the domain name;
2. The registration was suspended, disabled or transferred under a registrar’s policy;
3. The owner of the trademark that caused the domain name to be suspended, disabled or transferred has notice of the lawsuit; and
4. Your registration or use of the domain is not unlawful.

If the above conditions are met, you may win a lawsuit to recover your domain name. A court may issue an order requiring the registrar to permit you to register the domain name or to transfer the domain name back to you.

An exceptional case may entitle you to an award of attorney’s fees. Although in most cases attorneys’ fees are not awarded in trademark disputes, a court may award you attorneys’ fees if you win your lawsuit and you can prove the other side’s position was groundless, unreasonable, vexatious, or pursued in bad faith.

Our attorneys strive to resolve Internet domain name disputes efficiently and successfully.

Greenspoon Marder offers effective, knowledgeable representation in litigation and other disputes arising out of Internet-based commerce. We serve individuals and companies in throughout the United States. If you have concerns about E-commerce law, Internet law or how to protect and promote your business, contact us for an appointment.

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