

It's Not Just Fanciful Anymore: It's Generic

Protection of E-Marks: Domains and Trademarks

Jeffrey H. Kaufman, Partner

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.

Arlington, VA USA

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OBLON
SPIVAK
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&
NEUSTADT
P.C.

E-FASHION

Paper No. 10
JQ

THIS OPINION IS CITABLE
AS PRECEDENT OF THE TTAB

11/29/00

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Styleclick.com Inc.**

Serial No. 75/459,910

“While, by most standards, one to three years in the past would be viewed as ‘recent,’ a year or two is an eternity in ‘Internet time,’ given the rapid advancement of the Internet into every facet of daily life....”

E-MORTGAGE

Registration:

E-MORTGAGE

Status: REGISTERED **Date:** 01/07/1999

Gds/Svcs: Int'l. Cl.: 36 (U.S. Cl.: 100, 101, 102)
COMPUTERIZED LOAN APPROVAL SERVICES, NAMELY, ON-LINE LOAN FINANCING AND
MORTGAGE BANKING SERVICES WHEREIN A BORROWER SUBMITS AN APPLICATION FOR A
MORTGAGE LOAN VIA A COMPUTER ON-LINE SERVICE OR A GLOBAL COMPUTER NETWORK
First Use: 08/09/1995 **In Commerce:** 01/30/1996

Reg. No.: 2,137,728 **Registered:** 02/17/1998

Serial No.: 75-027349 **Filed:** 12/05/1995 **Published:** 08/27/1996

“ ‘e- ,’ when used as a prefix in the manner of applicant’s mark, has the generally recognized meaning of ‘electronic’ in terms of computers and the Internet.

(...)

**“When this
non-source-identifying prefix
is coupled with the descriptive
word ‘fashion,’ the mark
E FASHION, as a whole, is
merely descriptive for
applicant’s goods
and/or services.”**

EFASHION.COM

Status: PENDING - SUSPENDED **Date:** 07/26/2000
SUSPENSION LETTER MAILED

Gds/Svcs: Int'l. Cl.: 35 (U.S. Cl.: 100, 101, 102)
ELECTRONIC RETAILING SERVICES VIA A GLOBAL COMPUTER NETWORKS FEATURING
CLOTHING, SHOES, FASHION ACCESSORIES, COSMETICS, JEWELRY AND PERSONAL CARE
PRODUCTS; COMPUTERIZED ON-LINE RETAIL AND WHOLESALE DISTRIBUTORSHIPS
FEATURING CLOTHING, SHOES, FASHION ACCESSORIES, COSMETICS, JEWELRY AND
PERSONAL CARE PRODUCTS

Serial No.: 75-792560 **Filed:** 09/03/1999

Add. Info.: FILED AS INTENT TO USE.

Corresp.: MARY ANN EKMAN
KARR TUTTLE CAMPBELL
1201 THIRD AVENUE, SUITE 2900
SEATTLE, WASHINGTON 98101-3028

Applicant: IMBIBO CORPORATION (NV CORP.)
15127 N.E. 24TH STREET, SUITE 106
REDMOND, WA 98052

Assignments:

Assignee: EFASHION.COM, LLC (MA LIMITED LIABILITY COMPANY)
32 NEWELL DRIVE, FRANKLIN, MA 02038

Assignor: IMBIBO CORPORATION (NV CORP.)

Recorded: 07/10/2000 **Assigned:** 03/06/2000 **Reel/Fr.:** 2112/0513

Action: NUNC PRO TUNC

search

home | shop | win | about us



Win a trip for 2 to St. Maarten!

