

Domaining, dropcatching and the secondary market

Contents

1. Introduction.....	1	
2. Definitions	1	
3. Value of the secondary market	2	
4. Relationship between domaining and cybersquatting?	2	
5. Recent developments	3	
6. The secondary market in the UK.....	3	
The UK secondary domain name market saw a growth of more than 150 % in 2006.		
Annual growth in .co.uk domain value exceeded that of .com.....		3
7. The .uk perspective	4	
Technical perspective	4	
Domain Availability Checker (DAC)	4	
Automaton	4	
Operational perspective	4	
Undisclosed linked tags and fake memberships	4	
Customer concerns.....	5	
Dispute Resolution Service.....	5	
8. Questions for debate.....	5	

1. Introduction

At a PAB member's request, the work programme includes the subject of domaining, dropcatching and the secondary market. First discussions will take place at the May 2007 meeting.

The purpose of this paper is to give some background information for those who may not be familiar with it, and to define some terms.

The objective of the first meeting's discussions will be to identify the scope of the policy debate as it relates to .uk, to identify issues, and to agree on a way to structure the discussions over the coming months.

In this paper, the terms domaining, dropcatching and the secondary market are used. No value judgement should be attributed to the choice of terms in any context.

2. Definitions

Domaining is the business of speculating on domain names. Domainers, Domain Investing and the individuals and corporations that operate in this space are in rapid rise. (www.circleid.com May 09, 06). Domaining is also used to describe the practice of monetizing domain name registrations (for example through pay per click (PPC) or parking pages – sites that make revenue from people clicking through on advertising links. 23 % of .com registrations resolve to parking pages (<http://www.verisign.com/static/040767.pdf>).

Domainer is a term used to describe someone who buys and sells domain name registrations, often generating income through domain parking and/or website development, with the main purpose of generating revenue from advertising click through. Income is also generated through sales, advertising and affiliate commissions. (*Computer World*: http://surveys.idgresearch.com/CW/IP_Telephony_April/ip_telephony_april.htm)

Dropcatching is the process of using automated systems to register expired domains within a fraction of a second of their being cancelled by the registry.

Cybersquatting or **typosquatting** is considered to be a separate topic within the wider debate of Domaining. Cybersquatting issues are generally handled through the courts, eg the *One in a Million* case (1997), or by administrative procedures such as Nominet's Dispute Resolution Service, and the Uniform Domain Name Dispute Resolution Policy which covers generic Top Level Domains such as .com. Cybersquatting is the practice of registering a domain name with bad faith intent to profit from the goodwill of a trademark belonging to someone else. Likewise typosquatting occurs when someone registers variants of a trademarked name.

Domain tasting involves the registration of domains and cancellation of them within five days. Registrants of .com, .net, .org, .biz, .info, and .pro names are entitled to a full refund when they delete a domain within that period. The UK has a policy to deal with this kind of activity.

A variant of domain tasting is known as '**domain kiting**', where the registrant returns a name just before the five-day period expires and re-registers it again as soon as it becomes available, allowing for long-term ownership without cost. (http://www.theregister.co.uk/2007/03/16/wipo_domain_tasting/)

Domain tasting and domain kiting have been covered in a separate policy (see http://www.nominet.org.uk/digitalAssets/3244_Automaton_Acceptable_Use_July_05.pdf)

Reverse domain name hijacking

Not all decisions automatically favour the big trademark names. Domain name holders have complained of "reverse domain name hijacking," in which a company registers a trademark in a specific attempt to gain control of a name that the domain owner considers to be a descriptive term.

3. Value of the secondary market

According to a [November 17, 2005 Wall Street Journal article](#), "revenue from text ads on [domain parking] sites will total \$400 million to \$600 million world-wide this year and may reach \$1 billion by 2007, according to Susquehanna Financial Group analysts Marianne Wolk and Roxane Previty, who track the online ad industry."

Google is one of the preferred methods of converting this traffic into ad revenue and they have a special service for domain parking. ([Google AdSense for domains](#)). According to the site, "AdSense for domains allows domain name registrars and large domain name holders to unlock the value in their parked page inventory. AdSense for domains delivers targeted, conceptually related keywords and advertisements to parked domain name pages by using Google's semantic technology to 'understand' the meaning of each domain name. Powering over 3 million domain names, AdSense for domains is the industry's leading parked page service." *Source: http://www.icannwiki.org/Domain_Parking*

4. Relationship between domaining and cybersquatting?

The question of whether and how much there is an overlap between domaining and cybersquatting is a matter of hot debate.

On one view, domainers deal only in generic or descriptive terms, not famous or distinctive marks which were typically the target of cybersquatting in the late 1990s.

An alternative view is that domainers' portfolios often contain dictionary words which may be descriptive in one context, but can be distinctive, strong trade marks in another context. An example would be ORANGE – descriptive for fruit, but not for mobile phones.

Collisions and controversy arises because of the different ways that the domain name system and the trade mark systems are organised. The trade mark system is organised into more than 40 categories (so that no single registration gives a total monopoly in a term across all goods and services). Conversely, a registration of a domain name in a top level domain effectively blocks legitimate concurrent users of the same term from making the same registration.

Whilst there continues to be disagreement on this issue, domainers are regularly involved in domain name disputes – sometimes they win, sometimes they lose.

5. Recent developments

Microsoft is calling for a tightening in the way domain names are registered. A landmark case, settled at the end of last year, saw Microsoft pick up £25,000 from the UK-based Dyslexic Domain Company. It was the first time Microsoft had claimed back not just the domain name but the profits made from using it. According to Microsoft, Dyslexic had registered more than 6,000 domain names.

