that person, with respect to the mark, that is brought by another person under the common
law or a statute of a State and that seeks to prevent dilution of the distinctiveness of a mark,
label or form or advertisement.

(4) The following shall not be actionable under this section:

(A) Fair use of a famous mark by another person in comparative commercial advertising or
promotion to identify the competing goods or services of the owner of the famous mark.

(B) Noncommercial use of a mark.

(C) All forms of news reporting and news commentary.

(D)(1)(A) A person shall be liable in a civil action by the owner of a mark, including a personal
name which is protected as a mark under this section, if, without regard to the goods or
services of the parties, that person—

(i) Has a bad faith intent to profit from that mark, including a personal name which is
protected as a mark under this section; and

(ii) Registers, traffics in, or uses a domain name that—

(I) In the case of a mark that is distinctive at the time of registration of the domain
name, is identical or confusingly similar to that mark;

(II) In the case of a famous mark that is famous at the time of registration of the do-
main name, is identical or confusingly similar to or dilutive of that mark; or

(III) Is a trademark, word, or name protected by reason of section 706 of title 18,
United States Code, or section 220506 of title 36, United States Code.

(B) (i) In determining whether a person has a bad faith intent described under subpara-
graph (A), a court may consider factors such as, but not limited to—

(I) The trademark or other intellectual property rights of the person, if any, in the
domain name;

(II) The extent to which the domain name consists of the legal name
of the person or a name that is otherwise commonly used to identify
that person;

(III) The person's prior use, if any, of the domain name in connection with the
bona fide offering of any goods or services;

(IV) The person's bona fide noncommercial or fair use of the mark in a site
accessible under the domain name;

(V) The person's intent to divert consumers from the mark owner’s online loca-
tion to a site accessible under the domain name that could harm the good-
will represented by the mark, either for commercial gain or with the intent
to tarnish or disparage the mark, by creating a likelihood of confusion as to
the source, sponsorship, affiliation, or endorsement of the site;

(VI) The person’s offer to transfer, sell, or otherwise assign the domain name to
the mark owner or any third party for financial gain without having used,
or having an intent to use, the domain name in the bona fide offering of
any goods or services, or the person’s prior conduct indicating a pattern of
such conduct;

(VII) The person’s provision of material and misleading false contact informa-
tion when applying for the registration of the domain name, the person’s
intentional failure to maintain accurate contact information, or the person’s
prior conduct indicating a pattern of such conduct;

(VIII) The person’s registration or acquisition of multiple domain names which
the person knows are identical or confusingly similar to marks of others
that are distinctive at the time of registration of such domain names, or
dilutive of famous marks of others that are famous at the time of registra-
tion of such domain names, without regard to the goods or services of the
parties; and