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Dell sues cybersquatters

Linda Rosencrance

November 30, 2007 (Computerworld) Dell Inc. and its subsidiary Alienware Corp. have filed a federal lawsuit against several domain name registrars accusing them of trademark infringement and cybersquatting more than 1,100 Web addresses that are similar to those owned by Dell.

Dell filed the lawsuit against domain name registrars BelgiumDomains LLC, CapitolDomains LLC, DomainDoorman LLC, Netrian Ventures Ltd., IHoldings.com Inc., as well as other shell companies based in the Caribbean that register domain names. Miami resident Juan Pablo Vazquez, who is connected to those companies, is also named as a defendant.

The lawsuit, filed in the U.S. District Court for the Southern District of Florida in October, was unsealed on Nov. 16, according to court documents.

The lawsuit had been filed without notice to the defendants and under seal so the defendants wouldn't have a chance to leave the country or remove or destroy evidence, court papers said. After law enforcement officials seized the defendant's property, which included computers, servers, handhelds, records, data and other electronic media relating to the defendants' cybersquatting activities, Dell petitioned the court to unseal the lawsuit, and the court acquiesced.

In the lawsuit, Dell alleges that the defendants have operated "one of the largest and most nefarious cybersquatting schemes ever seen." Cybersquatting, or registering, selling or using a domain name with the intent of profiting from the goodwill of someone else's trademark is illegal in the U.S. under the 1999 federal law known as the Anticybersquatting Consumer Protection Act.



Neither Dell nor the attorney for Vazquez could be reached for comment.

According to the lawsuit, the defendants registered and used 1,100 domain names that contained the word "dell" and are confusingly similar to, or are variations of, Dell's trademarks. Dell also claims that the defendants registered hundreds of thousands of domain names that infringed on the famous and well-known trademarks of a number of U.S. companies.

The computer maker claims the defendants have made millions of dollars off misdirected Web traffic meant for Dell. When users mistype a Web site name, such as dwlfinancialservices.com, instead of dellfinancialservices.com, they're redirected to a Web site owned by the defendants that is filled with advertising. The scheme is also known as typosquatting.

When users click on an advertisement on the Web site, the owner of the Web site makes a small "pay-per-click" commission from the advertisers. By setting up these Web sites, Dell claims the defendants are making money off Dell's trademarked names because the advertisers offer the same or similar goods and services that Dell offers.

Dell also accuses the defendants of "domain name tasting," which, under the policies of the Internet

Corporation for Assigned Names and Numbers (ICANN), allows a registrar to register a domain name and place pay-per-click ads on it for up to five days to determine whether it will make money from those ads. If so, the registrar can then register the domain name for \$6 per year. If not, the registrar is supposed to return the domain to ICANN.

However, Dell alleges that rather than dropping the domain names after the five-day grace period, the defendants moved them from one registrar to another without paying for them.

Dell has also filed counterfeiting claims against the defendants arguing that typosquatting is tantamount to counterfeiting, according to the court documents. Dell is seeking at least \$100,000 per domain name under the cybersquatting law or up to \$1 million per name under counterfeiting laws.

"This is an interesting case," said Richard Stockton, an intellectual property lawyer at Chicago-based Banner & Witcoff Ltd. "In order to win under cybersquatting laws, you have to prove bad faith intent. But here when you have somebody who's registered 1,100 domain names all having Dell's trademark in them, it's pretty clear you're going to be able to get somebody for bad faith intent."

Stockton said Dell has a pretty good chance of winning this case, especially if winning is described as breaking up the domain-registering ring. "And I think part of this is the gig's up and Dell is willing to put the resources in to break this thing up, and I don't think the defendants are going to have the will or the resources to fight back," he said.

The defendants DomainDoorman and CapitolDomains have also been the subjects of a trademark infringement complaint filed by West Chester, Penn.-based Diamonique Corp. with the [World Intellectual Property Organization](#) (WIPO) on July 24. Rather than file a lawsuit against the companies, Diamonique filed for arbitration with WIPO.

Diamonique alleged that by registering the domain names diamnoique.com and diamoniquw.com, DomainDoorman and CapitolDomains, respectively, were cybersquatting and therefore infringing on the company's trademarks.

In addition, Diamonique filed [for arbitration](#) against IHoldings.com, another of the defendants in Dell's lawsuit, with the National Arbitration Forum in December 2003. The domain name at issue in that case was diamoniquejewelry.com, registered with IHoldings.com, doing business as Dotregistrar.Com.

Diamonique prevailed in both arbitration cases and the domain names in question were transferred to Diamonique.