

BY-THE-TIME-YOU-FINISH-READING-THIS-DOMAIN-NAME-ITS-VALUE-WILL-DECREASE.COM

By Jon D. Cohen*

As a follow-up to last month's Column by James W. Boyd, this article addresses the effects of the rapidly changing dot-com landscape. Along with what some have called the burst of the "New Economy" bubble, there has been a marked increase in the number of bankruptcy filings, exceeding an 8.6% increase, according to the Administrative Office of the U.S. Courts. As both a function of the number of internet related companies filing for bankruptcy and due to the pervasive nature of the internet in general, many bankruptcy estates include internet domain names among their potential assets. As a result of these factors, bankruptcy trustees must understand both the new internet domain name marketplace, and the volatility associated with domain name values.

If there was no shortage of domain names over the last two years, there was at least a perceived shortage that drove up the value of domain names to incredible heights. Indeed, between businesses seeking domain names to provide online identities and speculators purchasing domain names as fast as they could type them in to their personal computers, there was a period in late 2000 and early 2001 when dictionary domain names were selling in excess of \$5,000,000. However, two predominant factors have led to a precipitous drop in the value of many, if not all, domain names: the fall of the dot-com sector in general and the recent and continuing introduction of new top level internet domain names such as .biz and .info.

While domain name values have decreased significantly in comparison to last year, dropping to between one-half to one-tenth of their previous values, they may still constitute a significant (or the most significant) asset in a bankruptcy estate, especially if the estate owns the licensing rights to a generic dot-com name having an intuitive association with a business sector, like music.com, drugs.com, or wine.com. It is further not uncommon for bankruptcy estates to have

dozens or even hundreds of domain names consisting of three letter abbreviations, variations on trade names, and otherwise pithy or memorable tags, such as birdie.com or 100best.com, which were both recently sold for \$90,000 and \$30,000 respectively.

In the immediate future, the domain name marketplace will become less crowded. This will probably lead to lower domain name valuations, with the soon to be common .biz and other new top level domain names joining the .com, .org and .net top level domains allowed and sanctioned by the Internet Corporation for Assigned Names and Numbers (ICANN), a non-profit corporation formed to assume responsibility for the internet protocol address space allocation and domain naming. Indeed, there are approximately a half-dozen of such new top level domain names on the horizon—a movement that was initially led by businesses seeking more domain names when there seemed to be no end to the dot-com economy.

At this stage, no bankruptcy estates should be holding any of the new top level domain names. But, given the imminent rollout of the .biz domain names and the volatility of the current economy, such potential assets will soon be common among estates holding internet domain names. Importantly, however, since there has been little or no aftermarket transactions and/or litigation concerning .biz names (other than the rush to register for such domain names) a watchful eye must be kept on developments associated with this and other new top level domain names as they will no-doubt bring new issues, concerns, transferability problems, questions of valuation, and the like to the already rapidly changing domain name marketplace.

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