

Abstract

The protection of domain names through trademarks

The main purpose of my thesis is to define a status of domain names from a legal standpoint and also to analyze the possibility of covering the protection of domain names through trademarks. Assuming that a domain name fulfills conditions stipulated by a law it may become a subject to trademark laws and can be registered as a trademark in the register kept by the Industrial Property Office.

The thesis is composed of five chapters. The first part of introductory chapter focuses on the technical aspects of domain names and institutions directly related to domain names. It focuses on history of the Internet, IP addresses and DNS servers. The second part of the first chapter is devoted to the structure and registration of domain names and also to foreign institutions directly related to of the Internet and its domain names.

The second chapter describes the status of domain names in the Czech legal system and compares the legislation of Act no. 40/1964 Coll., The Civil Code and Act no. 89/2012 Coll., The Civil Code, relating to domain names as the subject of civil relations.

The main subject of the third chapter are trademarks. This chapter defines the concept, function and types of trademarks. Furthermore, this chapter describes absolute and relative grounds for refusal of application, characters which cannot be used in trademarks and domain names which are not distinctive enough.

The fourth chapter briefly introduces the Community trademark. The first part discusses formal requirements of registration of the Community trademark and a whole process behind it. The second part of this chapter continues with the case law of the ECJ concerning the registration of olfactory trademarks and the procedure of registering of the Community trademark.

The last chapter deals with cyber-squatting with its subkinds and furthermore the possibilities of protection of domain names through trademarks. It also gives a closer look into the difficulties with registration of a domain name as a trademark.