Shop by Category

Shop by Brand

channels

- shopping
- beauty
- celebs
- body/mind
- lifestyle
- industry
- couture

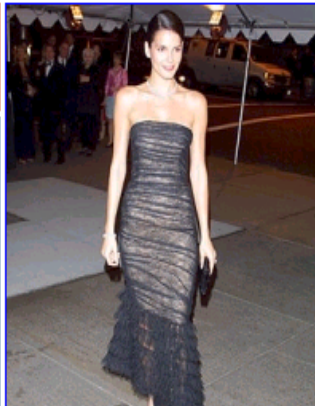
Horoscopes

free efashion newsletter

enter your email

submit

Give the gift of hope...



Best And Worst Dressed Of The Week

April 30th, 2001

CATASTROPHIC CLINTON

illary, what happened? You finally thinned out the hair, but lately the clothes are getting puffer and puffer. Take our advice: when in doubt, go sleek and simple - otherwise you risk looking like Cinderella's fairy godmother gone wrong (especially



eFASHION Model Search 2001 Coming Soon

TOP PICKS

- estyle.com
- NordstromRack.com
- dELiAs.cOm
- ibeauty.com
- Oliebollen.com

BEAUTY

[International Internet Beauty Contest](#)

[You Save on Shampoo, Too](#)

[Beauty Benefits from Imaging Technology](#)

[More...](#)

CELEBS

['The Lesser Beau' Stands Content to](#)

[Billy's Kid Steps Up to Bat](#)

[Shoop's Doggy's Angels Talk New Video](#)

[More...](#)

COUTURE

[Best and Worst Dressed of the Week](#)

[Designer Quen's Journey to Couture](#)

[Harper's Bazaar Identifies Latest Looks](#)

[More...](#)

BODY/MIND

[Don't Be a Dumbbell About Training](#)

[The Latest on Salt & Blood Pressure](#)

[Try This Tasty Alternative for Breakfast](#)

[More...](#)



LIFESTYLE

[The Complete Guide to Healing](#)

[Janet's Latest May Not Hook You at](#)

[Try These One-dish Wonders](#)

[More...](#)

A Powerful Enemy

[Click here for Terminix!](#)

