

# LEGAL CORNER PRESS, LLP

Domain Name Decisions

for the Month of April, 2015

## ANNOUNCEMENT

Domain Name Arbitration, A Practical Guide, will be available in print and e-book formats on June 1, 2015 (Print + E-book \$235; E-Book \$179. Orders can be placed on [www.legalcorner.com](http://www.legalcorner.com) or from your favorite online book store)

## DOMAIN NAMES

In determining whether a domain name is identical or confusingly similar to trademark the dot can be ignored. [Aspect Capital Limited v. Fluder \(aka Pierre Fluder\)](#), D2015-0475 (WIPO April 14, 2015) (Coupling the dictionary term “aspect” with a new TLD “capital” to form <aspect.capital>; [Riverbed Technology, Inc. v. Nicholas Bonner](#), FA1503001608365 (Nat. Arb. Forum April 17, 2015) (Coupling the dictionary term “riverbed” with a new TLD “technology” to form <riverbed.technology>).

Panelists have not hesitated to condemn fraudulent transfers and return domain names to complainants on the theory of abusive registration. “Abusive registration” is the highest level of actionable

conduct; it subsumes cybersquatting. [Chiu Tsen Hu v. Andy Rose](#), HK-1500719 (ADNDRC April 16, 2015), citing several other cases from ADNDRC including [Dracco Company Ltd. v. NJ T Ech Solutions Inc.](#), HK-1400577 (ADNDRC April 14, 2014).

Earlier registered domain names; subsequently acquired trademarks. Even if it were found that respondent lacked rights or legitimate interest there could not be registration in bad faith. [Alessandro International GmbH v. Alessandro Gualandi](#), D2014-2111 (WIPO February 16, 2015) (Respondent proved his right by submitting evidence that “Alessandro” corresponded with his personal name).

Trademark owner’s submission to choice of court under the “mutual jurisdiction” provision does not extend to submission of personal jurisdiction of its attorney who represented it in the UDRP proceeding. See *Domain Name Vault LLC v. John C. Bush and EClinical Works LLC*, 14-cv-2621 (District of Colorado April 15, 2015).

In a declaratory judgment action under the ACPA the court is not deciding whether the domain name infringes defendant’s trademark, but whether defendant materially misrepresented “that a domain name is identical to, confusingly similar to or dilutive of a mark.” *iSystems v. Spark Network*, 3:08-CV-1175-N (N.D. TX, Dallas Div. Sept. 19, 2014) (“the NAF arbitration award was not based on any misrepresentation that the JDate Domain was dilutive of the JDATE Mark, but rather on the true representation that the JDate Domain was identical to, or confusingly similar to, the JDATE Mark.” Paragraph 10 Conclusions of Law).

MOST INFORMATIVE BLOGS ON  
THE INTERNET, WIPO, ICANN ,  
DOMAINS AND UDRP

[Circle ID](#)

[Domain Name Wire](#)

[InternetNews](#)

[iplegalcorner.com](#)

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## WIPO

May 14, 2015 --- [WIPO Advanced Workshop on Domain Name Dispute Resolution](#)

At the offices of Debevoise & Plimpton LLP, New York City.

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