

June 23, 2009

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# Facebook Personalized URLs

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## Titanic Opportunity for Brands or Tip of an Iceberg?

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# The Facebook Announcement

On Tuesday, June 9, Facebook, Inc. announced that on Saturday, June 13 at 12:01 a.m. U.S. EDT, it would allow existing Facebook users to create personalized URLs for their pages on Facebook.

For example:

From: [www.facebook.com/profiles.php?349485](http://www.facebook.com/profiles.php?349485)

To: [www.facebook.com/douglas.j.wood](http://www.facebook.com/douglas.j.wood)

# The Facebook Announcement

Facebook also provided a “notification” form, creating a “registry” so that trademark owners could preemptively submit notice of their trademark rights and enable Facebook to prevent someone from using it in a personalized URL.

For example:

Trademark Owner: Reed Smith LLP

Trademark: “Reed Smith” for legal services

# The Facebook Announcement

Notifying Facebook using their own form would prevent someone named "Reed Smith" from registering a personal URL using the exact words.

Presumably, a Mr. Reed Smith could, however, register variations that were not exact.

For example:

[www.facebook.com/rsmith](http://www.facebook.com/rsmith)

Facebook's announcement illustrates the dilemma brand and trademark owners confront when technology meets traditional intellectual property laws intended to protect content and brand names.



So how is Facebook dealing with trademark rights?

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# The Good, The Bad & The Ugly



# The Good



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# The Good

The Facebook feature in the social networking arena:

- Allows for much sought-after personalization
- Allows individual users to build name recognition
- More closely resembles preferred Internet address formats, allowing greater ease in remembering or “guessing” at a name or location
- Provides distinct “branding” opportunity for brand owners with corporate presence on Facebook
- Increases search improvement



# The Good

## Attempts to Block Name Squatting

"We've taken steps to limit this behavior. Only those who created accounts before username availability was publicly announced at 3 p.m. on June 9, 2009 will be eligible. This decision was made to prevent people from creating new accounts just to take advantage of reserving a username."

"At this time, generic words are not available as usernames. Facebook encourages all users and Page administrators to create a username that closely matches the true identity of their name or business."

## The Good

“Users can only have one username for their personal profile.”

But you can create more than one personal profile.

“Your username should be as close as possible to your true name (e.g., Jsmith or John.Smith). Names such as CoachJohn or BlondeJane don't clearly identify you as well as your true name.”

But will such names be disallowed or rejected?

## The Good

"You can select a username that Facebook suggests, or create your own."

But does that mean it can be a nickname and not a real name? If so, how will nicknames be defined or "controlled"?

"...it is not possible to edit [a username], or to transfer your username to a different account on Facebook. Additionally, when an account is removed from the site, its username will not be made available."

But how does a brand owner reclaim a name improperly taken?

# The Good

The screenshot shows the Facebook interface for filing a 'Notice of Intellectual Property Infringement (Non-Copyright Claim)'. The user is logged in as Douglas J. Wood. The form includes fields for Name, Mailing Address, Telephone, and E-Mail. A note states that the email address will be provided to the user who posted the content. There are three text areas for describing the infringement: 'What are the rights infringed?', 'Where does the infringing content appear on the Facebook site? Please include the URLs.', and 'How does the content infringe your rights?'. A disclaimer states that by submitting the notice, the user declares under penalty of perjury that the information is accurate and that the use of the intellectual property is not authorized. At the bottom, there are radio buttons for 'I Agree' and 'I Disagree', an 'Electronic Signature' field, and 'Submit Notice' and 'Cancel' buttons. The footer contains 'Facebook © 2009 English (US)' and a list of links: 'About Advertising Developers Careers Terms Find Friends Privacy Mobile Help'.

facebook Home Profile Friends Inbox Douglas J. Wood Settings Logout Search

### Notice of Intellectual Property Infringement (Non-Copyright Claim)

Name:

Mailing Address:

Telephone:

E-Mail:

(Note that we routinely provide this email address to the user that posted the content you are reporting.)

What are the rights infringed?

Are you the owner of such rights or a person legally authorized to act on behalf of the owner?  Yes  No

Where does the infringing content appear on the Facebook site? Please include the URLs.

