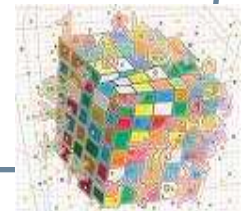


Overview

1. IP and E-Commerce
2. Creating a Website
3. Choosing a Domain Name
4. Protecting your Website



1. IP and E-commerce



Impact of E-commerce on IP

The IP system is crucial for the orderly development of the digital information and knowledge exchange

- IP as a main value component for transactions in online trade of products and services

DrPodcast
SOUND REVISION



- IP in development of digital technologies



Impact of E-commerce on IP

- **IP and Online Branding:**
 - Domain Names, Websites, Online Advertisement

- **Relevance of Patent Protection and Licensing in E-Commerce**

amazon.com



Challenges in E-commerce

1. Protection of Computer Programs (Software)

- Different type of IP rights might be available for different components of a software

1. **Copyright Protection:** literal components
2. **Patent Protection:** might be available if related solving a technical problem
3. **Trade Secrets:** source code
4. **Industrial Design:** might be available for Interfaces (GUIs), icons

```
1 <!DOCTYPE html PUBLIC "-//W3C//DTD
XHTML 1.0 Transitional//EN"
2 "http://www.w3.org/TR/xhtml1/DTD/
xhtml1-transitional.dtd">
3
4 <html xmlns="http://www.w3.org/1999/
xhtml">
5   <head>
6     <meta http-equiv="Content-
Type" content=
7     "text/html; charset=us-
ascii" />
8     <script type="text/
javascript">
9       function reDo() {top.
location.reload();}
10      if (navigator.appName ==
'Netscape') {top.onresize = reDo;}
11      dom=document.
getElementById;
12     </script>
13   </head>
14   <body>
15   </body>
16 </html>
```



Challenges in E-commerce

2. Online Content Distribution

Ease of uploading, copying, downloading of works in digital form

1. Illegal uploading and downloading of copyright materials
 - Music, films, arts, scripts, software (content)



2. As an E-Commerce Business consider:

- To protect your IP in Internet
- Never distribute or permit downloads of the third parties content that doesn't belong your company

Challenges in E-commerce

Take measures to prevent activities violating your IP rights

- A clear policy against unauthorized copying of files, or any actions that encourage or facilitate such copying
- Awareness of your employees about company policy against misuse of IP
- A system of training, monitoring and prevention
- Regular review of company business practices
- Restriction of the employees' access or keeping in their possession or in their systems any unauthorized copies of software or other content



Challenges in E-commerce

3. IP concerns about international transaction in the digital economy

1. Jurisdiction and Applicable Law

2. Enforcement

- Difficulties with finding the infringer and enforcing the IP rights
- Difficulties with enforcement of legal decisions in another country

4. Domain Names Issues

1. Creating a Website



Outsourcing website development

Different elements of website might be protected by IP rights

- **Website layout**
- **Elements of a website**
 - Images, texts, cartoons, videos, photographs, logos, trademarks, training manuals, databases, software, website engine, e-commerce tools/solutions/software
 - Computer generated symbols, screen displays, graphic-user-interfaces (GUIs)
- **Hidden components of website**
 - Source code, algorithms, data flows charts



Outsourcing website development

Different elements of website might be protected by IP rights

- **Elements existed before the development of the website and owned**
 - By you
 - By the developer
 - By the third party
- **Elements specially created for the website development**
 - Ascertain the ownership



Outsourcing website development

Possibilities for the website and/or content development

1. By the employee of the company

- if a website is created as a part of the job, in majority of jurisdictions the company would own the copyright over the website

2. By outside contractor (external developer/freelancer/company)

- **Beware:** the outside developer/designer **would own the copyright** in the created work, even if played, **unless otherwise is not stipulated in the contract**
 - Otherwise: need for a concern/fee for updating, rearrangement, re-use of the created works

Written contract

Issues to be included into the contracts

A good agreement should give you all the rights you need for the foreseeable future use of your website

- Scope of work and responsibilities
- Ownership of material
- Warranties
- Maintenance and Updates
- Confidentiality
- Liability
- Others

Using things owned by others

Normally needs a prior authorization from the owner of IP rights

Collective Management Organizations (CMOs)

