

## Survey of Companies Providing Domain Parking Services

These documents are a compilation of the written policies and procedures of certain domain name parking companies and registrars vis-a-vis trademark issues related to domain name parking and monetization. The documents, which were compiled by the Online Trademark Use Subcommittee of the Internet Committee during the 2010-2011 term, focus on three key areas: presence of a trademark policy, trademark complaint procedures, and termination procedures. The information was gathered based on a review of each parking company or registrar's publicly accessible customer agreements and policies. Such agreements and policies are sometimes referred to as "Terms of Service", "Trademark Infringement Policy", "Acceptable Use Policy", "Registration Agreement", "Terms and Agreements", "Legal", or other similar titles.

Based on the results of this study, we wish to highlight the following points:

- a) Most but not all of the customer agreements studied contained provisions dealing with trademarks (the exceptions appears to be Tucows/OpenSRS and ExoClick). The typical provision is a representation from the customer that the parked (monetized) domain name does not infringe third party trademark rights. Some agreements go further and provide for the monitoring of a customer's account, termination procedures for repeat offenders, and an agreement by customer to indemnify the parking company or registrar (see, e.g., Tucows/OpenSRS).
- b) About one-third of the service providers set out detailed complaint procedures for trademark owners to provide notice of intellectual property infringement including trademark infringement (see, e.g., Go Daddy and 1&1). Others, however, have no apparent trademark complaint process (see, e.g., Tucows/OpenSRS).
- c) Service providers often reserve the right to cancel service for any reason. However, customer agreements sometimes indicate that claims of trademark infringement will result in termination of service. One service provider (Hotkeys) states that "repeated" infringement will result in termination (though they appear to reserve their rights with respect to single acts of infringement as well). Only one service provider (Hitfarm) states that monetization payments are withheld pending the resolution of an ownership dispute.

***As the terms of these policies are subject to change, the websites listed should be checked for any such changes that have been made after these documents were compiled. The information should not be regarded or relied upon as legal advice or opinion.***