How does the content infringe your rights?

By submitting this notice, you declare under penalty of perjury that all of the information contained in this notice is accurate and that the use of your intellectual property described above, in the manner you have complained of, is not authorized by the rights owner, its agent, or the law.

I Agree  I Disagree Electronic Signature:

Facebook © 2009 English (US) About Advertising Developers Careers Terms Find Friends Privacy Mobile Help

## Internal Challenge Procedure

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# The Bad



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## The Bad

If you weren't an existing Facebook user as of 3 p.m. EDT June 9, you can only take advantage of the new user's "second window" of personalization opportunity:

"Usernames will be available to new users after 12:01 a.m. (EDT) on Sunday, June 28, 2009."

## The Bad

facebook

### Statement of Rights and Responsibilities

"By using or accessing Facebook,  
you agree to this Statement."

[we supplied the emphasis]

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# The Bad

The Facebook logo, consisting of the word "facebook" in white lowercase letters on a blue rectangular background.

## Statement of Rights and Responsibilities

When it comes to Copyright:

"If we removed your content for infringing someone else's copyright, and you believe we removed it by mistake, we will provide you with an opportunity to appeal."

But there is no appeal for trademark or username removals.

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# The Bad

The Facebook logo, consisting of the word "facebook" in white lowercase letters on a blue rectangular background.

## Statement of Rights and Responsibilities

"You will resolve any claim, cause of action or dispute ("claim") you have with us arising out of or relating to this Statement or Facebook in a state or federal court located in Santa Clara County. The laws of the State of California will govern this Statement, as well as any claim that might arise between you and us, without regard to conflict of law provisions. You agree to submit to the personal jurisdiction of the courts located in Santa Clara County, California, for the purpose of litigating all such claims."

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# The Bad

facebook

## Statement of Rights and Responsibilities

“If anyone brings a claim against us related to your actions or your content on Facebook, you will indemnify and hold us harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) related to such claim.”

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# The Bad

facebook

## Statement of Rights and Responsibilities

"WE ARE PROVIDING FACEBOOK 'AS IS' WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT."

"...YOU RELEASE US, OUR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS FROM ANY CLAIMS AND DAMAGES, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY CLAIM YOU HAVE AGAINST ANY ... THIRD PARTIES."

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facebook

## Statement of Rights and Responsibilities

"OUR AGGREGATE LIABILITY ... WILL NOT EXCEED THE GREATER OF ONE HUNDRED DOLLARS (\$100) OR THE AMOUNT YOU HAVE PAID US IN THE PAST TWELVE MONTHS."

"WE WILL NOT BE LIABLE TO YOU FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR INCIDENTAL DAMAGES ... EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES."



# The Ugly



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## The Ugly

So . . . You 'notified' Facebook. Now you need to deal with Facebook regarding your trademarks and brands . . .

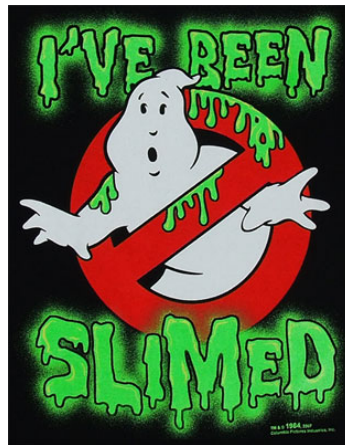
- Have you given up any rights?
- Who has the right to determine what registrations (or, if any registrations) will suffice for Facebook to take action?
- What action is it required to take?

# The Ugly

What if Facebook decides to charge for maintaining the service in the future?

Can others create variations, phonetic or sound alike personalizations of your name and brands?

What if every social network, virtual world, community or group does the same thing?





So what can an owner do to protect its brands and trademarks from name squatters?

Some recommendations from the front lines . . .

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## Social Networking Strategy

If your brand is an individual's name, use the notification procedure.

If your brand resembles an individual's name (e.g., Reed Smith), use the notification procedure.

If your brand name is unique and unrelated to an individual's name (e.g., Polaroid), you may want to consider not submitting any notifications to Facebook.

