



DOMAIN NAME ASSIGNMENT & GUIDELINES

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1. Overview

A company's ability to sell and purchase property is essential to its long-term life and vitality. Although it does not take up physical space, an excess of intellectual property can burden a company, directing limited funds towards maintaining registrations, defending against third-party claims, or creating and marketing of a final product. Selling unused or surplus intellectual property can have an immediate positive effect on a company's finances, generating revenue and decreasing costs. When it does come time to grow a business, companies looking to purchase property (including domain names) to support their growth must be sure that the seller does, in fact, have title to the desired items. A properly-drafted domain name assignment can help in both circumstances.

A domain name assignment is the transfer of an owner's property rights in a given domain name or names. Such transfers may occur on their own or as parts of larger asset sales or purchases. Domain name assignments both provide records of ownership and transfer and protect the rights of all parties.

If you follow the enclosed sample and guidelines, you will have a written acknowledgment of the rights and responsibilities being transferred as part of your sale. This will provide essential documentation of ownership and liability obligations and you will be well on your way to establishing a clear record of title for all of your domain names.

2. Dos & Don'ts Checklist

- A domain name assignment is the transfer of ownership of a given domain name from one party to another. This transfer should be in writing and signed by the owner or its authorized agent.
- The advantage of selling your domain name outright (and not simply licensing it or attempting to develop and market it yourself) is that you are guaranteed payment at the price you and the purchaser have negotiated. On the other hand, that one-time payment is all that you will ever receive for your domain name. By selling it or licensing it through your own company, you retain both control and the potential for future income, although that income is by no means certain. Before selling all of your rights in a name outright, make sure that this is the best approach for you and your company: once sold, it may be impossible or expensive to get it back.
- Do not enter into an agreement without completing your due diligence. If you are purchasing the domain name, make sure that domain currently exists and that the selling party actually owns it: generally, information about ownership can be found using a "whois" server. Although your findings will not guarantee title – transfers may, for example, have occurred without re-registration - you may have protection as an "innocent purchaser" of the domain name if disputes arise.
- The acquirer of a domain name should search for existing uses of that name. As the number of top-level domain extensions (e.g., .com, .net, and .org) increases, the possibilities for overlap and confusion increase as well. Be sure to search thoroughly around the internet for names that could lead to customer misunderstanding or mistake.

- If you are selling a domain name, make sure you own it. Many people purchase their registrations in two-year increments, and this time can pass quickly and unnoticed. A registrar can cancel your contract and resell your name if you moved and didn't update your contact information. Moreover, your ownership may be revoked if the name was registered illegally (e.g., using another party's copyrighted name or cybersquatting to prevent another business from using a name). A quick review of the registered ownership of your domain name can save time, money, and embarrassment down the road.
- Valuing a domain name can be difficult. There are many factors to consider, including, for example, the following: Is it a .com name? Is it long or short? Hyphenated or not hyphenated? Spelled correctly? Spend some time reviewing other names for sale and comparing attributes of those to what is being offered pursuant to this assignment. Consider getting a free assessment of the name's general value online. There are a number of websites that perform this service.
- Both parties should review the assignment carefully to ensure that all relevant deal points have been included. It is better to be over-inclusive than under-inclusive. Do not assume that certain expectations or terms are agreed to if they are not stated expressly on the document.
- Sign two copies of the agreement, one for you and one for the other party.
- It's a good idea to have your assignment notarized. This will limit later challenges to the validity of a party's signature or of the transfer itself.
- If your agreement is complicated, do not use the enclosed form. Contact an attorney to help you draft a document that will meet your specific needs.

3. Domain Name Assignment Instructions

The following provision-by-provision instructions will help you understand the terms of your assignment. Please review the entire document before starting your step-by-step process.

- **Introduction of Parties.** Identifies the document as a domain name assignment. Write in the date on which the assignment is signed. Identify the parties and, if applicable, what type of organization(s) they are. Note that each party is given a name (e.g., "Assignor") that will be used throughout the agreement. The Assignor is the party that is giving ("assigning") its ownership interest and the Assignee is the party receiving it.
- **Recitals.** The "whereas" clauses, referred to as recitals, define the world of the assignment and offer key background information about the parties. In this assignment, this section includes a simple statement of the intent to transfer rights in the domain name or names. Note that the reference in these recitals (and throughout the agreement) is to "Domain Name[s]." The bracketed "s" should be used only if more than one domain name is being transferred. If only one domain name is being transferred, delete the "[s]" every place it appears in the document.
- **Section 1: Transfer of Domain Name.** The transfer and assignment of the domain name. Note that the domain name being assigned is not described in the agreement itself. The assignment references "[Exhibit A](#)," and explains that the full list of domain names is located on that exhibit.

