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# McGrady on Domain Names

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Publication 1463

Release 16

May 2014

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## HIGHLIGHTS

### New Chapters

- This release adds further refinements and new cases to the treatise's comprehensive coverage of Domain Names.
- Updated authoritative commentary on Domain Names by Paul D. McGrady Jr., Esquire.

### Comprehensive updates to Chapters 2 & 3, including, but not limited to:

#### § 2.30 Alabama

#### § 2.31 Alaska

#### § 2.32 Arizona

**Noteworthy Case:** Aviva United States Corp. v. Vazirani, 902 F. Supp. 2d 1246 (D. Ariz. 2012).

#### § 2.33 Arkansas

#### § 2.34 California

**Noteworthy Cases:** Diller v. Barry Driller, Inc., 2012 U.S. Dist. LEXIS 133515 (C.D. Cal. Sept. 10, 2012); Branca v. Mann, 2012 U.S. Dist. LEXIS 112574 (C.D. Cal. Aug. 10, 2012); Escrow v. Nazarian, 2012 Cal. App. Unpub. LEXIS

1116 (Feb. 15, 2012); Solid Host, NL v. Namecheap, Inc., 652 F. Supp. 2d 1092, 1120 (C.D. Cal. 2009); Haas Automation, Inc. v. Denny, 2013 U.S. Dist. LEXIS 179094 (C.D. Cal. Dec. 4, 2013); Sunearth, Inc. v. Sun Earth Solar Power Co., 2013 U.S. Dist. LEXIS 120439 (N.D. Cal. Aug. 23, 2013); City of Carlsbad v. Shah, 850 F. Supp. 2d 1087 (S.D. Cal. 2012); Rexel, Inc. v. Rexel Int'l Trading Corp., 540 F. Supp. 2d 1154 (C.D. Cal. 2007).

#### § 2.35 Colorado

**Noteworthy Cases:** Cleary Bldg. Corp v. David A. Dame, Inc., 674 F. Supp. 2d 1257 (D. Colo. 2009); Am. Acad. of Husband-Coached Childbirth v. Thomas, 2010 U.S. Dist. LEXIS 136763 (D. Colo. Dec. 15, 2010).

#### § 2.36 Connecticut

**Noteworthy Cases:** Sporty's Farm L.L.C. v. Sportsman's Mkt., Inc., 202 F.3d 489 (2d Cir. 2000); Mashantucket Pequot Tribe v. Redican, 403 F. Supp. 2d 184 (D. Conn. 2005); Prime Publs., Inc. v. American-Republican, Inc., 160 F. Supp. 2d 266 (D. Conn. 2001).

#### § 2.37 Delaware

### § 2.38 District of Columbia

**Noteworthy Cases:** Hanley-Wood LLC v. Hanley Wood LLC, 783 F. Supp. 2d 147 (D.D.C. 2011); Breaking the Chain Found., Inc. v. Capitol Educ. Support, Inc., 589 F. Supp. 2d 25 (D.D.C. 2008).

### § 2.39 Florida

**Noteworthy Cases:** Roca Labs, Inc. v. Boogie Media, LLC, 2013 U.S. Dist. Lexis 69169 (M.D. Fla. May 14, 2013); WFTV, Inc. v. Maverik Prod. Liab. Co., 2013 U.S. Dist. LEXIS 86137 (M.D. Fla. Apr. 19, 2013).

### § 2.40 Georgia

**Noteworthy Case:** Overhead Door Corp. v. Burger, 2013 U.S. Dist. LEXIS 84486 (M.D. Ga. June 17, 2013).

### § 2.40 Guam

### § 2.41 Hawaii

**Noteworthy Case:** Teen Challenge, Int'l USA v. Elleson, 2006 U.S. Dist. LEXIS 85006 (D. Haw. Nov. 21, 2006).

### § 2.43 Idaho

### § 2.44 Illinois

**Noteworthy Cases:** Coach, Inc. v. P'ships & Unincorporated Ass'ns Identified on Schedule "A", 2013 U.S. Dist. LEXIS 141413 (N.D. Ill. Oct. 1, 2013); Morningware, Inc. v. Hearthware Home Prods., 673 F. Supp. 2d 630 (N.D. Ill. 2009); Mastercard Int'l Inc. v. Trehan, 629 F. Supp. 2d 824 (N.D. Ill. 2009).

