

## DOMAIN NAMES & WEBSITES

### What are they and how to protect them

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#### Did you know?

Your website is actually held at a server or 'place' that can be identified by a series of numbers? By registering domain names, consumers have a much easier method of remembering your business and how to find your website, rather than having to remember series of numbers!

**A Domain Name** is the name your consumers identify as being associated with your website, or your email accounts. There are many types of domain names, depending on where you are located in the world and the type of activities you may be using your website for. For example, in Australia businesses most often use a .com.au domain name for the business. There are rules that must be followed and requirements to be met when registering a com.au domain, such as the name must match or closely relate to a business name, company name, product name or trademark amongst others.

**A Website** is the page or pages you display on the Internet, for other people to visit and read. Your website will most likely include information about your business, contact details for your business and possibly other pages concerning the products & services you may supply.

These days it is common for businesses to have a website, that can be found in search engines, such as Google and Yahoo. It has become a normal method of business promotion throughout a lot of the world.

But, how to you stop other people from using the same domain name or website as you?

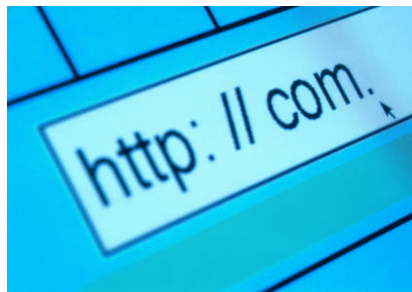
There are several things you can do to prevent others from using the same name for their

website and the same information at their website. One method is to register a trademark. Trademark registration provides exclusive ownership to a name or logo, and the exclusive right to use or control the use. Trademark registration is a country-by-country process, which can be costly. By registering the trademark in at least your main country of trade, you may then be able to stop local competitors using the same name.

You may also register many variations of the same domain name, with varying 'endings', which may at least prevent others from doing so. For example, our business name is Complete IP, so we have registered [www.completeip.com.au](http://www.completeip.com.au), we could also register [completeip.com](http://completeip.com), [complete-ip.com.au](http://complete-ip.com.au), etc. Whilst registering variations like this does not give you 'ownership', it can often stop others without costing too much, and help form a case of ownership if ever required.

In the case of websites, it is advisable to include a copyright notice on the information held on the web pages.

Copyright does not require registration. If you are the creator of the writing/information you are entitled to claim the copyright. You do this simply by using the © symbol in conjunction with your name, and year.



## Registering Your Domain Name and Creating

There are many companies around Australia that can register your domain names for you, the auDA regulates and administers domains in respect of .com.au registrations. You may register via our website if desired, simply click the domain names button. We are a reseller for an accredited Registrar. Once registered, depending on who you register through, you can log in and manage the domain details yourself at any time. Such as updating contact details and renewing the registration for further time.

Again, there are many companies around Australia who can design a website for you. They will often design in terms of colours, graphics etc and assist you in placing the correct and appropriate information on your site, as well as include the copyright notice if appropriate. These days, there are also programs available to 'do it yourself'. Allowing you to login at any time and update, change, add, delete etc to your own website. For further information about such a package, please contact our office.

## Trading on the Internet - Dos & Don'ts

Due to the number of businesses now trading 'online', there have been some guidelines put forth to limit the chances and liabilities surrounding use of trademarks via the Internet. As the Internet is world wide, the chance of accidental trademark infringement is massively increased in comparison to times when business was traded 'in person' and locally. Following you will find some suggestions:

- ▶ Do not trade in 'bad faith'. This means, if you ever receive a complaint of infringement, the relevant country authorities will consider whether you knew of an identical or similar trademark being used by another, or registered to another, at the time you first used it; and whether your use of the trademark impairs the reputation that the other user or owner may have. If you are found to have acted in bad faith, penalties may be imposed upon you and you may be found liable for infringement from the day you first used the mark.
- ▶ Ensure that your website is clear about whether you are offering goods and services for sale just in Australia, or in other countries also. If you sell internationally, it is important to at least conduct searches to ensure you won't be infringing on another's rights. If you receive a complaint about your use in a particular country, the relevant authorities will investigate to determine whether your use in that country constitutes a real and effective commercial one. They will consider: The level of business activity in the country; whether you do or do not intend to deliver goods in the country; whether the goods or services on offer are lawful in the country; whether prices on your website are given in the country's currency.
- ▶ The guidelines state that a user of a trademark shall not be held liable for any infringement **prior to receiving notification of the infringement**, when:
  - a) The user of the trademark owns the rights in another Member State – for example, you own the rights in Australia but receive a letter alleging you are infringing an American Trademark;
  - b) Any acquisition to the right of a trademark, or use of the trademark, has not been in bad faith; and
  - c) The user has supplied, in conjunction with the use of the trademark online, information that allows easy contact such as mailing address, emailing address or facsimile number.
- ▶ Under these guidelines, the 'user' of a trademark in a particular country, that is notified of their infringement against rights in that country, will be given the opportunity to propose a resolution for consideration by the authority in that country before a final decision is made.
- ▶ Under the guidelines, it may be possible to remedy an infringement, if agreed by all parties, by simply displaying disclaimers or notes with your use of the trademark on the Internet. For example only: "*Our company ABC has no relationship with the owner of this trademark in America.*" Or "*Our company ABC has no intention of delivering goods offered to customers in America.*"