Public Domain Materials

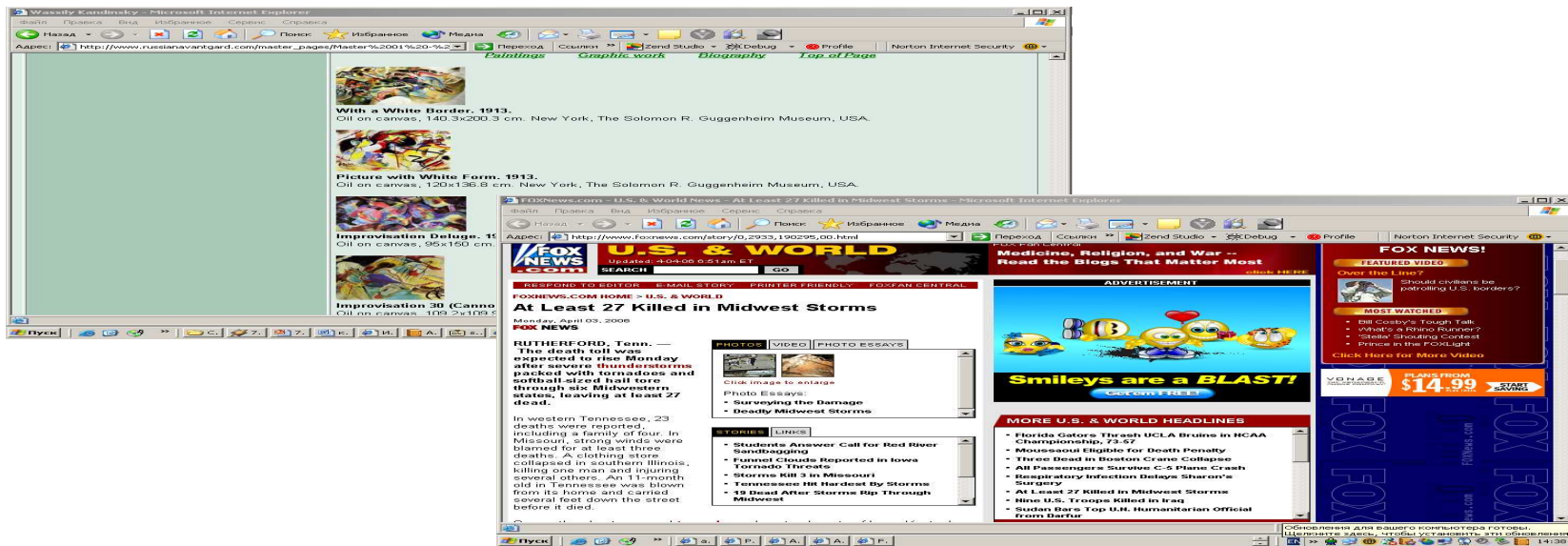
Available Licensed Materials



Using things owned by others

Trademark Issues:

- Domain Names
- Hyperlinking (General and Deep Linking)
- Framing (Use of frame technology)
- Metatags (Keywords and phrases embedded into the website code and read by search engines)



Using things owned by others

Personal Information Treatment

- Privacy Policy

Terms and Conditions

- Technical Arrangement of the Website (Click-Wrap Agreements)

Notices and Disclaimers

- Liability Waiving, e.g. for the content or practices of the linked websites



Using things owned by others

Other issues: there might be special requirements and regulation for e-commerce

- Special technical tools for contracting
- Marketing and advertisement practices
- “Notice and Take Down” Procedures for infringing materials

