

Making the right choice

Faced with a range of domain name variations, brand owners doing business in China need to carefully consider their selection methodology

Clients – especially foreign companies with existing or potential business in China – tend to have three common questions regarding domain names:

- Which domain names, from among so many, should be registered?
- When is the right time to register a domain name?
- What actions should be taken upon notification by a Chinese domain name registrar that the company's trademark has been, or is being, registered as a domain name by another party?

There are primarily two types of top-level domain name: geographical domain names (eg, 'abc.cn', 'abc.de', 'abc.fr' and 'abc.ca') and organisational domain names (eg, 'abc.com', 'abc.net', 'abc.org', 'abc.ac', 'abc.edu', 'abc.gov', 'abc.biz', 'abc.info' and 'abc.name'). There are also second-level domain names (eg, 'abc.com.cn' and 'abc.net.cn') and third-level domains (eg, 'def.abc.com.cn' and 'def.abc.net.cn'). In these examples, the parts 'abc' and 'def' represent the proprietary interests in the domain names, which usually coincide with the trademark or trade name of the organisation. There are also Chinese domain names with Chinese characters instead of Latin letters (eg, '康信.com' and '康信.cn'), which are popular among companies with business in China, since Chinese characters are more easily recognised by Chinese customers.

The internet keyword is a new type of internet brand, which is similar to a trademark. It is simply the key parts of the domain name, without any suffix (eg, 'abc' or 'def' as English internet keywords or '康信' and '康信知识产权' as Chinese internet keywords).

Theoretically, in order to have a broad scope of protection, it is ideal to register all possible domain name types with a key part which is either identical or similar to the

trademark or trade name of the organisation. However, due to budget restrictions, it is normally unfeasible to do this, so a selection methodology becomes necessary.

The table opposite sets out a grading system designed to help companies with existing or potential business in China to decide which domain names to register. Based on the grading system a company may, depending on budget, easily determine the extent to which it can purchase and maintain the appropriate domain names.

As is generally known, domain names are adopted on a first-to-register principle. This means that whoever first registers the domain name enjoys the exclusive rights of its use and disposal; such rights endure as long as the registrant renews the domain name in a timely manner.

Thus, domain names should be registered immediately after the trademark or trade name has been chosen and before the website is designed or constructed; except for internet keywords, which require that the website be ready with content relevant to the wording of the internet keywords.

Response to notification of cybersquatting

Many foreign companies have received similar letters to the below from a Chinese domain name registration agency:

*Dear Sirs,
We are the Department of Registration Service in China. We recently received an application from a company called XXX for the registration of 'abc' as an internet keyword and domain names as below:
'Abc.com.cn'
'Abc.cn'
'Abc.com.hk'*

After our initial examination, we found that the term 'abc' is same as your company's name and trademark. If you

and XXX are the same company then there is no need to reply to us; we will accept their application and will register the internet keyword and domain names immediately.

If your company has no relationship with XXX and has not authorised XXX to register your company name and trademark as an internet keyword and domain names, please reply to us within seven working days; otherwise we will unconditionally approve the application submitted by the applicant.

Best regards,

XXXXX

Many recipients of such letters have the same suspicions:

- whether the sender is a legitimate Chinese domain name registrar;
- whether sending and replying to this letter conforms to the legal procedure and requirements of the relevant Chinese authorities; and
- whether such letter has any legal effect as an official notification.

There are over 50 '.cn' domain name registrars authorised by the China Internet Network Information Centre (CNNIC) - which are listed on CNNIC's website - and there are also many unauthorised registrars in the market. In order to ascertain the legitimacy of the source of such notification, it may be necessary to check with the CNNIC, and to conduct an investigation if it cannot provide a definite response. Therefore, to save time and trouble, it is advisable to rely on several large registrars that have been used previously, thus eliminating the need to investigate the sender.

The main purpose of these notifications

Type	Examples of domain names	Importance grade
Top-level English domain names	'abc.com' 'abc.cn'	A
Second-level English domain names	'abc.com.cn'	A-
Top-level Chinese domain names	'康信.com' '康信.cn'	B
Second-level Chinese domain names	'康信.com.cn'	B-
Internet keyword	'abc' '康信'	B-
Other less common types of domain name	'abc.net', 'abc.biz', 'abc.info', 'abc.name', 'abc.net.cn', 'abc.biz.cn', 'abc.info.cn', 'abc.name.cn' '康信.net', '康信.biz', '康信.name', '康信.net.cn', '康信.biz.cn', '康信.info.cn', '康信.name.cn'	C
Other variations of the key parts of most common types of domain name	'adc.com', 'abb.com', 'aabc.com', 'adc.cn', 'abb.cn', 'aabc.cn', 'adc.com.cn', 'abb.com.cn', 'aabc.com.cn' '康星.com', '康新.com', '康信公司.com', '康星.cn', '康新.cn', '康信公司.cn', '康星.com.cn', '康新.com.cn', '康信公司.com.cn'	C-
Other variations of internet keyword	adc, abb, aabc 康星, 康新, 康信公司	C-
Other variations of the key parts of less common types of domain name	'adc.net', 'adc.biz', 'adc.info', 'adc.name', 'adc.net.cn', 'adc.biz.cn', 'adc.info.cn', 'adc.name.cn' '康新.net', '康新.biz', '康新.info', '康新.name', '康新.net.cn', '康新.biz.cn', 新.info.cn', '康新.name.cn'	D
Other nicknames developed by the market	Such names are not chosen by the proprietors themselves, Depends on the but are very useful to identify the products, such as '伟哥' actual situation the Chinese equivalent of 'Viagra' (and '索爱' (an abbreviated Chinese equivalent for 'Sony-Ericsson'), both of which were registered by third parties before the proprietors recognised their importance	

is to reduce legal risks and promote the business of the sender. It is hard to verify whether there is truth in the notification's claim that an application for the domain names and internet keywords is pending as described. Furthermore, when the domain names and keywords in question are searched for after such notification is received, they are usually still available.

In such circumstances, whether the registrar or notification is legitimate is of no importance. Instead, what is important is whether the company which received the notification is interested in protecting those domain names and internet keywords. If the answer is yes, notification should be regarded merely as a reminder that such domain names and internet keywords are still available and open to registration by anyone, and that it is better to register through reliable registrars. If the answer is no, the matter can be ignored and the notification disregarded.

Opposition to applications for internet keywords and domain names

In most cases, if the company is interested in protecting such domain names and internet keywords and has decided to register promptly, there is little need to respond to the sender. Rather, the company should immediately instruct another, more reliable



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registrar to register the domain names and internet keywords. However, if the company is interested in protecting such domain names and internet keywords, but requires more time to consider which to register or whether to register at all, it is safer to reply to the registrar by both email and telephone to oppose such registration and request that the application not be granted. Some registrars may ask for further proof of the company's rights over the domain names and internet keywords (eg, a trademark registration certificate of the same term), or confirmation that the company itself wishes to register such domain names and internet keywords immediately. However, there seems to be no strict deadline for opposing and/or filing the registration.

In June 2011 the Internet Corporation for Assigned Names and Numbers (ICANN) approved a programme to expand the Domain Name System by introducing new generic top-level domain names (gTLDs).

On January 12 2012 ICANN began accepting applications for new gTLDs. Some Chinese companies have filed applications to register their own gTLDs, but many are waiting to see how this new system will change the rules and what advantages it can bring to companies that hold such domains, as well as to internet users in general. [WTR](#)