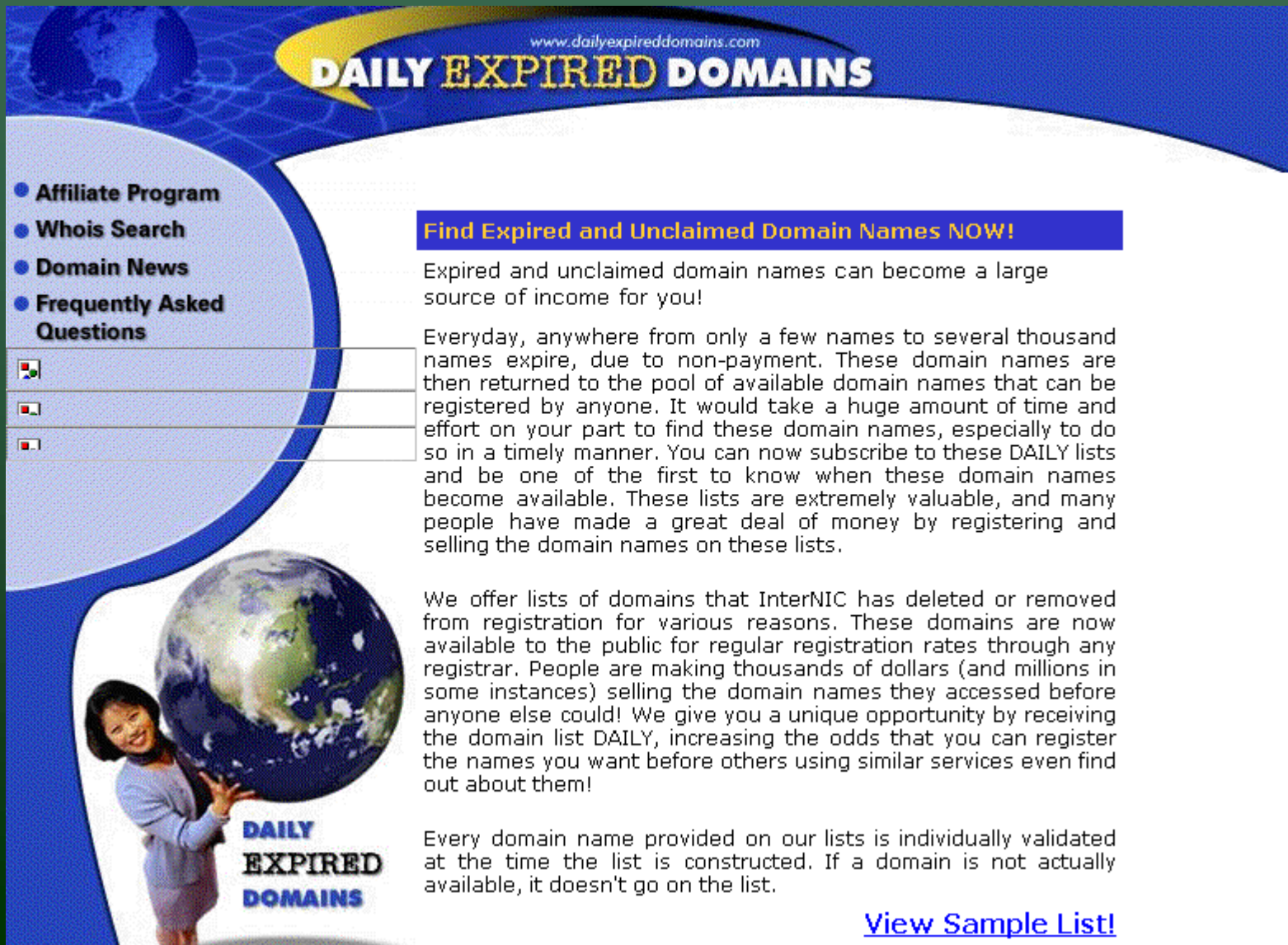
<http://www.expireddomains.com>

<http://www.dnsresearch.com/expired.htm>

<http://www.domainsbot.com/how.asp>

<http://www.domainsweekly.com>

<http://www.unclaimeddomains.com/info.html>



The banner features a blue and white color scheme. At the top, a yellow speech bubble contains the URL www.dailyexpireddomains.com and the text "DAILY EXPIRED DOMAINS". On the left, a vertical menu lists "Affiliate Program", "Whois Search", "Domain News", and "Frequently Asked Questions". Below the menu is a search bar with three input fields. In the center, a woman in a blue suit holds a large globe. The text on the right describes the service of finding expired and unclaimed domain names.

www.dailyexpireddomains.com

DAILY EXPIRED DOMAINS

- Affiliate Program
- Whois Search
- Domain News
- Frequently Asked Questions



Find Expired and Unclaimed Domain Names NOW!

Expired and unclaimed domain names can become a large source of income for you!

Everyday, anywhere from only a few names to several thousand names expire, due to non-payment. These domain names are then returned to the pool of available domain names that can be registered by anyone. It would take a huge amount of time and effort on your part to find these domain names, especially to do so in a timely manner. You can now subscribe to these DAILY lists and be one of the first to know when these domain names become available. These lists are extremely valuable, and many people have made a great deal of money by registering and selling the domain names on these lists.

We offer lists of domains that InterNIC has deleted or removed from registration for various reasons. These domains are now available to the public for regular registration rates through any registrar. People are making thousands of dollars (and millions in some instances) selling the domain names they accessed before anyone else could! We give you a unique opportunity by receiving the domain list DAILY, increasing the odds that you can register the names you want before others using similar services even find out about them!


Every domain name provided on our lists is individually validated at the time the list is constructed. If a domain is not actually available, it doesn't go on the list.

[View Sample List!](#)


DAILY
EXPIRED
DOMAINS

<http://www.domainsbot.com/how.asp>

Domains Bot



one quick click



Register Your Domain WorldWide Today!