### § 2.45 Indiana

### § 2.46 Iowa

### § 2.47 Kansas

**Noteworthy Case:** Golf Warehouse, L.L.C. v. Golfers' Warehouse Inc., 142 F. Supp. 2d 1307 (D. Kan. 2001); Sunlight Saunas, Inc. v. Sundance Sauna, Inc., 427 F. Supp. 2d 1032 (D. Kan. 2006).

### § 2.48 Kentucky

**Noteworthy Case:** Holley Performance Prods. v. Tucows, Inc., 2011 U.S. Dist. LEXIS 39846 (W.D. Ky. Apr. 12, 2011).

### § 2.49 Louisiana

**Noteworthy Cases:** Inflatable Zoo, Inc. v. About to Bounce, LLC, 2013 U.S. Dist. LEXIS 52286 (E.D. La. Apr. 11, 2013).

### § 2.50 Maine

**Noteworthy Case:** Nationwide Payment Solutions, LLC v. Plunkett, 2011 U.S. Dist. LEXIS 11300 (D. Me. Feb. 3, 2011).

### § 2.51 Maryland

**Noteworthy Cases:** Lamparello v. Falwell, 420 F.3d 309 (4th Cir. 2005); Translucent Communs., LLC v. Ams. Premiere Corp., 2010 U.S. Dist. LEXIS 16459 (D. Md. Feb. 24, 2010); Ficker v. Tuohy, 305 F. Supp. 2d 569 (D. Md. 2004).

### § 2.52 Massachusetts

**Noteworthy Cases:** Bay State Sav. Bank v. Baystate Fin. Servs., L.L.C., 484 F. Supp. 2d 205 (D. Mass. 2007); Northern Light Tech., Inc. v. Northern Lights Club, 97 F. Supp. 2d 96 (D. Mass. 2000); Savin Corp. v. Rayne, 2001 U.S. Dist. LEXIS 20581 (D. Mass. Mar. 26, 2001).

### § 2.53 Michigan

**Noteworthy Cases:** Foreword Magazine, Inc. v. Overdrive, Inc., 2013 U.S. Dist. LEXIS 3709 (W.D. Mich. Jan. 10, 2013); Council on American-Islamic Rels. Action Network, Inc. v. Schlüssel, 2011 U.S. Dist. LEXIS 89199 (E.D. Mich. Aug. 11, 2011); Wilcox Assocs. v. Xspect Solutions, 2009 U.S. Dist. LEXIS 87902 (E.D. Mich. Sept. 24, 2009); Ford Motor Co. v. Cross, 441 F. Supp. 2d 837, 844 (E.D. Mich. 2006).

### § 2.54 Minnesota

**Noteworthy Cases:** Jalin Realty Capital

Advisors, LLC v. A Better Wireless, NISP, LLC, 917 F. Supp. 2d 927 (D. Minn. 2013); Faegre & Benson, LLP v. Purdy, 2004 U.S. Dist. LEXIS 896 (D. Jan. 5, Minn. 2004), *aff'd* by 2005 U.S. App. LEXIS 5402 (8th Cir. 2005); J&B Wholesale Distrib. v. Redux Bevs., LLC, 621 F. Supp. 2d 678 (D. Minn. 2007); Faegre & Benson, LLP v. Purdy, 447 F. Supp. 2d 1008 (D. Minn. 2006).

