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Is It Legal To Own A Website Domain That Contains The Name Of Another Business?

[Kristie Prinz](#)

Q.

We own a website domain that contains another firm's business name. Will this create any legal problems for us? Also, in the event that the other company is using the domain of companyabc.com and we own companyabc.net, how does this affect your answer?

-- Jeff

A.

Based on the information you have provided, it is possible that your company could have some legal exposure on this issue.

With respect to your first question, in the event that there is a valid trademark on the name of the other business, your facts suggest that the other business could potentially have a trademark infringement action against your company. The standard here would be whether your company's use of the other company's trademark creates a "likelihood of confusion" for consumers.

Also, the other company may have a viable claim against your company under The Anticybersquatting Consumer Protection Act ("ACPA"). ACPA protects owners of trademarks with distinctive names from others who in bad faith and with plans to profit register or use a domain name that is identical or confusingly similar to a protected mark. If your company were to be held liable under ACPA, then the result would likely be the forfeiture or cancellation of the domain name, or the transfer of the domain name to the owner of the mark. The other company would also be entitled to damages.

Finally, assuming that the other company is famous or at least well-known, such company may have actionable claim against your company under the Federal Trademark Dilution Act of 1995, which protects well-known or famous marks from dilution.

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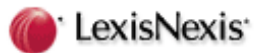
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Regarding your second question, the fact that your company owns the ".net" domain and that the other company owns the ".com" domain will probably have no impact on the above issues.

My advice would be to contact an intellectual property attorney with particular expertise in trademark law practicing in your jurisdiction, so that you can discuss the specific facts of your case with that attorney, who should be able to advise you as to whether or not the company at issue even has a trademark on its name and whether or not the other company will have a viable legal action against you. Based on this determination, you will then be in a position to work with your attorney to take immediate action as needed to minimize the risk of a potential lawsuit against your company on these issues.

-- Kristie Prinz

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