[AT] Are Website Names Protected? Not Necessarily, Says Court

IRIS 1998-6:1/5

Albrecht Haller
IFPI Austria

In February, the Austrian Supreme Court (Gerichtshof) found itself confronted - apparently for the first time

- with the problem of website names. The situation which led to its judgment was as follows. BONLINE Software GmbH (renamed JUSLINE GmbH during the proceedings) specialises in developing and providing Internet services which can be used to select legal and business advisers and communicate with them; it supplies Austrian legal data at http://www.jusline.co.at/jusline, and also operates the «jusline.de», «jusline.ch» and «jusline.li» websites. In Austria and certain other areas, it has registered «jusline» as a trademark.

Another company registered the website name «jusline.com», without making it the title of a firm. When BONLINE Software GmbH demanded that it surrender the name, it asked for payment in return. BONLINE Software GmbH then sought a court order, instructing the other company, and the persons named as admininistrative and technical contacts when «jusline.com» was registered, to cease using this website name for business purposes on the World Wide Web, and agree to delete it (or their registration of it). In support of its claim, it applied for an interim injunction.

The Supreme Court upheld the appeal Court's rejection of this application. It agreed that a website name essentially served to identify its user. However, since «JUSLINE» had become the name of a firm only during the proceedings, it expressly left open the question as to whether a website name was one of those protected by Article 43 of the Civil Code (Bürgerlichen Gesetzbuches). It devoted considerable space to considering the distinguishing power of the composite word «jusline». The fact that it combined two descriptive words (admittedly taken from different languages) meant that, to qualify for registration as a trade-mark, it needed to be in current use; since it had not been shown that this was the case, the composite word «jusline» was not protected by the laws on brand and trade names.

Concerning the plaintiff's allegation of unethical conduct, the Supreme Court noted that «site-grabbing» presupposed that the intention to obstruct had already existed when the disputed name was acquired - which the plaintiff had not asserted. Since the name had not been shown to be in current use, and since

© European Audiovisual Observatory (Council of Europe) 2026

«JUSLINE» had not been part of the plaintiff's firm when the website name was registered, the plaintiff had no legitimate interest in demanding that a site name registered by another party be transferred to it free of charge.

Beschluß des Obersten Gerichtshofs vom 24. 2. 1998, Aktenzeichen 4 Ob 36/98t

Judgment of the High Court of 24 February 1998, File No. 4 Ob 36/98t

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026