



Take Action: Your Domain Names Are Losing More Than You Realize!

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ABSTRACT

The essay outlines the interindustry forces that are detrimental to every domainer: potential loss of domain name, forgone parking revenue, and dilution of market prices and sales volume. It also points out methods for countering them, some of which require direct domainer activism—that is, these particular counterattacks are most effective when everyone gets involved.

INTRODUCTION

If you are saying, “I don’t care because I have generic domain names,” think again! Your domain names’ performance is much more tied up with the health of the industry than you realize. The good news is that you can do something about it.

Three industry forces negatively affect the value of your domain name: use of brands in domain names, forgone parking revenue, and constrained marketplace liquidity. I analyze each of these forces below.

FACTORS INFLUENCING VALUE

1. Use of brands in domain names

If Congress passes the new legal initiative aggressively promoted by [CADNA](#), you may lose your domain name and/or incur considerable legal fees. If the initiative passes, a domain name could break the law simply by including a generic, nontrademarkable word like “loan” simply because Bank of America owns “loans.com.” The reasoning is that “loans.com” doesn’t just attract online traffic from people searching for loans, it also causes searchers to think of Bank of America as the primary source of loans. In short, the online use of a simple word can turn the word into a brand name that cannot be freely used in a competitor’s domain name.

Under the current [anti-cybersquatting law](#), every use of a trademark in a domain name constitutes a trademark infringement, a more stringent requirement than the traditional “fair use.” Commenting on an [earlier post](#), Enrico Schaefer and John Berryhill pointed out that, legally speaking, this level of stringency is part of the current law. However, in the same post, John provides some UDRP [counter examples and inconsistencies](#). Nevertheless, under the post’s proposed solution, both sides of the legal argument would have to agree to cooperate on the use of a potential trademark in a domain name, which would render the legal issue moot. Nevertheless, a [cooperative regime](#) benefits trademark claimants’ shareholders, monitoring intermediaries, and domainers. Moreover, such

bilateral agreements can put the brakes on [CADNA](#)'s efforts to further tilt the scope of current laws to the detriment of the industry.

Like most domain name owners, you don't have the time to follow every posting on the mushrooming domain name blogs. Perhaps you believe that the [Internet Commerce Association](#) (ICA) will protect you, given that they seem to be genuinely interested and working very hard to do so. But how many people know what the ICA is supposed to do or not do? What kind of resources do they have? Should there be complementary institutions?

One area where you can exert direct influence on legislation is through domainer activism. We need a for-profit PR Web site that passes active domainers' voices to legislators.

2. Forgone parking revenue

- a. Sterile pages: Monetizers have been relying on sterile parking pages that lack content and are typically driven by search ads from Google or Yahoo. There are a number of plausible explanations for the persistence of such pages: monetizers are sitting on fat profits and consequently have no incentive to take improvement risk, they erroneously believe that content on parking pages does not increase revenue, they erroneously believe that there are no solutions to automate the individual human customization of a very large number of domain names, or they have not heard of [Zittrain's](#) argument against "tethered" applications. Nevertheless, solutions to this problem are more likely to come from the pressure of new entrants, given that domainer activism will not be able to exert enough pressure on the incumbents.

You know that individual Web site development and customization with existing tools is very painful and time consuming. Yet, as noted above, monetizers are not active in providing the service themselves or the necessary tools to overcome this problem. Moreover, monetizers are not encouraging co-design of their applications (which need not be based on open source). Co-design is an imperative for corporate survival.

- b. Advertisers: Under the current industry environment, advertisers are less willing to put ads on parked domain names due to perceived widespread click fraud, trademark violations, and lower conversion rates, which, in turn, lower parking revenue. But such action by advertisers can backfire because they lose the benefits of targeted marketing through domain names. Thus, there are tremendous industry and corporate benefits from solving these three issues.
- c. Transparency: Domainers have been complaining about monetizers' nontransparent methods for calculating commission payouts. The transparency decision can be viewed from the standpoint of law, ethics, or business sense. I will only outline the latter.

Business transparency is a two-edged sword. On one hand, being transparent conveys to the stakeholders the positive message that you are not hiding anything. On the other, nontransparency allows for mystery and therefore mystique. For example, the [Red Bull](#) brand has touted its energy drink as containing the mysterious ingredient “taurine.” However, studies show that most of the drink’s energy boost comes from a high dose of caffeine.

Monetizers’ action lacks mystique, and thus nontransparency is not justifiable. Moreover, anecdotal evidence suggests that domain name performance is monetizer dependent, and thus, transparency is not the major factor in selecting a monetizer.

- d. Monetizers: When advertisers block the use of domain names as an advertising medium, there is less money for ad agencies and monetizers. But Google has almost a monopoly power in the search ad market, so a squeeze on its revenues simply translates into a lower share for monetizers. Thus, unless monetizers expand to other, more lucrative ad forms, domainers will be negatively affected.
- e. Searchers: Moving away from the sterile pages would also make searchers less frustrated with domain redirect and less likely to dump their frustration on domain owners. Consequently, searchers would be less likely to lend support to anti-domain name efforts such as CADNA’s.

