

IN SUMMARY

- The proliferating cybersquatters are amassing vast portfolios of domain names, costing companies billions in lost revenue and legal costs
- The infringement research reveals that third parties don't take a scattershot approach to domain name registration, but rather zero in on the most lucrative properties with laser like precision
- Research shows, infringers are more skilled than brand owners at using those assets to generate pay-per-click ad revenue and to direct them to their own sites.

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To help trademark owners understand the 'return on investment' model used by domain name infringers Corporation Service Company carried out an extensive research project analyzing the 'Cyberscape' which looked at over 100,000 domain names to determine third party infringement trends. **Robert Rozicki**, Senior Analyst at Corporation Service Company explains the results

Brand owners are growing increasingly frustrated by the time and resources spent trying to protect their IP and hunt down infringers. The proliferating cybersquatters are amassing vast portfolios of domain names, costing companies billions in lost revenue and legal costs.

And, as it turns out, they are using a remarkable business model to do it. The infringement research reveals that third parties don't take a scattershot approach to domain name registration, but rather zero in

on the most lucrative properties with laser like precision. Moreover, the research shows, the infringers are more skilled than brand owners at using those assets to generate pay-per-click ad revenue and to direct them to their own sites.

The good news is that the code has been cracked, and legitimate domain name owners can now apply the same strategies to push infringers to the edge of their ROI.

Third parties are using the Internet the way it should be used, and brand owners need to do the same. Instead of spending a lot of

money trying to simply chase down infringers, they need to beat them at their own game.

By changing the way they deal with infringers, companies will be able to better protect their assets for less money, and at the same time turn a cost centre into a profit centre.

Setting your sights on the enemy

Until now, research in the area of domain name infringement has been focused on the costs of infringement. The experts in the industry have been saying the ‘sky is falling’, and talking about the billions of dollars in lost revenues and how some forms of infringement have led to financially devastating acts of fraud. What we did differently was to say, we know the sky is falling, now what can we do to stop it? What do people need to understand about the infringers that they can use to change the situation?

The Cyberscape Research set out to study the behaviours of infringers and to identify their patterns. We looked at 47 of the world’s top brands to find all domain names registered containing a brand name or a typo-variant. Of the more than 100,000 names identified as part of this study, 86,621 could be tied back to a specified domain owner and were extensively investigated. We took every name and did an autopsy on it. For example, we studied the make-up of each domain name; we reconciled extensions to a region and market; we examined what activity was occurring on each site; we

looked at whether the domain names were owned by the brand owner or a third party, among other things.

Naming conventions

The analysis showed that a startling 72 percent of brand names registered were owned by third parties. Of these, 89 percent were made up of either an exact match or a name tagged with a right-hand or left-hand term (for example “wwwbrand” or “brandonline”). Third party registrants mimicked common user search terms like “my”, “I”, “online”, or “www” to increase the likelihood of diverting traffic, although most limited their registrations to names with a term either on the left or on the right side of the brand, rather than on both sides, for example, you would likely find ‘mybrand’ or ‘brandonline’, while something like ‘mybrandonline’ would be less frequent. The results showed that infringers are trying to keep searches targeted and short, and are relying on user errors to generate traffic in the makeup of the URL rather than the misspelling of the brand.

That told us something we didn’t know; we had always assumed that typo registrations were the biggest threat to domain name owners. We had no idea that third party registrants were focused on registering the exact name with a relevant brand. The reason they’re doing this is to capture as much of the type-in traffic as possible. Type-in traffic, is where you type your search directly into the address field, and represents 65 percent of all searches,

according to research carried out by Web Side Story

The data showed that third parties will use generic words for left-hand terms, while right-hand terms are more targeted. So traditionally, a corporation launching a new brand, has a typical list of names to register. What we’re seeing is that if you don’t include names with left and right-hand terms, someone else will.

Favoured industries

The research revealed that the industries hardest hit by third-party infringement are consumer electronics, banking and financial services, telecoms, and the computer industry. It makes perfect sense, because the web is the ideal advertising medium for those industries. Industries less at risk included restaurants, transport companies, and energy companies.

Where they register

The research also revealed third-party preference for where to register: Just over half of the third-party registrations used the .com extension. Infringers love the gTLD space because it’s cheap and easy. They look for places that have low registration costs, few restrictions, and have a lot of Internet penetration.

There has, however, also been a huge rise in ccTLD registrations. This is shown with a surprising 5.1 percent registered under .co.uk and .de, the highest country code top-level domains. Korea’s presence was also notable.

A larger percentage of the global population is using the Internet, and the ccTLDs have realized that the requirements that they’ve had in place have limited their revenue potential. So we’re seeing a wave of liberalisation, which is bringing costs down, and the squatters are starting to shift their activity there.

