

How Brands Can Use New TLDs to Stop Cyber Squatting

A Case for Corporate Top Level Domain Names

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E X E C U T I V E S U M M A R Y

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As of June 20, 2011, the Internet Corporation for Assigned Names and Numbers (ICANN) will allow corporations and other entities to create their own Top Level Domains (TLDs). So instead of just having endings like .com and .net, companies can apply for their own endings. These could include endings that use International language scripts such as in Chinese, Cyrillic, and Arabic. They can also be geographic in nature, such as .NYC or .PARIS. They can be generic TLDs such as .SPORT or .MUSIC. And finally, they can be Brand Name TLDs for corporations such as .DELOITTE, .CANON, or .ANYBRAND.

This white paper will focus on brands and how, up till now, they have unintentionally empowered cyber squatters through their use & promotion of .com. More importantly, it will show how new TLDs can help brands to stop this phenomena. It will also list some questions useful for brands to decide whether they should secure their own TLD(s).

Since the Internet came into popular use in 1997, advertisers in the U.S. have spent over 3 trillion dollars on advertising across all media. At least some portion of that spend has gone to branding the TLD, “.COM”... unintentionally, but nevertheless, creating “The .Com Brand”. Large advertisers list “TheirBusinessName.com” as part of their ads. So if only one percent of that 3 trillion dollars benefited the .com brand then that means that over 3 billion dollars have been spent branding .com and thereby empowering the cyber-squatters & typo-squatters who register similar .com domain names for less than \$10.00 each per year.

Unintended Consequences - How Dot Com Became The Most Powerful Brand In The World

11 YEAR TOTAL U.S. AD SPEND

(IN MILLIONS)

\$187,579

\$206,697

\$222,308

\$247,472

\$231,287

\$236,875

\$245,477

\$263,766

\$271,074

\$281,653

\$279,612

\$339,300

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12 Year Total - \$3,013,050
(over three trillion dollars)

Sources: CS Ad Dataset &
DMA.

Since the first .com domain name (symbolics.com) was registered on March 15, 1985, the largest advertisers in the U.S. alone have spent trillions on advertising. In almost every ad their dot com web address is promoted to the public. In the process they have cumulatively and unwittingly built one of the most powerful brands on the planet.

Unfortunately, that brand is not their own; it is "Dot.Com".

Year	Total	Total U.S. Ad Spend:
1997	\$ 187,529.00	Includes... Newspapers Magazines Direct Mail Business Papers Billboards and Out-of-Home Yellow Pages Radio Broadcast TV Cable Internet
1998	\$ 206,697.00	
1999	\$ 222,308.00	
2000	\$ 247,472.00	
2001	\$ 231,287.00	
2002	\$ 236,875.00	
2003	\$ 245,477.00	
2004	\$ 263,766.00	
2005	\$ 271,074.00	
2006	\$ 281,653.00	
2007	\$ 279,612.00	
2008	\$ 339,300.00	
Total	\$ 3,013,050.00	
Notes:		
	- U.S advertising expenditure in millions of current U.S. dollars	
	- 1996-2007 data compiled by CS Ad Dataset	
	- 2008 total data provided by DMA	

Since 1997, when the World Wide Web became popular, until 2008, major brands in the United States spent over three trillion dollars on advertising; and in most all of those ads, they have broadly displayed "TheirCompany.Com". It's easy to see that at least a portion of this spend has been dedicated to building up the dot com brand and that a certain percent of that spend has taken away from brands and has gone to the benefit of dot com.



.Com has become the de facto largest and most predominant brand in the world.

If we use a figure of one percent of that cumulative U.S. ad spend then from 1997 until 2008, the dot com brand would have benefited by a cumulative ad expenditure of almost 3.1 billion dollars. In 2008 alone, using the same percent, dot com would have benefited by an amount of 300 million; much more than most major corporations spend on their own brands each year. This is an enduring and ongoing amount of money that *serves as a dilution to most major brand names* and which is funded by the same companies whose brands are being diluted.

Your Ad Money Used Against You

The unintentional branding of dot com by so many large advertisers has made it easy for others to exploit not only the misspelled names of larger brands but even the names of many smaller advertisers who were late to capturing their own company domain names in .com.