Main Menu
[Advanced Search](#)
[Members Login](#)
[How It Works](#)
[Sign Up Now](#)
[Free Appraisal](#)
[Expert Appraisal](#)
[BackOrder Domains](#)
[Register Domains](#)
[International Domains](#)
[Power Whois](#)
[30% Reseller](#)
[Contact Us](#)

Expired Today
[aaeeii.org](#)
[aanvallen.org](#)
[absolutemagnetics.com](#)
[accelex.com](#)
[accurateagent.com](#)
[acsworld.com](#)
[actrecords.com](#)
[adblast.net](#)
[adhesivebid.net](#)
[adriansantos.com](#)
[\(view domains...\)](#)

How It Works

**Live Expired, OnHold, Expiring Soon Domain Names.
Track'em down!**

SECRETS OF HOW TO MAKE/SAVE MONEY WITH EXPIRED/ON HOLD/EXPIRING SOON DOMAINS

Toronto, Canada
July 31, 2000
Alex Kovalenko

You are about to find out what 99.9% of the people on the net do NOT know. This secret has been kept jealously guarded for over four years now, and is known by less than 10% of professional domain name sellers/buyers. The few insiders who know this secret have made thousands, even millions in days! Would YOU like to know the "Insiders" jealously guarded secret?

The domain name "Insiders" won't share this secret with you, because it has been sacred for so long, and has made them more money than most of us will make in their life time. This secret explains how YOU can make a living buying and then reselling domain names. Plus, you can save thousands of dollars while choosing your new domain name for your new Online Business. And not the crappy one like UsedCarsDealshipinNJ.Com but a quality one like UsedCars.Net.

<http://www.domainsweekly.com>

The screenshot shows the homepage of DomainsWeekly.com. At the top left is the logo with a 'Dw' in a speech bubble and the text 'DOMAINS WEEKLY.COM'. To the right are navigation links: 'Expired | Register | Appraise | Hosting | Logos'. Below the logo is a search bar with 'email address' and a 'GO' button. A navigation menu contains 'HOME', 'NEWS', 'ARTICLES', and 'RESOURCE'. A 'Last Updated: 04/13/01' timestamp is visible. The main content area features a 'What's New' section with an article titled 'Instant Traffic Using Expired Domains'. Below this is a section for 'Daily Expired Domains and Soon-To-Expire Lists' with a sub-header 'Where have all the good names gone?' and a small image of a man. The text explains that domain names expire and are put back in a pool. On the right sidebar, there are sponsored sections: '\$15 Domain Registration' and 'Top Domain Sites' with a list of five links including NameU.com, Virtualis, DNResources, and two 'Your Site Here' links. At the bottom of the sidebar is 'Earn Cash!' and a partial view of a line graph.

DOMAINS WEEKLY.COM [Expired](#) | [Register](#) | [Appraise](#) | [Hosting](#) | [Logos](#)

Last Updated: 04/13/01

[HOME](#) [NEWS](#) [ARTICLES](#) [RESOURCE](#)

FREE Weekly Ezine: 200+ Expired Domains, Updates, News, Articles, Contests and more. [Sample Issue](#). [Testimonials](#).


email address GO

What's New :

Article: Instant Traffic Using Expired Domains
[Start Your Own Business Selling Top Level Domains](#)
[PreRegister Now! Invite Code : 551150](#)

.: Daily Expired Domains and Soon-To-Expire Lists .:

Where have all the good names gone?

 Have you searched for a quality domain name lately? You may think it's impossible to find one! But it's not... DomainsWeekly.com's domain research services is here to help. We offer the best deal on **DAILY** Expired Domains Name and 'Soon to Expire' Domain lists.

The best names are now EASY to find!

Everyday, thousands of domain names "**expire**", due to non-payment. These domains are then **put back in the pool** of available domain names that can be registered by anyone.