3. Market liquidity

Market liquidity increases sales volume and makes sales more profitable. Below are causes of restricted liquidity in domain name markets, along with some plausible solutions.

- a. Misperceptions: Confidence in the true value and role of domain names is reduced as a result of public misconceptions. Thus, transaction volume and prices are restricted. Some of these misconceptions are:
 - i. Every domainer is a cybersquatter. We know there are only a few bad apples that are exploiting trademarks. For a solution, [click here](#).
 - ii. Because the served domain-redirect pages look similar to sterile parking pages, domainers are blamed for the resulting unpleasant user experience. With improved user experience, CADNA would have a lower success rate at mobilizing and capitalizing on the frustration of such groups. Unfortunately, however, there are no easy solutions to the domain redirect problem. For an outline of redirect incentives and solutions, [click here](#).
 - iii. Domainers are notorious for click fraud. Again, we know that only a few domainers actually deserve this notoriety. Maybe it is not a big problem and market forces can solve it, as Google CEO [believes](#), but

the resulting lower pay-per-click (PPC) rates hurts parking revenue. Monetizers should take advantage of a number of anti-click fraud solutions that have already been developed. Moreover, they should punish such misbehavior by banning violators across the industry. But we need to give the monetizers incentives to do so, and we need to expose them when they don't tell the rest of the industry about their bad apples. This can be accomplished through the corporate responsibility solution I outlined in an [earlier post](#).

- b. Industry actions, inactions, and rhetoric:
- i. Our industry has not put serious effort into educating businesses about the true benefits of [generic](#), [typo-](#), and [superlative](#)-based corporate domain names and the merits of effective appraisals. The discourse has, unfortunately, been mostly about making fast money.
 - ii. Appraisal claims: A number of prominent appraisers have used unsubstantiated methodologies. Such myopic marketing behavior will backfire in the long run. Thus, these appraisers should clarify their statements, which will add credibility to their services. As Seth Godin points out in his book, [All Marketers Are Liars: The Power of Telling Authentic Stories in a Low-Trust World](#), not all liars are equal.
 - iii. Some domainers have vigorously argued for buying domain names instead of paying for ads on publishers' sites and on domain name pages. The argument sounds like telling [NASCAR](#) advertisers that instead of placing ads on the cars, they should outright buy a racing team and change its name to that of the advertiser. Some sponsors do buy and rename sports teams, as Red Bull did when the New York Metro Stars, a baseball team, became the New York Red Bulls. The strategy can make sense, but domainers need to rationally explain its applicability to domain names or tell acquisition success stories.
 - iv. "You just don't get it!" is not a good sales tactic. Unfortunately, some domainers do level that accusation at advertising executives, thereby insulting the intelligence of the very people they are trying to persuade. All these executives cannot be stupid; neither are the hundreds of millions of Coke drinkers who couldn't adjust to the transformation of "classic" Coke into "new" Coke.

Besides some of the issues related to [investment decision-making](#), there is the psychological fear of change from online advertising to domain name purchasing. Moreover, due to the relatively large outlays needed for a purchase, acquisition decisions place tremendous personal risk on the deciding managers, in that the failure of an acquisition can result in the manager's termination even if the factors that went wrong were beyond the manager's control.

- c. For an outline of some of the domainers' unsubstantiated claims about domain name advertising, [click here](#).

Increased marketplace liquidity helps domainers because:

1. Sellers benefit from improved image (potentially higher prices and increased sales volume).
2. End users, investors, and speculators are willing to pay higher prices because of greater confidence in the value of acquired names and in the possibility of resale.

CONCLUDING REMARKS ON SOLUTIONS

Brand-use solutions, improved monetization, and increased marketplace liquidity require the involvement and input of all industry members. Market forces are not enough to overcome the forces at work.

1. To be more credible, our industry needs to start substantiating rhetoric. Credibility increases trust and, in turn, transaction volume and prices.
2. We need to expose bad corporate behavior, including that of monetizers, and applaud good behavior, in both cases through using corporate responsibility. Such a solution was outlined in a [previous post](#).
3. We need to go beyond the Internet Commerce Association's (ICA) lobbying efforts. Additional instruments are needed to protect and promote the interests of the domain industry. One such instrument is the PR site proposed above, one that would pass active domainers' voices on to legislators, ICANN, and the media. Another instrument is the time-tested method of simply getting in touch with media members. Remember that they are in a business and their time is valuable too, so don't pelt them with random e-mails. Do send them useful information and make a long-term effort to cultivate personal relationships.
4. [Partnering with IP strategists](#) can provide domainers with inroads into corporate executives in charge of corporate IP protection.
5. Implementing a cooperative IP solution puts the brakes on CADNA's efforts to bully you and seize your domain names. It also directly benefits IP claimants' shareholders, monetizers, and domainers. ■