This has resulted in several problems. The low cost of a dot com domain name registration has created a simple way for advertiser's money to be used for the benefit of others. Specifically by the two following types:

- A. **Typo squatters** – Registrants of .com domain names that are close misspellings of famous brands get countless visits to their domains every month.
- B. **Cyber squatters** – Registrants of .com domain names that are widely advertised brands and/or slogans benefit by the advertising dollars of large brand names.

This effect does not occur as strongly in any other TLD such as .net or .org because other TLDs don't get as much advertising exposure as .com.

Whether these registrants have the rights to these terms and phrases or whether they have registered them intentionally or unintentionally, before or after a brand has trademarked terms and/or phrases is a topic for another paper.

The point is this... Since dot com domain names cost less than \$10.00 per year to register, there is a low barrier-to-entry to infringe on large

"The economic impact of cybersquatting is... over \$1 billion U.S. dollars every year as a result of diverted traffic, the loss of hard-earned trust and goodwill, and the increasing enforcement expense of protecting consumers from Internet-based fraud."

~~ "The total impact of cybersquatting on a single brand could be tens of millions of U.S. dollars when factoring in the value of lost leads and sales, costs of brand dilution, consumer confusion, poor customer experiences and millions of lost unique visitor impressions each week."

**Source: CADNA Website
12/10/09**

advertiser's trademarks and brands using dot com domain names. The benefit of a large amount of advertising dollars is going towards others.

Typo squatting

An entire cottage industry has been created around the idea of registering misspellings of famous brands. There are enough Internet users accidentally typing in these misspelled domains to create huge revenues for others who place ads on simple parked web pages. Revenues from these parked pages often easily cover annual domain registration costs and make it a profitable activity.

Additional Complexities Compound the Costs

Defending your brand against typo squatting is difficult, costly, and complex for many reasons. Often, typo squatting occurs unintentionally.

When YouTube.com became popular, a pipe manufacturer with the legitimate URL, "Utube.com" saw a sudden surge of traffic to their web site. The traffic to that domain became so large that they decided to begin placing Pay per Click ads on the site as a new revenue source. They have since renamed their business web site and still run pay per click ads on the Utube.com domain (which is not related to You Tube).

The following points further complicate the issues:

- A. Purposeful typo squatters often reside in foreign countries where the laws don't protect trademark holders.
- B. Since trademarks are usually limited to a defined product, category, or industry, it can be difficult to prove that a company actually does not have the right to a near-spelling of your brand.
- C. Losses are exacerbated by the fact that pay-per-click ads often present competitors of the brands represented by the typo. This can represent significant lost revenue opportunities before they are discovered and or defended against.



"Since December 1999, the WIPO Center has administered more than 15,500 UDRP and UDRP-based cases. In 2008, the WIPO Center witnessed an 8% increase over the previous year... This represents the highest number of UDRP cases handled by WIPO since the year 2000, being the first full year after the UDRP took effect."

Source: World Intellectual Property Organization at the 38th General Assembly in Geneva

October 1, 2009

Cyber squatting

For many years, cyber squatters have registered domain names that are similar to brands or that match widely advertised slogans or second and third tier brand names to capitalize in the same way; by placing pay-per-click text and banner ads on parked pages that are typed in by consumers who are looking for particular brands online. Many of the same losses and complexities shown above apply here as well.

Hidden & Real Costs of Using .Com Domains

Up until now, companies have defended their brands in the following ways, most of which are difficult and expensive:

- A. **Defensive .com domain name registrations** – Companies must defensively register and renew top-level domains in dot com that are similar to their advertised brands.
- B. **Defensive ccTLD registrations** – Companies must often defensively register their domains in other countries where they may want to do business to prevent others from acquiring them.
- C. **Digital Brand Management / Consulting Fees** – Companies pay domain name consultants to help them protect their brands online and to manage their domain name portfolios.
- D. **Intellectual Property Attorneys** - Legal fees to recover trademark-infringing domains are a major expense for brand names today and increasingly focus on Internet related infringements.