Essentially, the guidelines have been developed so that when trading on the Internet, honest business owners have some defence if they accidentally step on the toes of a trademark owner overseas, and that their liability for such accidental infringement is limited. If you require further information or wish to discuss these guidelines, or international trademark registration, please contact our office.

It is important to realise that trademark infringement occurs when a party uses **as a trademark** a name/logo or sign that is substantially identically or closely resembles another parties registered mark. Use simply as a domain name to steer traffic to a site is not necessarily use 'as a trademark', and therefore in itself may not constitute trademark infringement. If a party uses your trademark as a domain name, and you believe they are doing so with the knowledge of your business and using your reputation to drive traffic to their website, there may be other areas of Trade Practices they are breaching. You should consult a professional in this area should this situation arise for your business.

NOTE: This newsletter is intended to provide some basic information and guiders to readers, and is not to be substituted for legal advice. If you have received any infringement notice from a party either in Australia or overseas, it is suggested you obtain advice pertaining to your specific situation.

# Australian Domain Names Disputes & Regulations

The most common 'Australian' domain name is the .com.au registration (e.g. www.completeip.com.au). To register a .com.au domain, there are certain requirements you must meet and certain 'conditions' you must agree to. When you apply, you must agree that to the best of your knowledge, the name you are registering does not infringe any third party rights, break any laws and that your domain name matches, or is a similar name, to a company name, business name, trademark or product name you have. It is also clearly stated that it is the domain name applicant's responsibility to ensure that their domain name will not violate any other parties rights or laws.

It may be worth while having a trademark search done, even if you do not go on to register a trademark before registering a domain name. If you are found to be using the same/similar name to a registered trademark, (or, visa versa if you come across someone else using a similar domain name to a trademark you have registered), there may be actions you can take. In addition to trademark infringement action and Fair Trade Practices action there are now procedures in place that may be followed with domain Registrars to resolve 'disputes' over domain names being registered.

The person making the complainant must prove that: the domain name is identical or confusingly similar to a trademark or service mark in which they have rights; and the Registrant has no rights or legitimate interests in respect of the domain name; and the domain name has been registered and is being used in bad faith.

If you would like further information about Domain Name disputes, please contact our office.



**VALID UNTIL THE 30TH APRIL 2008**  
**FREE domain name registration with each trademark search.**

If you authorise our office to proceed with a trademark search on or before the 30th April 2008, we will register a matching domain name on your behalf at absolutely no charge to you. We will advise you of the names available that match or are similar to the trademark you are searching, and then register it for you. Complete IP Pty Limited will register the domain for a period of 2 years for you, it will then be your responsibility and decision whether to renew the domain name for further periods after the initial 2 years.

To receive the relevant form to have your trademark search conducted, and receive your **FREE** domain registration, simply complete and return the following details and we will forward the form, and a list of available domain names to choose from.

Contact Name: \_\_\_\_\_ Date: \_\_\_\_\_

Company/Business Name: \_\_\_\_\_

Would you like the form to be sent via EMAIL  Fax  POST

Fax No./ Email Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Name/Logo that will be searched: \_\_\_\_\_

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If you do not wish to receive further newsletters from Complete IP Pty Limited, please tick the box and return with your company or business name noted:  Or, send an email with "Unsubscribe" and your company or business name in the subject line.

As promised in previous issues, we will advertise the business', free of charge, for all trademarks successfully registered via our office. If you believe your business should be advertised, please send us an email to [office@completeip.com.au](mailto:office@completeip.com.au). We will contact you about advertising once your trademark is registered.



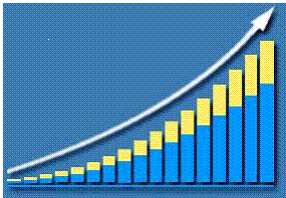
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#### **REMEMBER:**

Our website [www.australiantrademarks.com.au](http://www.australiantrademarks.com.au) provides links to the fees and forms for our budget 'online' trademark registration service. If you prefer doing things via email and the web, this may suit you and your business. Feel free to visit our website and contact us with any queries you may have.