#### § 2.55 Mississippi

**Noteworthy Case:** Brennan's, Inc. v. Brennan, 629 F. Supp. 2d 634, 637 (S.D. Miss. 2009).

#### § 2.56 Missouri

**Noteworthy Cases:** Indus. Compressor Supplies, LLC v. Compressed Air Parts Co., 2013 U.S. Dist. LEXIS 24204 (E.D. Mo. Feb. 22, 2013); Build-A-Bear Retail Mgmt. v. Allen, 2008 U.S. Dist. Lexis 54883 (E.D. Mo. July 18, 2008); Interfood Holding, B.V. v. Rice, 607 F. Supp. 2d 1059 (E.D. Mo. 2009).

#### § 2.57 Montana

#### § 2.58 Nebraska

#### § 2.59 Nevada

**Noteworthy Cases:** Randazza v. Cox, 2013 U.S. Dist. LEXIS 145375 (D. Nev. Oct. 7, 2013); Hakkasan LV, LLC v. Tsang Hang Wang, 2013 U.S. Dist. LEXIS 96353 (D. Nev. July 10, 2013); Mine O' Mine, Inc. v. Calmese, 2011 U.S. Dist. LEXIS 75236 (D. Nev. July 11, 2011); Houdini's Magic Shop, Inc. v. Magic Tricks, Inc., 2006 U.S. Dist. LEXIS 45892 (D. Nev. July 6, 2006); Ricks v. BMEzine.com, LLC, 727 F. Supp. 2d 936 (D. Nev. 2010).

#### § 2.60 New Hampshire

**Noteworthy Case:** Philbrick v. eNom, Inc., 593 F. Supp. 2d 352 (D.N.H. 2009).

#### § 2.61 New Jersey

**Noteworthy Cases:** Fancaster, Inc. v. Comcast Corp., 832 F. Supp. 2d 380 (D.N.J. 2011); CSC Holdings, LLC v. Optimum Networks, Inc., 731 F. Supp. 2d 400 (D.N.J. 2010); Vista India v. Raaga, LLC, 501 F. Supp. 2d 605 (D.N.J. 2007); Edison Motor Sales, LLC v. Dibre Auto Group, LLC, 2012 U.S. Dist. LEXIS 150599 (D.N.J. Oct. 19, 2012); Cartier Int'l A.G. v. Daniel Markus, Inc., 2013 U.S. Dist. LEXIS 145278 (D.N.J. Oct. 8, 2013); Edison Motor Sales, LLC v. Dibre Auto Group, LLC, 2012 U.S. Dist. LEXIS 150599 (D.N.J. Oct. 19, 2012).

#### § 2.62 New Mexico

#### § 2.63 New York

**Noteworthy Cases:** Web-adviso v. Trump, 927 F. Supp. 2d 32, 39 (E.D.N.Y. 2013); Maurizio v. Goldsmith, 230 F.3d 518, 521 (2d Cir. 2000); Gristede's Foods, Inc. v. Unkechauge Nation, 532 F. Supp. 2d 439 (E.D.N.Y. 2007); Imig, Inc. v. Electrolux Home Care Prods., 2007 U.S. Dist. LEXIS 20530 (E.D.N.Y. Mar. 22, 2007); Study Logic, LLC v. Clear Net Plus, Inc., 2012 U.S. Dist. LEXIS 135847 (E.D.N.Y. Sept. 21, 2012); Dudley v. HealthSource Chiropractic, Inc., 883 F. Supp. 2d 377 (W.D.N.Y. 2012); Allied Maintenance Corp. v. Allied Mechanical Trades, Inc., 42 N.Y.2d 538, 399 N.Y.S.2d 628, 369 N.E.2d 1162 (1977); Info. Superhighway, Inc. v. Talk Am., Inc., 395 F. Supp. 2d 44 (S.D.N.Y. 2005); Allied Maintenance Corp. v. Allied Mechanical Trades, Inc., 42 N.Y.2d 538, 399 N.Y.S.2d 628, 369 N.E.2d 1162 (1977); BigStar Entertainment, Inc. v. Next Big Star, Inc., 105 F. Supp. 2d 185 (S.D.N.Y. 2000); Dudley v. HealthSource Chiropractic, Inc., 883 F. Supp. 2d 377 (W.D.N.Y. 2012); Arrington v. New York Times Co., 55 N.Y.2d 433, 439, 449 N.Y.S.2d 941, 434 N.E.2d 1319 (1982); Penn Warranty Corp. v. DiGiovanni, 10

