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Long Island MacArthur Airport fights for domain name

Long Island Business News, Apr 23, 2010 by Claude Solnik

What's in a domain name? Long Island MacArthur Airport is trying to find out as it seeks to resolve a dispute with a company operating a popular Web site based on the airport's name.

That discussion is taking place as the airport attempts to promote its own year-old site, flylima.com. According to a national ranking service, however, the privately held site, MacArthurairport.com, gets more traffic and has more sites linking to it than does flylima.com.

The airport, owned by the Town of Islip, has sent a cease-and-desist letter to the decade-old MacArthurairport.com site. It argues that, as owner of the Long Island MacArthur Airport trademark, it owns the rights to the domain name.

"We are in conversation with the owner of MacArthurairport.com," said Teresa Rizzuto, commissioner of aviation at Long Island MacArthur Airport.

Hampton Bays-based Black Sheep Television, a TV production and advertising firm, argues it has operated its site for a decade. For most of that time, the site was the only one focusing exclusively on the airport.

The site provides flight schedule updates, threat advisories, lists of prohibited items, parking fees, a terminal map and links to a Twitter site related to the airport. As long as the airport had no site of its own, MacArthurairport.com continued to operate in relative peace.

"From the perspective of the traveler, we provided a service for 10 years that the town of Islip did not provide," said Jacques Ditte, president of Black Sheep Television. "When there were snowstorms, we were the ones who provided information."

The airport argues Black Sheep is confusing travelers who otherwise would arrive at the official

address.

"It's someone who years ago bought a domain name," said Catherine Green, a spokeswoman for the airport. "He tries to pretend that he's MacArthur Airport."

Black Sheep hired Howard Greenberg, an attorney in Smithtown, who argues his client built equity over the years and deserves compensation or the right to operate.

"Our client has been using that Web site address for a long time," Greenberg said. "There are legal and business issues we're trying to resolve with the town."

While a dispute over airport site rights may be unusual, experts said cyber squatting -sites built with others' names - is a common issue.

"The fact that someone else owns MacArthuraairport.com and it's not MacArthur Airport means they're a cyber squatter," said Andrew Hazen, chief executive of Melville-based Prime Visibility, an Internet marketing firm and owner of numerous domain names.

Others said domain rights become complex due to case law with decisions based on varying situations.

"It's a gray area type of law, especially if initially the Web site was operating under the authority or with the knowledge of the airport," said Christopher Nucifora, partner at the Woodbury-based law firm of Kaufman Dolowich Voluck & Gonzo. "It might have been providing a service to its customers. It seems like there are good arguments on both sides."

Some attorneys suggested the airport might have tacitly acknowledged Black Sheep's rights to operate by not taking action and even relying on the site.

"The airport sat on its rights and allowed the other Web site to continue for a decade," said Amy Goldsmith, partner at the Manhattan law firm of Gottlieb Rackman & Reisman, which also operates in Garden City. "They will say, based on their 10 years of use without any challenge, they do have rights.

"It's not a question of whether there's a profit or not. They have to have acted in bad faith in relying on someone else's trademark," Goldsmith said. "Did they operate this site in good faith, providing useful information? That's going to be a factor."

Ditte said his site provides travel information.

"It was a free country. You were allowed to do a Web site about an airport or a government entity. If I wanted to do a Web site about the Library of Congress, I don't see why that would be a crime."

The airport argues its site serves travelers better, including the information on its terminal screens, listing gates and arrival times.

Whether or not he is a savvy entrepreneur or an annoyance to the airport may be in the eye of the surfer. But Ditte believes his site is a simpler way to attract visitors than flylima.com, which

may sound more related to Lima, Peru, than Long Island.

"Let's say you're in Omaha and you're coming to Long Island, what are you going to look at?" Ditte asked. "Are you going to look up LIMA? Or are you going to type in MacArthur Airport or Islip airport? That's where we're going to show up first."

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