Domain Name Infringement in Taiwan

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Abstract

When a desired domain name has been registered by someone else or is similar to a trademark, proceeding with registration could infringe upon an existing domain name or a trademark. This is so-called domain name Infringement. This study thoroughly examined the research reports published by the TWNIC and the Intellectual Property Office (IPO) of Ministry of Economic Affairs (MoEA) or National Police Agency (NPA) of Ministry of the Interior (MOI) to gain an understanding of domain name".tw" Infringement in Taiwan.

Keywords: Domain Name, Domain Name Infringement, Cybersquatting, Typosquatting

1. Introduction

A domain name is a text version of an Internet protocol address and be used to identify Internet resources and obtain information. Compared with an Internet protocol address, which consists of a string of numbers, a domain name is represented by a set of phrases that are meaningful and easy to remember. Therefore, a domain name could be abused as a tool of trademark infringement or cybercrime. Here, it is about domain name infringement. His cases can be divided into the following two categories[1]: cybersquatting and typosquatting. Cybersquatting occurs when someone registers a domain name, which is the same to a trademark that is protected, with the intent to sell the name, prevent the trademark holder from gaining access to the name, or divert traffic. Typosquatting, similar to cybersquatting, is where the domain name registrant registers a variant of a famous trademark (e.g., "hogoboss").

Aiming to gain an understanding of situation of domain name ".tw" Infringement in Taiwan, this study will thoroughly examine the research reports published by Taiwan Network Information Center (TWNIC) and relevant authorities such as the Intellectual Property Office (IPO) of Ministry of Economic Affairs(MoEA) or National Police Agency (NPA) of Ministry of the Interior (MOI).

2. TWNIC's Taiwan Internet Report

As the organization that oversees domain name ".tw" management, the TWNIC releases the Internet Report every year. The latest report is available on its official website was issued in 2022[2]. In this report, a broad array of topics ranging from the Internet usage survey, web application service, the digital literacy and the digital divides are addressed. However, the report fails to describe current domain name disputes in Taiwan. Following a careful review of the Internet Report issues released before 2022[3], we discovered a lack of

investigation into domain name infringement both domestically and abroad.

3. IPO Statistics and Annual Reports

The Taiwan IPO is the official agency responsible for trademarks and other Intellectual Property rights. The IPO releases trademark data, including application filings and registration, on a monthly basis. However, as of now, it does not provide domain name trademark infringement statistics[4]. The IPO also publishes an annual report[5], which comprises the following seven sections: up-to-date intellectual property filings, reviews and types of services, intellectual property laws, the development of service convenience in an electronically mediated environment, the application of types of industrial properties, international exchange and cross-strait cooperation, and the enforcement of intellectual property rights. No investigations have been conducted exploring domain name trademark infringement in Taiwan.

4. The NPA's Statistics List

As the highest law enforcement agency, the NPA maintains a statistics list[6] that is updated every 2 weeks[7]. The statistics list provides a comprehensive picture of cybercrime[8]. The list released by the NPA in the 20th week of 2022 indicated a yearly average of 12,000 to 15,000 cases of cybercrime in the period 2017–2021. A total of 14,997 cybercrime cases were reported in 2017, with cybercrime reaching a record high at this time. Major cybercrimes could be classified into 4 crime types, namely fraud, offenses against reputation and credit, offenses against computer users, and intellectual property infringement in Fig. 1; these cybercrime types
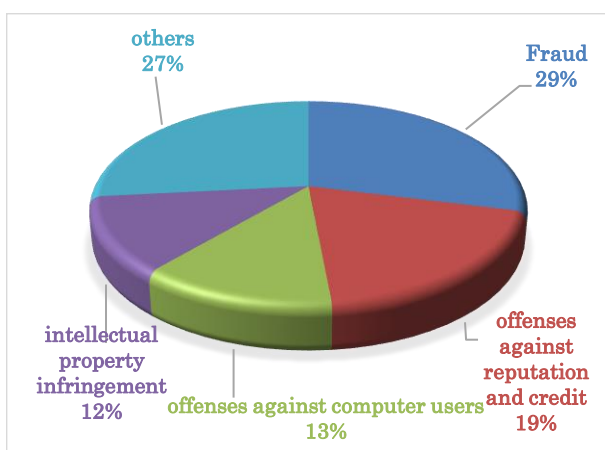

Fig. 1. Cybercrime types from 2017 to 2021

accounted for 72%–77% of cybercrime in the period 2017–2021[9].

In the 48th week of 2021, the NPA published an updated statistics list titled Police Investigating Intellectual Property Crime for the Period January to October 2021. Intellectual property crime refers to any criminal act that involves manufacturing, selling, or trafficking counterfeit or pirated goods or the criminal theft of trade secrets[10]. A total of 4,946 intellectual property crime cases were reported in 2016, which was the highest rate for the period 2016–2020. Regarding criminal offenses, the statistics list only stated that "…in terms of IP infringement, the online infringement of intellectual property rights through over-the-top media services, digital cloud platforms, and online technology has risen, whereas cases of unauthorized documents, Digital Versatile Discs (DVDs), or other physical media have been declining over the years. A large proportion of cybercrime was related to BitTorrent programs, online image theft, and software piracy" [11].

With no mention of cybersquatting or typosquatting in the two aforementioned statistics lists released by the NPA, whether these two categories of domain name infringement didn't occur in Taiwan or whether the NPA hasn't paid sufficient attention to their emergence remains unclear. Regardless of the lack of data, at least, the cybercrime has attracted attention from concerned authorities.

5. Conclusion

From this study, we have learned that domain name ".tw" infringement has not yet gained its due attention in Taiwan. Thereby, we make the following recommendations in order to fight against the domain name ".tw" infringement. First, as the organization that oversees domain name ".tw" management, the TWNIC is advised to create a website for monitoring the use of the Taiwan country code's top-level domains (ccTLDs) ".tw". When any suspicious domain name activity is detected, the TWNIC must suspend the contract with the domain name owner and report the suspicious activity to investigative agencies for follow-up. Second, we urge police departments, which are the first line in cybercrime control, to publish statistics lists about domain-name-related crime. Police departments are also encouraged to work with schools, businesses, and government agencies to increase public awareness of domain name infringement and to implement a series of measures aimed at preventing and combating the abuse of domain name ".tw" in the future.

Acknowledgements

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6. https://www.npa.gov.tw/ch/app/data/list?module=wg057&id=2218 (accessed on October 2, 2022).
7. This statistics list used to be released on a weekly basis before April 2021.
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11. Supra [10], p. 2.

Authors Introduction

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He is a assistant professor in the Department of Financial Law, Ming Chuan University (MCU), Taiwan, and also a member in Taiwan Information Security Center @ National Cheng Kung University (TWISC@NCKU). He graduated from ChengChi University (NCCU), Taiwan, with B.S. in 1999 and Master degree in Criminal Law in 2003. He obtained second Master degree in Procedural Law in 2010 and his PhD in Juvenile Criminal Law in 2017, from the Aix-Marseille University (AMU), France. His research interests focus on the Criminal Justice for Juvenile Offenders, Cybercrim**e,** Cyber-Security and Rights of Children.