Cashing in

The research uncovered the fact that third party owners are much more aggressive about using their domain name assets than legitimate owners. For example, 76 percent of third party domain names had an active web site, compared to only 53 percent of domain names owned by brand owners. In addition, more than a third of the active third party sites were being used for pay-per-click activities.

Infringers don’t register names to have a lot of inventory; they do it to make money. They aren’t going to invest in anything they can’t get ROI on.

Figure 1: Breakdown of registrations between brand owners and 3rd party owned names

| Registrant/Domain Owner | Total Registrations | % |
|-------------------------|---------------------|--------|
| 3rd Party | 62548 | 72.21% |
| Brand Owner | 24073 | 27.79% |

Figure 2: Most common terms used either side of the brand by 3rd parties

| Left hand text (3rd Party) | Brands | Right hand text (3rd Party) | Brands |
|----------------------------|--------|-----------------------------|--------|
| www | 42 | online | 39 |
| my | 29 | s | 33 |
| e | 24 | usa | 30 |
| buy | 20 | sucks | 29 |
| the | 16 | com | 27 |

A few years ago, the biggest registrants were one-off speculators, such as cybersquatters, teenagers, and third-group activists, and the sites were used to drive users to adult content sites or negative reference sites. Now, that model has changed completely, because domains are so cheap to register and companies have emerged that help ordinary individuals become Internet entrepreneurs with little capital investment in technology, staff or inventory.

Who they are

Finally, the research also revealed much about the third party registrants themselves. The top 20 registrants accounted for 8 percent of all third party registrations, and the top five registered names across 78 percent of the brands analysed. Known “domain warehouse” were prevalent in the results.

Moreover, the research found that 70 percent of the top ten third party registrants had had successful cases filed against them at both WIPO and NAF. Third party registrants will continue to register and use specific brand-specific domain names even though they are known infringers and case losers.

Beating the infringers at their own game

Such tenacity means that companies won’t be able to simply litigate these squatters out of the picture. Hunting them down is not the easiest thing, because they move a lot. You can go through enforcement proceedings, but it’s a four to six week process, and the infringer’s model is a 90-day return.

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However, by using the research to understand how third parties operate, companies no longer have to rely exclusively on litigation and mass registration. Rather than making arbitrary, random decisions when planning domain name registration, they should do what the competition has been doing so well. To date, brand holders have been thinking defensively. It’s time to stop thinking exclusively like lawyers, and start thinking more along promotional and entrepreneurial lines. Brand holders need to embrace the Internet for what it is: a powerful tool for brand awareness, a cost-effective revenue channel and a great way to identify consumers who may be interested in their products and services. Companies that effectively combine marketing, legal and e-commerce techniques and tactics will excel over market competitors, while those who continue to think one-dimensionally will likely fade.

The research is informative, educational, but it can also be applied on a per brand basis. For example, because there are a finite number of key registrants of names associated with brands, brand owners should target the prolific warehouse. Focus on the ‘vital few’ and not the ‘trivial many’ to take advantage of economies of scale when

enforcing your rights.

Brand owners also need to be aware of which extensions are high-risk for their business, and market their brands aggressively in those areas. Focus on where it’s cheap and easy to register, where a domain name is likely to get the most traffic and be sure to register names with the common terms that are used in search engines.

You want to push infringers out of their sweet spot by getting there first. If you beat them to those domain names over and over again, they will quickly go and find other brands to exploit for their gain in the easy and cheap domain name extensions. It will no longer be worth their time and money to look for ways to leverage the brand equity you have built in the market. This strategy will likely have the added benefit of lowering enforcement costs.

Most importantly, once you’ve taken back the monopoly on the choicest properties, put them to work. Turn all those new sites, as well as all the inactive sites you already have in inventory into super highways to one of your company’s active web sites.

If you aren’t controlling that name, not only is someone else making money using your brand, but in a worst-case scenario, your potential customer could end up on a site that has a list of pay-per-click ads topped by a competitor.

The key is to stay on top of who the infringers are and what they’re doing, and to continue such vigilance in order to detect new trends and market changes. I think that if we know anything, we know that infringement morphs constantly, and that third parties are good at reading market conditions. If you’re also assessing the situation consistently, you can stay where you need to be to keep other people out.


The worst idea is to think that you can beat infringement. You can’t overtake it or outsmart it completely. But with your finger on the pulse steps can be taken to minimise dilution to your brand and impact to your bottom-line. If you beat them to the punch enough times, they’ll start looking somewhere else for the easy money. 

Figure 3: Top 10 3rd party registered domain extensions

| Top 10 3rd Party Extensions | Total Registrations |
|-----------------------------|---------------------|
| .com | 32063 |
| .net | 4173 |
| .info | 4000 |
| .co.uk | 3189 |
| .org | 2568 |
| .de | 2534 |
| .co.kr | 1110 |
| .biz | 951 |
| .be | 805 |
| .eu | 796 |