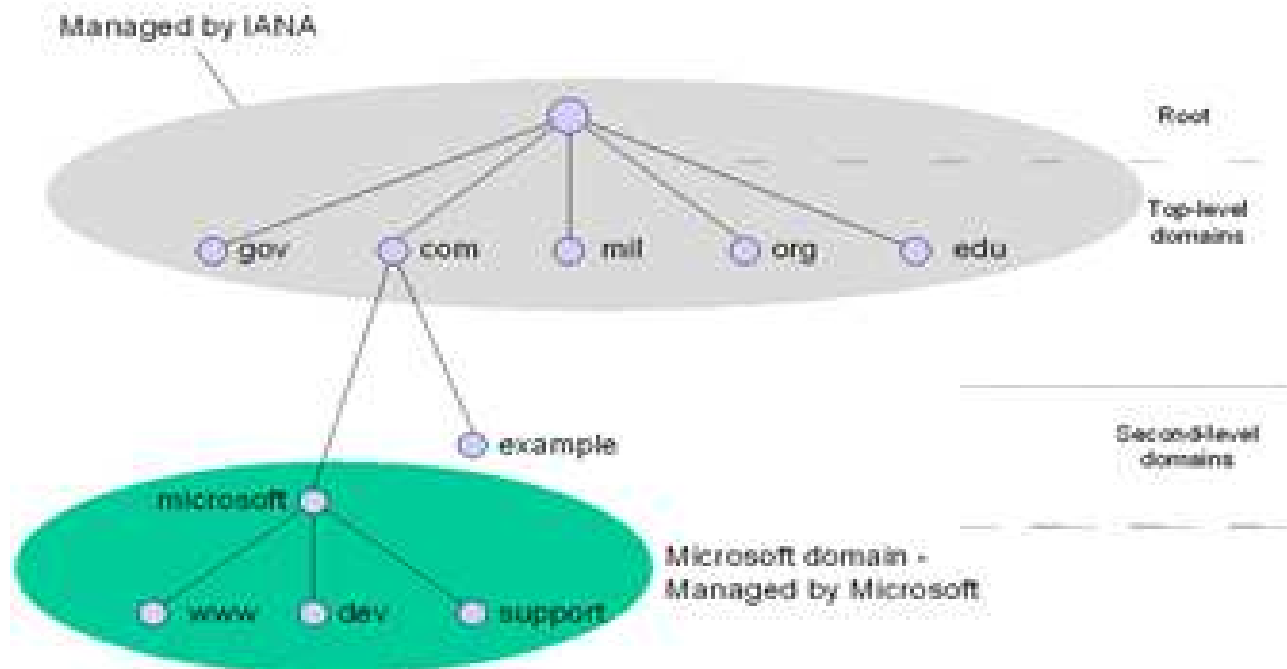


1. Choosing a Domain Name



Basics of Domain Names

- **Domain Name:** the human-friendly form of Internet address that is commonly used to find web sites
- **Domain Name System**



Basics of Domain Names

Choosing the first level domain

- Generic Top Level Domains (gTLD) and
 - Country Code Top Level Domains (ccTLD):
- Some are open: .com, .org, .net and .info, .tv
 - Some are restricted: .int, .net, often ccTLD
 - Functionally no distinction



Basics of Domain Names

Choosing the second level domain

- Should enable your customers to identify and find easily your website online

Recommendations for the choice:

- same or similar to the one of your business name /trademark
- distinctive of your business or products



Basics of Domain Names

Choosing the second level domain

- **Recommendations for the choice**
 - never identical or similar to the business name/ trademark of other company
 - avoid controversial names (geographical, personal names, IGO names, names of genetic drugs etc)
 - shorter domains names preferable

Trademarks vs. Domain Names

Trademarks	Domain Names
<ul style="list-style-type: none">– National IP rights– Possibility for coexistence of similar or identical TMs– Examination– State registration– More expansive and long	<ul style="list-style-type: none">- Internationally available- Technically just one domain name can exist within one first level domain- Registered on a first-come, first-served basis without examination- Private contract with Registrar- Generally not expensive and quick

Uniform Domain Name Dispute Resolution Policy (UDRP)

- Domain names have acquired significance as business identifiers
- The phenomenon of “cybersquatting”
- Limitations of court litigation efficiency in combating cybersquatting
 - Conflicts in costs, time, remedies, jurisdiction
- In August 1999 ICANN adopted the **Uniform Domain Name Dispute Resolution Policy (UDRP)**

Principal Characteristics and Scope of the UDRP

- **the UDRP is limited solely to cases of deliberate, bad-faith, abusive registrations (cybersquatting) and leaves the resolution of other trademark disputes to the courts**
- **Abusive registration criteria:**
 - The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights
 - The registrant has no rights or legitimate interests in respect of the domain name
 - The domain name has been registered and is being used in bad faith

Principal Characteristics and Scope of the UDRP

2. the UDRP only applies to abusive registrations of **trademarks marks** as domain names
 - Not available for registrations which violate **trade names**, **geographical indications** or **personality rights**
 - *per se* do not fall within the definition of abusive registration for the purposes of the UDRP procedure



1. Protecting your Website



Appropriate protection strategies should be developed

1. Register your trademarks
2. Consider the link between your company name, trademark and domain name
3. Register your website and other copyright works with the national IP office if possible
4. Think about obtaining patent protection on business methods and technological tools if possible

Let people know / remind them that content is protected

- **Use IP symbols to mark your rights:**
 - TM, SM, ©, P
- **Use watermarks for your copyright content**



Let people know what use of the materials they can make

- **Insert copyright notice on every website page, indicating for the viewers:**
 - What they can do with the content
 - Who to contact for copyright clearance

Controlling access to your website content

- **Use of technological measures of protection**
 - Online agreement for providing limited licenses
 - Encryption
 - Access control or conditional access system

Detecting infringements on your website

- **Use of Internet search engines**
 - E.g. Google Images, Altavista Search tools



Taking actions against violations

- Make screen shorts or print relevant pages, and print the source code from the violating website
- Be sure you can prove the originality and your ownership of the website content
- Send a cease and desist letter to the owner of the violating website
- Contact Internet Service Providers (ISP) and Internet Search Engines Providers to remote/block the violating content

Conclusions

- Ascertain copyright ownership and IP compliance in relation to your website
- Register your domain name avoiding violation of IP rights owned by others
- Protect your IP rights in digital environment

Thank you for your attention!



Any Question?

WIPO's website for SMEs :

www.wipo.int/sme

Contact address: larysa.kushner@ehu.it