

Client Alert

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TRADEMARK PROTECTION AND FACEBOOK USER NAMES

Trademark protection just got slightly more complicated, but in a good way. Starting now, there's a new step that trademark holders should take to protect their trademarks or service marks.

You probably already know that registering domain names corresponding to your marks gives you important practical protection. Now Facebook has entered the equation. Starting this Friday, June 12, users will be able to register a Facebook user name on a first-come, first-served basis at <http://www.facebook.com/username/>. It's about time—the old format for accessing someone's profile included a string of random digits. My old Facebook URL looks like this: <http://www.facebook.com/profile.php?id=551052414>. My new one will be nicer.

Competing social networking sites, such as LinkedIn and MySpace, have had plain-language user names for a while now. But the new Facebook scheme has something built in that the other sites apparently don't: a mechanism for trademark protection. That's welcome news for rights-holders. Here's how it works.

At http://www.facebook.com/help/contact.php?show_form=username_rights, there's a "Preventing the Registration of a Username" form for entering your company name, title, email, trademark, and registration number. (Oddly, there's no place to enter your own name.) As that last data item suggests, only registered marks are eligible, although I'd recommend that holders of trademark applications in process simply enter the application number instead. Filling in the form will prevent someone else from using your trademark as a user name.

What happens if an infringer registers your trademark before you fill out the form? In that case, fill out Facebook's "Notice of Intellectual Property Infringement (Non-Copyright Claim)" at http://www.facebook.com/copyright.php?noncopyright_notice=1 and hopefully the matter will be taken care of. Facebook doesn't describe the procedure it follows for these forms.

Finally, what if someone maliciously fills out the "Preventing the Registration of a Username" form and blocks you from using your own mark as a user name? Facebook's FAQ (at <http://www.facebook.com/help.php?page=899>) doesn't address that, but I'd suggest filling out the Notice of Intellectual Property Infringement (Non-Copyright Claim) form and providing as many details as known.