# Social Networking Strategy

But . . .

are you an existing Facebook Page owner?

If your brand is unique and unrelated to an individual's name (e.g., Polaroid), consider not using the notification procedure . . .

But . . .

consider revising your URL to include your brand.

But . . .

what if you don't have branded Facebook Page(s) yet?

If your brand/company does not currently have a "page" on Facebook related to your brand or trademark, consider establishing one, even if it remains "dark."

But wait, there's more.....



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Take a Look at . . .

The Confusing  
World of Trademarks  
on  
Facebook



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# Search: "Starbucks"

facebook Home Profile Friends Inbox Douglas J. Wood

Starbucks Coffee Company [Become a Fan](#)

Wall Info Video Events Discussions Boxes >>

Starbucks Coffee Company Just Fans

**The Official Starbucks Page**  
**3,016,115 Fans**

Starbucks Coffee Company About to pass 3 million fans here! Wow! We are honored and humbled by this. Question for you all: what else would you like to see us do on this site? By that I mean content, discussion topics, anything Starbucks would you like to page? Yesterday at 2:19pm ·

11,488 people like this  
View 5,250 comments

Starbucks Coffee Company Here is Cara's morning ritual...wha

**Cara | Italian Roast and passion**  
Source: www.youtube.com  
This is a series of lifestyle vignettes, each brought different Starbucks coffee. Each story will document creative process be they a singer or a seamstress

Follow Starbucks on Twitter:  
<http://twitter.com/Starbucks>








**Information**

Founded:  
1971 in Seattle's Pike Place Market

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# Search: "Starbucks"

	Application: Developer: Description: Users: Matches:	<b>Starbucks drinks</b> Ben Yoder Send drinks and pumps of syrups to your friends 170,766 monthly active users <a href="#">Application Name</a>
	Application: Developer: Description: Users: Matches:	<b>Starbucks Drinks</b> Craig Tietzohl send friends mouthwatering Starbucks drinks 121,354 monthly active users <a href="#">Application Name</a>
	Group: Size: Type: New:	<b>Addicted to Starbucks</b> 141,602 members Common Interest - Food & Drink 333 More Members, 6 Board Topics, 21 Wall Posts, 7 Photos
	Page: Type: Size:	<b>starbucks''''''</b> Other Business 47,978 fans
	Application: Developer: Description: Users: Matches:	<b>Starbucks</b> Loraine Short Send your friend a coffee and brighten up their day 38,911 monthly active users <a href="#">Application Name</a>
	Application: Developer: Description: Users: Matches:	<b>Starbucks</b> Kf Aish Send starbuck coffee to your friends!!! Don't drink too much ;) 9,844 monthly active users <a href="#">Application Name</a>
	Page: Type: Size:	<b>*Starbucks Coffee*</b> Other Business 43,507 fans

But  
exactly  
who are  
these  
people ? ?  
(more than  
500 sites)

# Search: "Starbucks Sucks"

The screenshot shows a Facebook search interface. At the top, the search bar contains 'starbucks sucks' and a 'Search' button. Below the search bar, a suggestion reads 'Did you mean: starbuck suzuki'. The results are categorized by 'All Results', 'People', 'Groups', 'Events', and 'Web'. The 'Groups' tab is selected, showing a list of search results. The first result is a group named 'STARBUCKS SUCKS' with 1,044 members, categorized as 'Common Interest - Food & Drink'. The second result is 'Starbucks Sucks' with 180 members, categorized as 'Beliefs & Causes'. The third result is another 'Starbucks Sucks' group with 55 members, categorized as 'Common Interest - Food & Drink'. The fourth result is 'starbucks sucks' with 47 members, categorized as 'Common Interest - Food & Drink'. The fifth result is 'STARBUCKS SUCKS' with 33 members, categorized as 'Common Interest - Food & Drink'. Each result includes a profile picture and a brief description of the group's focus.

Or  
these  
people ??  
  
(88 sites)



Are web-based social networks, virtual worlds, user communities - that give power to the people online - simply overwhelming trademark laws?

Thank You



# Questions

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