Misc. 3d 998, 1008, 810 N.Y.S.2d 807 (Sup. Ct. 2005); Sch. of Visual Arts v. Kuprewicz, 3 Misc. 3d 278, 771 N.Y.S.2d 804 (Sup. Ct. 2003); Goldstar Prop. of NY, LLC v. Blackstone Prop. of NY, LLC, 2010 N.Y. Misc. LEXIS 1756 (Apr. 12, 2010); TCPIP Holding Co. v. Haar Com-muns. Inc., 2004 U.S. Dist. LEXIS 13543 (S.D.N.Y. July 19, 2004); Federal Express Corp. v. Federal Espresso, Inc., 201 F.3d 168 (2d Cir. 2000); Info. Superhighway, Inc. v. Talk Am., Inc., 395 F. Supp. 2d 44 (S.D.N.Y. 2005); CourtAlert.com, Inc. v. e-Law, LLC, 2013 U.S. Dist. LEXIS 126926 (S.D.N.Y. Aug. 26, 2013); Mkt. Am. v. Optihealth Prods., 2008 U.S. Dist. LEXIS 95337 (M.D.N.C. Nov. 21, 2008); Yellowbrix, Inc. v. Yellowbrick Sol., Inc., 181 F. Supp. 2d 575 (E.D.N.C. 2001).

#### § 2.65 North Dakota

**Noteworthy Case:** Northwest Airlines, Inc. v. Bauer, 467 F. Supp. 2d 957 (D.N.D. 2006).

#### § 2.66 Ohio

**Noteworthy Case:** Victoria's Secret Stores v. Artco Equip. Co., 194 F. Supp. 2d 704 (S.D. Ohio 2002).

#### § 2.67 Oklahoma

**Noteworthy Cases:** Trotter Overhead Door, Inc. v. Trotter Doors, LLC., 2013 U.S. Dist. LEXIS 90398 (W.D. Okla. June 27, 2013); Donchez v. Coors Brewing Co., 392 F.3d 1211, 1219 (10th Cir. 2004).

#### § 2.68 Oregon

**Noteworthy Cases:** Interstellar Starship Servs. v. Epix, Inc., 125 F. Supp. 2d 1269 (D. Or. 2001); L&A Designs v. Xtreme ATVs, Inc., 2012 U.S. Dist. LEXIS 60760 (D. Or. Apr. 30, 2012); Calista Enters. v. Tenza Trading, Ltd., 2013 U.S. Dist. LEXIS 164356 (D. Or. Nov. 19, 2013); L&A Designs v. Xtreme ATVs, Inc., 2012 U.S. Dist. LEXIS 60760 (D. Or. Apr. 30,

2012); TM Computer Consulting, Inc. v. Apothacare, LLC, 2008 U.S. Dist. LEXIS 69284 (D. Or. Sept. 11, 2008).

#### § 2.69 Pennsylvania

**Noteworthy Cases:** Eagle v. Morgan, 2013 U.S. Dist. LEXIS 34220 (E.D. Pa. Mar. 12, 2013); Tillery v. Leonard & Sciollo, LLP, 521 F. Supp. 2d 346, 350-51 (E.D. Pa. 2007); Winer v. Senior Living Guide, Inc., 2013 U.S. Dist. LEXIS 44371 (W.D. Pa. Jan. 17, 2013); Fagnelli Plumbing Co. v. Gillece Plumbing & Heating, Inc., 2011 U.S. Dist. LEXIS 15090 (W.D. Pa. Feb. 15, 2011); Del. Valley Fin. Group, Inc. v. Principal Life Ins. Co., 640 F. Supp. 2d 603 (E.D. Pa. 2009).