Other less obvious but potentially more destructive costs are as follows:

- A. **Cost Of Brand Dilution** – Because there are so many possible domains that consumers can mistake for a real brand, the result is dilution of the brand.
- B. **Loss Of Brand Good Will** – Mistakes and/or intentional misrepresentation by registrants of similar domain names can damage the good will of the true company.

What Could New TLDs Look Like?

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Instead of...

www.ibm.com/think

URLs could be:

**www.think.ibm
www.computer.ibm
www.erp.ibm
www.ibm**

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Instead of...

www.sprint.com

URLs could be:

**www.phones.sprint
www.wireless.sprint
www.sprint**

~~

Instead of...

www.aol.com

URLs could be:

**www.aol
www.aim.aol
www.email.aol**

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**All URLs and sub -
domains are controlled
by the corporation.**

C. Cost In Paying For PPC Ads Served On The Typo Domains –

The real cost of companies having to pay for clicks that are generated by typos and cyber squatted domain names is likely to be significant today.

How a New TLD Can Help Your Brand

If you are able to secure the Top Level Domain(s) for the brand(s) that you offer you will then be able to concentrate the power of your advertising dollars on your brand(s) alone and you will effectively knock out the power that is presently being given to cyber squatters using the dot com brand. Your advertising dollars will become more effective and more focused because the benefit of those dollars will be concentrated on your brand and nothing but your brand.

- A. Domain registrants will no longer be able to register similar versions of your domain name because you will have full control over your TLD.
- B. The advertising dollars that you previously wasted empowering the dot com brand will now be completely focused on the brands of your choice.
- C. The barrier to entry for cyber squatters and typo squatters will effectively be increased to beyond any reasonable or cost effective amount regardless of the countries where they live.
- D. People will eventually come to understand that when they see an ad on TV they should not go to YourBrand.com but they should go to WhateverYouChoose.**YourBrand**.

The New TLD Process

The Importance of Preparation...

For several years, ICANN has been discussing the introduction of new TLDs. Now that the process is approved, ICANN will begin taking applications for new TLDs for geographic entities, vertical markets, and brands. Companies should be preparing their applications right now. There will only be a 90 day window to apply

Just like in the dot com revolution, companies that ignore the process will be found off-guard as the new TLDs are introduced. There are companies and organizations from all over the world that are vying for many of the new TLDs and the question is likely to become not *if* you get the TLD you want but *who* will get the TLD that you want.



The ICANN Process

In June, 2011, ICANN released the Application Guidebook with all the rules and procedures necessary

The process will involve a set period of time in which applicants for new TLDs will make their applications online. Applicants will need to pay a fee in the range of \$180,000 and then designate the type of application they are making; whether it is a geographic, community-based, or standard application.

Once the application period ends, all applications will go through several evaluations concerning the TLD applied for. The evaluations will deal with technical and financial viability as well as contention issues based on how many applicants apply for the same string of characters as well as similarity to existing character strings.

It is possible that the most popular character strings applied for will be settled through an auction process. In addition, ICANN will give trademark holders and the public an opportunity to object if a character string applied for infringes on a trademark or is objectionable.

Timelines

Once an application is accepted it has been estimated that it will take between eight to eighteen months for most applications to go through the process. If there are several applicants for the same string of characters or if there are similarities to existing TLDs, it could take longer before a TLD becomes active.

Should Your Company Apply For A New TLD?

The answer to this is dependent on several considerations. All companies should be monitoring the events of the process or contract with a company that is familiar with the situation and with ICANN to ensure that you are abreast of all the developments. Once things begin to move, they will progress rapidly.

Questions to ask include:

- How much do we spend annually on advertising and branding?
- Who is our audience and how do we reach them now?
- Are our sales dependent on our brand?
- Do we want to be a part of a community based TLD?

The answers to the above questions will help you to determine whether you are a candidate for your own new corporate Top Level Domain Name. It would be wise to contact a consultant who is close to the ICANN process and explore the answers together.

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Who Is Joe Alagna

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Sources

Notes: Sources: DMA and CS Ad Dataset. All figures are in millions

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