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**THE LEGAL STATUS OF A DOMAIN NAME
IN THE RUSSIAN CIVIL LAW**

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Abstract. *The legal status of a domain name in Russian legislation is not precisely defined, because a domain name is not included in the established list of intellectual property objects, however, it can act as one of the constituent elements of a trademark. Domain name fulfills the main economic function, which is to simplify the search for goods on the information and communication network “Internet”. In this sense, the domain acts as one of the means of addressing, thereby helping to quickly find certain goods by means of the company name of the company, which is the holder of the trademark. Analyzing the existing practice of resolving disputes that arise in the process of using a domain name, we can conclude that there are two established positions regarding the definition of the legal status of the domain. First, the domain can be considered as a means of addressing, in this case, the right holder to realize the protection of its own interests must prove the originality of the goods sold by the firm name. Secondly, the domain name can be presented as a constituent element of a trademark, but as in this case there is some uncertainty concerning the legal status of this object of civil legal relations.*

Keywords: *domain name, intellectual property, object of intellectual property, right holder, economic benefits, brand, products.*

In modern conditions, the development of society occurs in the formation of new forms of social relations, which do not lend themselves to the norms of domestic legislation, so there is a need for practical experience that contributes to the reform of legal norms. It is worth noting that the regulated sphere of emerging new interests should have a criterion of importance, because it should include participants of civil relations, interested in fixing certain rights, duties, limits of responsibility. In practical activity at the emergence of a new type of legal relations and the beginning of the impact of the norms of law on them an indefinite period of time passes, during which there is a reform of the Russian legislation.

The situation described above is directly related to the use of domain name, which is a set of letter combinations of a certain site on the information and communication network Internet. If we consider the use of a domain name in civil legal relations, it fulfills an important economic function, benefiting the right holder by providing identification of a certain site, attracting many customers who purchase goods.

A domain is a certain set of letter designations used in the search bar of any browser to find a particular site in the Internet space. Thus, there are often situations when the domain name is almost identical to the company name of the organization, while acting as one of the means of individualization. But it is worth noting that in Paragraph 1 of Article 1225 of the Civil Code of the Russian Federation, domain name is not fixed as an object of intellectual property, so it is legally protected only as a business name¹.

It should be noted that the main interest of the owner of a registered domain is directly related to obtaining economic benefits. In turn, the domain name acts as one of the means of individualization of products. In the described case, this legal regime is subject to regulation by means of civil law norms.

Let us refer to an example from practical activity concerning a dispute that arose in the process of using the trade name “CILEK” and the domain name “cilek.ru”. Disagreements arose in the process of registration of many domain names with a similar name, which subsequently attracted to the violation of the interests of the right holder who has a trademark with the same name. In the process of resolving the dispute, in the judicial process, the use of the domain was assigned to the holder of the certificate². This decision is based on the fact that for the recognition of this

¹ Kositskiy A. O. Domennoe imya — chto eto dlya rossiyskoy pravovoy sistemy? [Domain name — what is it for the Russian legal system?] // Evolyutsiya rossiyskogo prava: Materialy XVI Mezhdunarodnoy nauchnoy konferentsii molodykh uchenykh i studentov. Uralskiy gosudarstvennyy yuridicheskiy universitet [Evolution of Russian Law: Materials of the XVI International Scientific Conference of Young Scientists and Students. Ural State Law University]. — 2018. — Pp. 151–152.

² Opredelenie Verkhovnogo Suda RF ot 11.02.2019 No. 365-PEK18 po delu No. A40-155357/2012 [Resolution of the Supreme Court of the Russian Federation of 11.02.2019 No. 365-PEK18 in case No. A40-155357/2012] // KonsultantPlyus [ConsultantPlus].

right to the domain name, the basis is the fact of use of a virtually identical, with a combined trademark, designation.

Therefore, the civil law norms of Paragraph 1 of Article 1225 of the Civil Code of the Russian Federation, enshrining a certain category of intellectual property objects, are not fully aimed at ensuring the protection of the right holder's interests. Relying on Sub-paragraph 5 of Paragraph 2 of Article 1484 of the Civil Code of the Russian Federation and Sub-paragraph 4 of Paragraph 2 of Article 1519 of the Civil Code of the Russian Federation, the domain performs the technological function of the addressing means, which allows identifying the trademark in the Internet space with the help of a search string and the introduction of a letter designation.

Therefore, the above civil law norms are aimed at regulating the legal status of a domain name as an indispensable means of individualization. At the same time, it should be noted that the use of a domain name, which in its letter content is almost similar to the name of the trademark, makes it difficult for the buyer to understand when obtaining reliable information about a particular product of the company. In this case, it was decided that the owner of the combined trademark has the right to fully derive economic benefit from its use, including at the expense of the domain name registered for it¹.

Summarizing all of the above regarding the analysis of the legal status of a domain name in the domestic legislation, it should be concluded that it is rather vague and not fully regulated. As it was noted, the domain performs an important function with the implementation of addressing of a particular brand in the Internet space. Thus, the domain provides sales of products or realizes other property with the aim of obtaining economic benefits directly related to the brand name of a certain product.

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¹ Opreделение Verkhovnogo Suda RF ot 17.05.2017 No. 307-ES17-4496 po delu No. A21-10484/2015 [Resolution of the Supreme Court of the Russian Federation from 17.05.2017 No. 307-ЭС17-4496 on the case No. A21-10484/2015] // KonsultantPlyus [ConsultantPlus].

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