

Supreme Court Ruling Protects Registered Domain Names, Preserving an Important Tool in Fighting Cybercrime

WILEY'S AMICUS BRIEF ON BEHALF OF INTERNET COMMERCE ASSOCIATION ADDRESSED CRITICAL CYBERSECURITY ASPECT OF THE CASE

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Washington, DC – The U.S. Supreme Court issued a ruling today in *U.S. Patent & Trademark Office v. Booking.com* that protects the intellectual property rights of domain name owners and preserves an important tool for combating Internet-based fraud. The Court's 8-1 decision held that the term "Booking.com" was eligible for federal trademark registration and rejected the government's view that the combination of a generic word and ".com" is generic.

The decision allows the owners of registered domain names to obtain federal trademark protection where consumers perceive the mark as a whole to distinguish particular goods in commerce, and not to represent a generic class of goods. Specifically, the Court held that "[w]hether any given 'generic.com' term is generic ... depends on whether consumers in fact perceive that term as the name of a class or, instead, as a term capable of distinguishing among members of the class." Applying that test to the travel reservation service Booking.com, the Court explained that "if 'Booking.com' were generic, we might expect consumers to understand Travelocity – another such service – to be a 'Booking.com.'" However, because the evidence showed that consumers "do not in fact perceive the term 'Booking.com' that way," the mark was eligible for federal trademark registration.

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The Court also acknowledged that its decision would permit trademark owners to obtain relief under the Anticybersquatting Consumer Protection Act (ACPA), 15 U.S.C. § 1125(d). Such protection is critical to preventing domain name abuse.

Wiley Rein LLP had filed an *amicus* brief on behalf of the Internet Commerce Association, addressing this critical aspect of the case. The brief was authored by partners Megan L. Brown, David E. Weslow, and Ari Meltzer, and associate Jeremy J. Broggi.

In the brief, filed in support of Booking.com, the Wiley authors explained how the ACPA permits the owner of a registered trademark to oust cybercriminals who are attempting to harm unsuspecting consumers through malicious tactics such as typosquatting and domain name hijacking.

By confirming the importance of this tool, the Court's decision preserves a device that domain name owners can use to protect consumers from cybercrime. To read the Supreme Court ruling, please [click here](#).