#### § 2.70 Rhode Island

#### § 2.71 South Carolina

**Noteworthy Case:** Nat'l Van Lines, Inc. v. Nat'l Van Lines, Inc., 2013 U.S. Dist. LEXIS 71111 (D.S.C. Mar. 25, 2013).

#### § 2.72 South Dakota

**Noteworthy Case:** KTM N. Am., Inc. v. Cycle Hutt, Inc., 2013 U.S. Dist. LEXIS 67209, 2013 U.S. Dist. LEXIS 67209 (D.S.D. May 8, 2013).

#### § 2.73 Tennessee

**Noteworthy Case:** General Conf. Corp. v. McGill, 617 F.3d 402 (6th Cir. 2010).

#### § 2.74 Texas

**Noteworthy Cases:** TMI Inc. v. Maxwell, 368 F.3d 433 (5th Cir. 2004); E. & J. Gallo Winery v. Spider Webs, Ltd., 286 F.3d 270 (5th Cir. 2002); GoForit Entm't, LLC v. DigiMedia.com L.P., 750 F. Supp. 2d 712 (N.D. Tex. 2010).

#### § 2.75 Utah

**Noteworthy Cases:** One Source Indus. v. Parkinson, 2013 U.S. Dist. LEXIS 70482 (D. Utah May 16, 2013); Utah Lighthouse Ministry, Inc. v. Discovery Computing,

Inc., 506 F. Supp. 2d 889 (D. Utah 2007); Koch Indus., Inc. v. Doe, 2011 U.S. Dist. LEXIS 49529 (D. Utah May 9, 2011).

**§ 2.76 Vermont**

**§ 2.77 Virgin Islands**

**§ 2.78 Virginia**

**Noteworthy Cases:** Crump v. Forbes, 52 Va. Cir. 52, 55 (2000); Bright Imperial Ltd. v. RT MediaSolutions, S.R.O., 2012 U.S. Dist. LEXIS 70000 (E.D. Va. May 18, 2012); Retail Servs. v. Freebies Publ'g, 364 F.3d 535, 537 (4th Cir. 2004); 3M Co. v. Thailand3M.Net, 2013 U.S. Dist. LEXIS 126871 (E.D. Va. Apr. 1, 2013); Bright Imperial Ltd. v. RT MediaSolutions, S.R.O., 2012 U.S. Dist. LEXIS 70000 (E.D. Va. May 18, 2012); Pro-Concepts, LLC v. Resh, 2013 U.S. Dist. LEXIS 151714 (E.D. Va. Oct. 21, 2013); People for the Ethical Treatment of Animals v.

Doughney, 263 F.3d 359 (4th Cir. 2001); V&S Vin & Sprit Aktiebolag v. Hanson, 2001 U.S. Dist. LEXIS 24848 (E.D. Va. Oct. 16, 2001); 3M Co. v. Thailand3M.Net, 2013 U.S. Dist. LEXIS 126871 (E.D. Va. Apr. 1, 2013).

**§ 2.79 Washington**

**Noteworthy Cases:** Lahoti v. Vericheck, Inc., 636 F.3d 501 (9th Cir. 2011); Microsoft Corp. v. Shah, 2011 U.S. Dist. LEXIS 2995 (W.D. Wash. Jan. 12, 2011).

**§ 2.80 West Virginia**

**§ 2.81 Wisconsin**

**Noteworthy Cases:** Tietsworth v. Harley-Davidson, Inc., 2004 WI 32, 270 Wis. 2d 146, 677 N.W.2d 233; Lands' End, Inc. v. Remy, 447 F. Supp. 2d 941, 944, 950 (W.D. Wis. 2006).

**§ 2.82 Wyoming**

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