DomainMart

Framework for Brand Protection and Value Creation with Domain Names

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The essay outlines a framework for an effective brand protection strategy with emphasis on domain name ownership. The framework is intended to minimize the risk of inadequate domain name protection and to create value. I don't analyze visual effects of domain names nor visitors' experience at the associated Web sites.

The framework is driven by identifying and analyzing domain name touchpoints, meaning the points of contact in the interface that stakeholders encounter when dealing with a company, including before, during, and after a purchase. Not being vigilant and ignoring peripheral touchpoints lead to lost revenue and high acquisition costs (sale price, negotiations, and opportunity cost).

Analytic Structure

To strategically manage corporate domain names, you can rely on a touchpoint framework or on domain name functionalities. The former is superior for the following reasons:

1. The framework can be adopted for a unified corporate identity protection. Thus, there is no need to use a departmental silos approach, which is rigid and can result in overlooking important touchpoints.

2. Aggregating the functionalities, such as branding, marketing, and traffic, produces categories that are too broad to tightly protect all segments of corporate identity.

3. New touchpoints emerge over time within functionality groups. The framework would not overlook them. Such touchpoints can come from new stakeholders, new advertising venues such as games, and mergers and acquisitions.

4. Evolving roles of domain names can be easily incorporated within the framework.

5. Divesting some businesses does not automatically imply that the associated domain names become irrelevant, as they may continue to positively contribute to the remaining touchpoints.

Domain Name Touchpoints

The touchpoints outlined below involve customers, complementors, competitors, and brand enthusiasts.

1. Customers
   Such touchpoints arise when a current or potential customer tries to reach your Web site. They include the main brand domain name with the relevant ccTLDs, brand-enhancing domain names (sometimes called "defensive" registrations such as typos, superlatives, and generics), forward-looking generic registrations of "adjacent" markets, and traffic drivers.

2. Complementors
   Complementors are products/services whose value when consumed together is greater than each separately (e.g., Intel microprocessor and Microsoft Windows). Unlike with competing brands, registrations using complementors' brand names are value creating, as both parties benefit from such action. The registering party would benefit directly from acquiring complementary assets and indirectly through their sale to its complementors if the latter can put them into better joint use (i.e., increase the pie).

   However, strictly speaking, registering a domain that includes a brand is illegal under the Anticybersquatting Consumer Protection Act (ACPA) and constitutes a violation of the UDRP and TLD policies. Thus, such registrations, in addition to fair use, should be excluded from legal action.

   The more important protection issue is that one of the complementors grabs the domain names before others do. The acquiring company would be in effect proactively enhancing complementors' brand names. Such action by complementors can create tension between them, but it is still less costly than losing the domain names. The complementors can then decide what to do with them.

3. Competitors
   a. Competition on generics and "adjacent" markets' domain names is healthy. However, registration of competitor brand-sharing domain names is illegal under the ACPA, as noted above.

   b. For emerging disruptive technologies, which are typically won by entrants, incumbents can use domain names to:
      i. Increase barriers to entry.
      ii. Slow down the growth of entrants.
      iii. Gather intelligence on the size of a competitor based on the aggressiveness of entry intent through the volume of domain name registrations and acquisitions, as well as discussions on blogs.

   c. When entrants only introduce improvements to existing products/services without any disruptive technologies, the incumbents typically drive out such entrants. Moreover, if incumbents have done their touchpoints homework, entrants shouldn't have any significant advantage with regard to domain name ownership. Thus, such entrants don't pose a significant threat to domain name protection.

d. Domain names can be used to send mixed strategy signals to competitors, as possibly was the case with Toys "R" Us' acquisition of Toys.com.

4. Brand Enthusiasts
   Encouraging the formation of brand-sharing communities is a strategic action and requires the coordinated engagement of top management, marketing, and legal departments.

Where to Look?
1. Domain name databases, including WHOIS and for-sale listings.

2. Forums, blogs, brand-sharing communities, and other online venues where active, consistent scanning can put you in touch with the voices of the market.

Organizational Structure
Companies need to coordinate domain name strategy with corporate touchpoint analyses that must include peripheral scanning. For example, Microsoft had holes in its peripheral touchpoint analyses, as the Internet was not on its radar until 1995. But, once Microsoft decided that the Internet was important, the company needed to add a new set of touchpoints, including those associated with domain names.

Any internal monitoring mechanism must also coordinate with a domain management and protection service provider, if one exists. Independent service providers bring in the requisite multiple competencies and the superiority of a distributed approach to problem solving, as well as economies of scale and scope. These areas are:
1. Disciplined valuations to avoid over-/underreaction and overpayments for acquisitions.
2. Managing brand-sharing communities.
3. Monitoring domain name databases, forums, and blogs for trends in domain name registrations.
4. Taking global legal action when needed.
5. Negotiating acquisition.
6. Ensuring renewal controls and global registration, including the appropriate multilingual domain names.
7. Access to centralized reports of the corporate domain name portfolio and costs.
8. Auditing the adequacy of internal organizational structures and controls.
9. Auditing and identifying new touchpoints.
10. Reducing decision making biases to avoid under- and overreaction.

Analyze the Data
Identify portfolio gaps and the reasons for their existence.

1. Don't over- or underreact. Underreaction can be the result of dismissing market trends and blog discussions. Even when you are not convinced about the value of market information, you should consider the cost of not reacting to such information compared to the benefits. On the other hand, overreaction comes with indiscriminant litigation of brand-sharing domain owners and overpayments for acquisitions.

2. Avoid biases in interpreting data. Don't consider only what fits your worldview. The benefits of an open mindset and distributed problem solving are tremendous.

Act on the Analyses
Protection and value creation is an iterative process that requires regular adjustments. Thus:

1. Draft an action plan for must-litigate and must-acquire brand-sharing domains.

2. Develop a strategy for managing brand-sharing communities.

3. Put an internal domain-name management and protection organizational structure in place.

4. Monitor and adjust your portfolio.

Related Service

- Corporate Domain Management (CDM)

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