

# Domain Takedown procedures



By Rutger Saelmans

The takedown procedure for fake domains, often initiated due to copyright infringement, trademark violation, or other fraudulent activities, involves several steps designed to remove or restrict access to domains that impersonate or misuse the identity of legitimate entities. This process typically involves the following stages:

## **1. Identification of the Fake Domain**

The first step is identifying the fake domain. This can be done by the trademark owner, legal team, or through reports from customers or the public who notice the fake site.

## **2. Gathering Evidence**

Once a fake domain is identified, gathering evidence of the infringement or fraudulent activity is essential. This might include screenshots of the website, copies of any misleading or fraudulent content, and documentation of any harm or confusion caused to consumers or the brand.

## **3. Whois Lookup?**

Perform a Whois lookup to find the domain's registrant details. This can provide contact information for the domain owner and the registrar company that registered the domain name.

## **4. Contact the Registrar**

The next step involves contacting the domain registrar (the company where the domain was registered) to report the fake domain. Most registrars have a process for handling complaints regarding copyright or trademark infringement. The complainant must provide evidence of their trademark rights and how the domain infringes upon those rights or engages in fraudulent activity.

## **5. Issuing a Cease and Desist Letter**

In parallel, or as part of the process, the trademark owner or their legal representative might send a cease-and-desist letter to the registrant of the domain (if their contact information is available) demanding that they cease the infringing activity and transfer or take down the domain.

## **6. Filing a Formal Complaint**

You can file a formal complaint if the registrar requires it or the initial contact does not result in action. This could involve mechanisms such as the Uniform Domain-Name Dispute-Resolution Policy (UDRP) for trademark-based domain-name disputes or the Uniform Rapid Suspension System (URS) for clear cases of trademark abuse.

## 7. Legal Action

As a last resort, legal action may be taken against the registrant. This could involve court orders directing the registrar to transfer or terminate the domain.

## 8. Monitoring

Even after a successful takedown, it's crucial to monitor for new fake domains regularly. Fraudsters often register new domains to continue their fraudulent activities.

## Registrar's Role

Registrars typically have policies to respond to illegal or infringing domain use reports. They can take various actions, including disabling the domain, transferring it, or providing contact information for further legal action. However, registrars are not typically liable for the content hosted on the domains under registration, so their willingness to take action without a court order or clear policy violation may vary.



## Checklist

### Takedown Procedure Checklist for Fake Domains

#### Identification Phase

- ☐ Identify the fake domain through internal monitoring or external reports.
- ☐ Document the source of identification (e.g., customer report, legal team discovery).

#### Evidence Gathering

- ☐ Take screenshots of the infringing website.
- ☐ Copy any misleading or fraudulent content for records.
- ☐ Document any consumer harm or brand confusion caused by the fake domain.

#### Whois Lookup

- ☐ Perform a Whois lookup to obtain registrant details.
- ☐ Record the domain owner's contact information.
- ☐ Note the registrar's company's details.

#### Contacting the Registrar

- ☐ Contact the domain registrar to report the fake domain.
- ☐ Provide evidence of trademark rights and infringement or fraudulent activity.
- ☐ Follow the registrar's process for handling such complaints.

#### Cease and Desist Letter

- ☐ Draft a cease-and-desist letter demanding an end to the infringing activity.
- ☐ Send the letter to the domain registrant, if contactable.

#### Filing a Formal Complaint

- ☐ Prepare and file a formal complaint, if necessary.

- ☐ Consider using mechanisms like UDRP or URS for dispute resolution.

### **Legal Action**

- ☐ Evaluate the need for legal action against the registrant.
- ☐ Consult with legal professionals for court proceedings.
- ☐ Obtain court orders for domain transfer or termination, if applicable.

### **Monitoring**

- ☐ Set up regular monitoring for new fake domains.
- ☐ Implement automated tools or services for detection.

### **Registrar's Role and Actions**

- ☐ Understand the registrar's policies on illegal or infringing domain use.
- ☐ Document the registrar's actions, including domain disabling, transfer, or registrant contact provision.
- ☐ Follow up with the registrar as needed to ensure compliance with takedown requests.

### **Follow-up**

- Continuously monitor the situation for any resurgence of fake domains.
- Update internal procedures based on learnings from the takedown process.
- Consult with intellectual property law professionals for ongoing strategy and protection.

### **Conclusion**

The takedown procedure for fake domains is crucial for protecting consumers and trademarks online. It requires diligent effort and, often, legal intervention to navigate successfully. Given the complexity and potential legal implications, it's advisable to consult with legal professionals experienced in intellectual property law when addressing fake domain issues.

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