

Business Name, Internet Domain Name and Trademark

Ling Xia, Barrister & Solicitor, Trademark Agent

What's the big deal about registering a trademark? A business name, internet domain name and trademark can be of significant value. A well-known trademark such as Coca-Cola can be worth millions of dollars. The person who invented coca-cola might not have realized this when he started his business. Now there are even web sites for internet domain name auctions. The following information will help to educate you as you start your business, because you may want to be prepared just in case you hit a gold mine!

Business name: A business name is a name that you use to carry on your business when you do not want to use your own name. For instance, if your name is Jane Smith, and you want to carry on your business as Jane Enterprise, Smith Corp., or FancyName Association, under the Business Names Act of Ontario, you must register the business name with the Ministry of Consumer and Commercial Relations. If you just want to do business under your own name, you do not have to worry about the registration.

Internet domain name: An internet domain name allows others to find your web site. It can be used as an identifier of a web site, which is associated with your IP address. If you want to register a commercial domain name, such as "www.fancyname.com", you can do it through your internet service provider (ISP) or you can directly contact InterNIC (web site: www.internic.net) in the United States.

If you want to register a Canadian domain name which identifies you as a Canadian entity, such as "www.fancyname.ca", you can do it through your ISP. Soon you will be able to contact the Canadian Internet Registration Authority (web site: www.cira.ca) and apply for online registration. At present, you are only qualified to register a ca domain name either when it is a part of your business name or a registered trademark with the Canadian Intellectual Property Office. However, these requirements may change in the future.

Trademark: A trademark can be a word or words, a design or even a shape. It is used to tell the public that the goods or services under the trademark is from you or your company. It is associated with the business reputation or the goodwill of its owner. For instance, BMW will remind us of a car of quality. If you have a registered trademark in Canada, you enjoy the exclusive right to use it across the country, and no one else can use it on similar goods and services legally. If they do, they may have committed trademark infringement which is prohibited by law.

Can I use "FANCYNAME" as my business name, internet domain name and trademark? Of course you can. But you will not receive trademark protection if it is not used as a trademark. You can enjoy certain trademark rights without registration if you indicate, in your promotional and packaging materials, that it is a trademark. For instance, FANCYNAME Inc. is only a corporate name. But if you add FANCYNAME™, in your packaging material, then you are using it as a trademark

and you will have some trademark rights. You should also save a log or other proof of its first use just in case there are any disputes.

Remember, only if FANCYNAME is a registered trademark, can you enjoy the exclusive right to use the trademark in Canada. Then FANCYNAME® should be shown in your packaging materials.

Hopefully this information has shown you the value of registering a trademark, business and internet domain name. Taking the time to educate yourself at the early stages of business growth will help to protect you from problems occurring in the future.

(This article does not constitute legal advice. For more information, call 416-545-1270 or visit www.lawsnet.com.)