

Domain Names and Website Content

For almost thirty years, Rothwell Figg's Domain Names and Website Content practice has been advising and representing clients concerning one of the most critical aspects of any business's strategy: their online presence. Ownership and selection of a domain name, management of website content, and the strategic integration of these with broader privacy considerations are not just an element of a client's IP strategy: they're central.

Our Domain Name practice has been in operation since the very inception of the World Wide Web. Rothwell Figg lawyers were pioneers in domain name disputes beginning in the 1990s, and sought-after speakers to put the domain name world into the context of trademark and branding law and practice. In a very real sense, our expertise in this subject exists because we helped to create and shape the field. Our attorneys were among a small group which regularly litigated domain name disputes, seized infringing domains, and worked with law enforcement to prevent their wrongful use. One of our partners is a recent past member of the International Trademark Association (INTA) Domain Name committee and was on the Association's Board of Directors which voted to first establish a domain and Internet committee for the world's largest organization of IP professionals.

Accordingly, we're extremely effective in working with clients to select and secure strong domain names. This means either securing "offensively" a critical domain name, or "defensively" by purchasing domain names close to the one of interest to hinder competitors.

This practice tends to reduce the risk of having to negotiate with entities engaging in domain name warehousing or worse, with entities engaging in domain name speculation. Receiving letters from entities engaging in warehousing or speculation is fairly common practice in this area and is usually an incredible stress factor on clients. Being able to counsel clients during these negotiations is critical. And should a domain name dispute arise, we routinely represent clients in Internet Corporation for Assigned Names and Numbers (ICANN) proceedings - which can be extremely technical.

We bring the same knowledge and strategic thinking to our Website Content practice. Since websites and domain names are crucial for the success of most every business, it is critical for clients to be correctly counseled, so they can ensure that their content is protectable, is not infringing, and is compliant with the applicable law. Privacy laws are changing extremely quickly and are incredibly localized in their application. Expert, efficient, and up-to-date counsel is key in ensuring that businesses do not violate these laws in their website operations, including how they handle customer data and define their terms and conditions of use.

Our history in the area includes educating clients to secure copyright registration for their entire website, as well as providing advice to help them avoid the common pitfalls which arise from using third-party content without permission. There are many traps here and a company must know that its website partners and developers are fully aware of their obligations to avoid using third party rights unless permission is obtained, and to understand what can and cannot be considered permissible or fair use.

Over the years, we've delivered impressive results for a wide variety of clients in a wide variety of situations:

- By acting promptly and expertly in ICANN proceedings, we were able to successfully counsel and represent our client in Uniform Domain-Name Resolution Policy (UDRP). An arbitrator decided that the domain name at issue had been registered in bad faith and ordered the transfer of the name from the bad actor to our client.
- We have taken back domains and seized ones which are used to sell counterfeit goods.
- We have stopped our client's competitor from misusing information actually created by our client.
- We have handled detailed terms and conditions for an established company's launch of a traditional business into a web-based sales and delivery platform, within the bounds of the relevant privacy law as well as supplier and third-party rights issues.

Domain and website content law is simultaneously constantly evolving and highly technical. It also frequently overlaps with considerations of online privacy law, which is similarly challenging. By counseling clients, and helping ensure that their online operations are both strategically appropriate and in compliance with the law, Rothwell Figg's Domain Names and Website Content team helps clients minimize risk, maximize opportunity, and take full advantage of the ever-growing array of opportunities available online.