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Who Owns the Domain Name On A Hosted Website?

[Kristie Prinz](#)

Q.

If my business has paid another company to host a website and maintain it and the host company has been paid, who legally owns the domain name? The host company's service has not been good so we are considering an alternative service.

-- Mark

A.

Your business should own the domain of its website, but I recommend that you confirm that this is the case before taking any action to terminate your current web hosting company's services.

What steps should you take to confirm this?

Well, I would recommend that you first retain a technology contracts attorney in your jurisdiction to review the terms of the web hosting agreement you initially signed with the hosting company. The terms of this web hosting agreement should specifically set forth who owns the domain name of your website, as well as the terms and conditions by which you are authorized to terminate the agreement. In addition, the website hosting agreement should expressly address such issues as confidentiality, loss or interruption of hosting services, infringement, payment terms and conditions, and dispute resolution. These terms and conditions should ideally be negotiated at the time of the commencement of any services, and my recommendation is that you retain an attorney with experience in drafting web hosting agreements to advise you in negotiating any terms and conditions.

In the event that you did not enter into a web hosting agreement when you hired the company to host your website, you may instead be bound by terms and conditions posted on the hosting company's website or which were provided to you in paper form, so your next step should be to thoroughly review the hosting company's website or other paperwork from the hosting company to determine if such terms and conditions

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exist. If they do exist, I recommend that you retain a technology contracts attorney to review those terms and conditions. Such attorney should be able to advise you on domain ownership issues as well as any other terms and conditions that may apply in terminating the service.

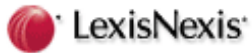
As a next step following your review of the relevant contract terms or other terms and conditions, you will also want to consider whether trademark law may apply in determining ownership of the domain. In the event that the domain incorporates a name that is protected under trademark law, it could constitute trademark infringement for any other business or individual to utilize the domain name without permission. This is something that should be discussed with a trademark attorney in your jurisdiction, who should be able to advise you more fully as to whether or not this issue would arise in your circumstances, after hearing the specific facts of your situation.

In the unlikely event that you decide, upon completion of each of these steps, that you do not own the domain name of your website, then I would recommend that you retain a transactional attorney in your jurisdiction to assist you in approaching your existing hosting company and negotiating a new arrangement, which includes ownership of the domain. You may have to postpone termination of the service for a few months, but this will enable you to tie up the loose ends from your previous web hosting relationship before moving forward.

-- Kristie Prinz

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