- Section 2: Consideration.** In most agreements, each party is expected to do something. This obligation may be to perform a service, transfer ownership of property, or pay money. In this case, the Assignee is giving money (sometimes called “consideration”) to receive the Assignor’s domain name or names. Enter the amount to be paid, and indicate how long the Assignee has to make that payment after the agreement is signed. Two options are provided: the first counts the amount of time the Assignee has from the Effective Date, and the second counts the amount of time the Assignee has from the date the transfer is completed through the domain name’s registrar. Select the clause that best describes your agreement, and delete the other.
- Section 3: Cooperation in Transfer of Domain Name[s].** The Assignor’s promise to help with the paperwork needed to complete an assignment of title to the domain name. Enter the amount of days within which this transfer must be completed. You and the other party should also discuss and determine which party will be responsible for the fees involved in completing the transfer. Delete the name of the party that will not be responsible for those fees.
- Section 4: Assignor’s Representations and Warranties.** The Assignor’s promises about the property being sold. More specifically, the Assignor is swearing that it:

 - 4(a): is the owner of the domain names.
 - 4(b): is listed as the registrant of the domain names and owes no money for its registrations.
 - 4(c): has not sold or transferred the domain names to any third party.
 - 4(d): has the authority to enter the agreement.
 - 4(e): registered the domain names properly.
 - 4(f): will not do anything to diminish the value of the domain names.
 - 4(g): does not believe that the name was taken from any third party without authorization (e.g., a using another company’s trademark as the domain name).
 - 4(h): does not know of any permissions that have to be obtained in order for the assignment to be completed. In other words, once the agreement is signed, the assignment will be effective without anyone else’s input.

If you and the other party want to include additional representations and warranties, you can do so here.
- Section 5: Assignee’s Representations and Warranties.** The Assignee’s promises about the transaction. More specifically, the Assignee is swearing that it:

 - 5(a): has the authority to enter the agreement.
 - 5(b) has enough funds to pay for the assignment.

If you and the other party want to include additional representations and warranties, you can do so here.
- Section 6: No Further Use.** Indicates that after the effective date of the agreement, the Assignor will stop using all of the domain names being transferred and will not challenge the Assignee’s use or ownership of those names.

- **(Optional) Section 7: Additional Terms and Agreements.** This is an optional provision that can include any additional terms that have not already been listed. For example, if the parties wanted to require cross-promotion of the assigned domain name on the Assignor’s website, or of the Assignor’s website on the assigned domain name site, they could include that requirement here. If you remove this section, correct the section numbers in the agreement.
- **Section 8: Successors and Assigns.** States that the parties’ rights and obligations will be passed on to successor organizations (if any), or organizations to which rights and obligations have been permissibly assigned.
- **Section 9: No Implied Waiver.** Explains that even if one party allows the other to ignore or break an obligation under the agreement, it does not mean that party waives any future rights to require the other to fulfill those (or any other) obligations.
- **Section 10: Notice.** Lists the addresses to which all official or legal correspondence should be delivered. Write in a mailing address for both the Assignor and the Assignee.
- **Section 11: Governing Law.** Allows the parties to choose the state laws that will be used to interpret the document. Note that this is not a venue provision. The included language will not impact where a potential claim can be brought. Write the applicable state law in the blank provided.
- **Section 12: Counterparts/Electronic Signatures.** The title of this provision sounds complicated, but it is simple to explain: it says that even if the parties sign the agreement in different locations, or use electronic devices to transmit signatures (e.g., fax machines or computers), all of the separate pieces will be considered part of the same agreement. In a modern world where signing parties are often not in the same city - much less the same room - this provision ensures that business can be transacted efficiently, without sacrificing the validity of the agreement as a whole.
- **Section 13: Severability.** Protects the terms of the agreement as a whole, even if one part is later invalidated. For example, if a state law is passed prohibiting choice-of-law clauses, it will not undo the entire agreement. Instead, only the section dealing with choice of law would be invalidated, leaving the remainder of the assignment enforceable.
- **Section 14: Entire Agreement.** The parties’ agreement that the agreement they’re signing is “the agreement” about the issues involved. Unfortunately, the inclusion of this provision will not prevent a party from arguing that other enforceable promises exist, but it will provide you some protection from these claims.
- **Section 15: Exhibit A.** Indicates that although Exhibit A – containing the domain names – is structured separately from the agreement, it is still a part of the assignment and governed by its terms.
- **Section 16: Headings.** Notes that the headings at the beginning of each section are meant to organize the document, and should not be considered operational parts of the note.
- **Exhibit A: List of Assigned Domain Name[s].** In order for a domain name assignment to be effective, the names being transferred must be clearly and completely listed. Be thorough in your description and attach any registrations or samples that you may have.

DISCLAIMER

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DOMAIN NAME ASSIGNMENT

This Domain Name Assignment (the "Assignment") is made and effective as of _____, 20____ ("Effective Date") by and between _____, [an individual] [corporation] [etc.] (the "Assignor") and _____, a _____ [corporation][limited liability company] [etc.] (the "Assignee"). The Assignor and the Assignee may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Assignor is listed as the owner of the website domain name[s] listed in Exhibit A hereto ([collectively,] the "Domain Name[s]") in the records of the Registrar (as defined below)

WHEREAS is the Assignor's intention to assign and transfer to the Assignee all of its right, title, and interest in and to the Domain Name[s]; and

WHEREAS, the Assignee desires to purchase or acquire all of the Assignor's right, title, and interest in and to the Domain Name[s]; and

WHEREAS, each Party is duly authorized and capable of entering into this Assignment.

NOW, THEREFORE, in consideration of the covenants and conditions herein, and for other good and valuable consideration, the parties hereto, which are hereby acknowledged,