

Navigating Domain Names and Social Media Platforms for Brand Owners

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The fact is that the entire world has gone digital so even if some brands have not established a strong internet branding presence, it will not deter potential customers from engaging with brands online. In fact, it is very likely that the first thing potential consumers of a brand do upon learning of a brand is to do an online search to research the brand even if the brand does no business online. The brand's reputation will precede the actual presence in cyberspace. Peer review publications, industry publication, blogs, news and popular media channels will generate considerable online data for any brand. All of these media outlets are hungry for content and more likely than not, will have discovered and discussed most brands on the internet, even where the brand has not established an active online presence.

After obtaining a clearance search and preferably seeking trademark registration, brand owners including UAE brand owners should consider reserving the marks as domain and social media usernames. If a third party registers and uses the domain in good faith before the brand does, the brand owner will usually be unable to obtain the domain other than by purchasing it. On the other hand, if the domain was registered and used by a third party in bad faith, the brand owners including UAE brand owners could file a Uniform Domain Name Dispute action before the likes of WIPO as an efficient and cost-effective means to retrieve the domain name.

With the proliferation of generic Top Level domains ("gTLDs") such as ". etc.", becoming available for registration, the option of reserving valuable marks on relevant new keyword gTLDs that relate to the mobile market, such as ".app", ".mobile", or the particular industry, such as ".money", ".party", ".fund", ".legal", ".poker", ".cash" etc., is increasingly recommended.

Brand owners including UAE brand owners are advised to attempt to reduce the misappropriation of their trademarks in new domains as they are released by taking advantage of the Trademark Clearinghouse ("TMCH").

The TMCH is a centralized database devised by the Internet Corporation for Assigned Names and Numbers ("ICANN") as part of a regime to protect brands and intellectual property rights. It comprises a central repository, which is managed by Deloitte wherein brand owners may submit their trademarks for validation.

Mobile applications or "apps" are omnipresent. There is literally an app for any kind of venture or enterprise if not for business then at least for information sharing. Mobile devices are outselling personal computers, and an increasing percentage of internet access is made through mobile devices. With the increasing prevalence of apps, brand owners including UAE brand owners should rightly feel the need to create distinctive brands that set their product apart from competing apps. With the sheer number of apps and the resulting marks being registered, it is imperative to have in place a comprehensive regime of trademark protection and enforcement.

In a market proliferating with apps selling all kinds of products, where purchase decisions are made at a touch of a touch screen, brand presence is of crucial importance. Brevity is the order of the day and

outlandish or fanciful visual marks which are highly distinctive and possibly complemented by a novel logo would do well to capture the imagination of harried consumers that are typically overwhelmed by the multitude of apps. Given the global reach of the market, brand owners including UAE brand owners attempting to reach markets across jurisdictions should ensure that their chosen trademark travels well in cyberspace while taking care all the while to ensure that their trademark does not infringe the rights of others.

In launching their apps on app distribution platforms, which are accessible across multiple jurisdictions, such as Google Play® and the iOS® App Store, there are specific rules and requirements to be adhered to regarding app names, which would impact upon the choice of a brand owner's trademark.

As part of Apple's naming protocol, the use of an app name that is a registered trademark of another party or is already in use in the iOS® App Store may result in its removal. Apple imposes a maximum number of characters for the names of apps, which is thirty-five characters. Further, it is common for app distribution platforms to have strict guidelines with respect to the use of their trademarks to indicate compatibility with their platforms.

In summary, brand owners need to be aware of certain considerations as they navigate the world of domain names and social media as they roll out their brands in establishing their internet presence.