Microsoft claim an average of 2,000 domain names containing its trademarks are registered each day, three-quarters of which it believes are owned by professional domain name speculators.

"These sites confuse visitors who are trying to reach genuine company websites, which can negatively affect corporate brands and reputations as well as impair the end-users' experience online," said Aaron Kornblum, a senior lawyer with Microsoft." *Source:* <http://news.bbc.co.uk/1/hi/technology/6449363.stm>. The company also said that it had reclaimed more than 1,100 infringing domain names worldwide over the past six months.

US retailer Neiman Marcus is suing two domain name registrars for more than \$12m over their registration of names containing variations of its brand. The two linked companies are accused of improperly registering more than 40 domain names.

The case takes Name.com and Spot Domains to task over the relatively new phenomenon of "domain tasting". This is the practice of registering domains for five days then cancelling those that do not attract enough traffic. Taking advantage of a five day cancellation period, that practice costs the registering party nothing.

www.theregister.co.uk/2007/03/30/domain_tasting_suit/

"With regard to bulk buyers of domain names using automated registration processes, a WIPO panel decision issued in February 2006 found that failure to conduct prior checks for third-party rights in certain circumstances would represent 'wilful blindness', representing bad faith under the UDRP," it said. "This is an example of how the application of the UDRP decision criteria must accommodate changing circumstances and new developments." http://www.theregister.co.uk/2007/03/16/wipo_domain_tasting/

6. The secondary market in the UK

The UK secondary domain name market saw a growth of more than 150% in 2006. Annual growth in .co.uk domain value exceeded that of .com.

Annual statistics for 2006 compiled by domain marketplace Sedo and DNJournal, the domain industry trade magazine, revealed a surge of 153% in the value of all published

.co.uk domain sales worldwide, in comparison to a growth of 79 % in 2005. Already one of the world's most expensive online addresses with an average sales value of £2,062.15, the increasing scarcity of quality .co.uk domains, and the continued recovery in the UK online industry, have steadily driven prices higher in the past years.

The highest value transactions involving U.K. entities in 2006 were a confidential .COM domain (£662,315.00) and CRUISES.CO.UK (£95,000.00). In comparison, the top sales for 2005 were a confidential .COM domain (£30,567.80) and a confidential .CO.UK domain (£25,339.90). [www.sedo.co.uk, domaininformer.com/news/news/070313Sedo.html](http://www.sedo.co.uk/domaininformer.com/news/news/070313Sedo.html)

7. The .uk perspective

Technical perspective

In our experience, those involved in dropcatching tend to use the full limits available to them, irrespective of the number of domains they have, or are trying to register. As a result, we expend considerable resources in monitoring usage, enforcing access limits, and responding to complaints about alleged access abuse.

Domain Availability Checker (DAC)

The DAC is used to make a high speed check on the availability of a domain. It returns a limited set of information, not including any personal details of the registrant and so supports high volumes of lookups.

The current charge for the DAC is £25 per year, but this is subject to review given the work that has gone into it over the last several months to deal with distributed abuse. There are 400 subscribers to the DAC, of whom a minority are engaged in the secondary market.

The DAC receives, on average, 30 million queries per day, of which 15 million come from dropcatchers.

Automaton

The Automaton is our registration system, used by registrars to register and modify domains.

Load is placed on the Automaton by dropcatchers who send in a domain registration request, even though the relevant domain name is registered by someone else. In the event that the domain is cancelled in the seconds that it takes to process the message, a new registration will be made.

The automaton receives, on average, 13,000 registration messages per day, of which 9,000 come from dropcatchers, and are rejected because they are made for existing domain names.

Operational perspective

Undisclosed linked tags and fake memberships

In our experience, a minority of dropcatchers have used friends and relatives to obtain tags and memberships. The result is greater access to our systems, as undisclosed linked tags bring increased limits that in turn can provide competitive edge.

We investigate all allegations of links, and take action where appropriate to link the tags. Since July 2005, we have investigated 13 allegations of linkages between 69 dropcatcher members. In the majority of cases, investigation revealed no link. We have linked the tags of 12 members.

Customer concerns

The concerns that we hear expressed are:

- The people re-registering these names, whilst both members and registrars, are generally not registering them to sell on or on behalf of registrants, but for their own business purposes. Usually through developing pay-per-click (PPC) sites.
- The ordinary registrant is unable to compete and yet they have the expectation that they should be able to. Their expectation is that they can watch the WHOIS a couple of times an hour for a domain and when they see it is free they can use a registrar to register it.
- The names are only going to a very small group of people when there are very many others who would also want some of these domains.

Dispute Resolution Service

Although there is a clear distinction in the minds of many between cybersquatting and domaining, a number of domainers are regular customers of the Dispute Resolution Service. For example, the majority of those who have had more than 3 adverse decisions (at <http://www.nominet.org.uk/disputes/drs/decisions/3cases/>) are involved in the secondary market.

At the current time, domainers are involved as respondents in 50% of the live mediation cases.

Often, DRS cases which involve domainers relate to dictionary words, which can be descriptive terms but can also be trade marks. Issues relating to the secondary market, and the handling of descriptive terms, formed the basis of much of the recent DRS consultation.

8. Questions for debate

1. "One question is the role of these "professional registrants" in the community. Do they hurt "user registrants" and their ability to receive domain names that they would like? Another question is whether registrars should be limited in their ability to participate in this business."
(Source: http://www.icannwiki.org/Domain_Parking)
2. What should be the scope of the policy debate as it relates to .uk?
3. What issues are relevant to our discussions?
4. How should we structure the debate? For example, would it be helpful to have presentation(s) on dropcatching, domaining and the secondary market? If so, from whom?
5. Are there any other issues we should discuss?