Top Domain Sites

1. [NameU.com](#) Builder
2. [Virtualis](#) - Hosting
3. [DNResources](#) - Resource
4. [Your Site Here](#)
5. [Your Site Here](#)

Earn Cash!

<http://www.unclaimeddomains.com/info.html>



Want to know if your site's listed
in 15 TOP search engines?

[Click Here
Now!](#)

UNCLAIMED
Domains

Where Ordinary People Get
Extraordinary Domain Names!!

internet.com

Want To Improve
Your Search
Engine Ranking?

Let NetMechanic's tools
help you optimize your:

Choose One

Sign up here for the FREE version
of our service...

"EASY .COM EASY GO!"
Every week, you'll get 100
hot domains that just expired
and are FREE for the taking!

The world's greatest domain names... FREE!

[To Order click here](#)

Everyday, I read some article that says:

"Good .com names are getting hard to find."

Well... that may be true, but **only** for those poor saps who don't know
about us!

Are you ready for the **biggest secret** on the web?

Each and every week, **thousands** of people have their valuable **.com** names
repossessed because of non-payment of their domain registration fee. If
InterNIC, the registration authority, doesn't receive payment by a certain
date, they *repossess* the domain name and return it to the pool of **available**
names.

Once this happens, anyone... I repeat, **anyone**... can then register that name
and claim it for themselves!

<http://www.betterwhois.com>

Better-Whois.com

...SEARCH ALL DOMAIN REGISTRARS

What's wrong with WHOIS?

The domain business has been deregulated... For the first time, many different domain registrars are granting domain names.

But there is a problem, the standard WHOIS domain search used on thousands of web sites is no longer accurate. Why? Because each domain registrar now keeps their own WHOIS database which doesn't include domains registered by competing registrars.

www.	<input type="text"/>	Search
Searches shared database registry and queries appropriate registrar.		

Accurate domain name lookups are essential. When a search says a domain name is available - it should be available. That's basic. Misleading information can result in lost names, business disruption, disputes, and more. It affects name registration services, web hosting companies, web site owners and Internet users

How to get accurate results? In this changing system of increased competition and new registrars, the only way to get an absolutely accurate domain report is to:

- lookup the domain in the shared domain registry
- locate which registrar has reserved the name
- visit and query that registrar's database for the correct information

BetterWhois.com does this for you instantly.

[Home page](#)

[Link-to-Us](#)

[Contact Us](#)

Domain Name News

[Yahoo Full Coverage](#)

Featured Registrar

Register a domain name with [Register.com](#) for only \$20. Includes:

- Free 3-page web site
- Free web forwarding
- Free e-mail account.

[Click here for discounted rate.](#)

Active Domain Registrars

[Alabanza, Inc.](#)

[AllDomains.com](#)

[All West Communications](#)

[Capital Networks](#)

[Catalog.com](#)

[CORE Council](#)

[Domaininfo.com](#)

[DomainPeople](#)

[DomainRegistry.com](#)

[DomainZoo.com, Inc.](#)

[Domain Bank, Inc.](#)

[Domain Direct](#)

[Domain Direct](#)

If you found our service useful and would like to link to us or provide free

<http://www.whois.net>



"the smart, easy,
online domain name
research tool"

May 6th, 2001

Use this Whois Tool to:		Explanation of Tool:	
Search by Domain Name or by keyword	<input type="text"/>	<input type="button" value="Go!"/>	Search domains and lookup whois information. Research and protect trademarks.
Get your own Domain Name	<input type="text"/>	<input type="button" value="Go!"/>	Find available domains and lookup Whois records

Other tools and information:

- [Whois Domain Name lookup](#)
- [Suggest-a-name Search](#)
- [Deleted domain Search Try it!](#)
- [Get Your Internet Keyword Now!](#)
- [Free Domain Name Monitoring!](#)
- [Free Trademark Search - Check your name for conflicts.](#)
- [Web reseller program -- WARP](#)

Domain Stats:

31,583,072 com/net/org domains registered
1,758,565 domains on-hold

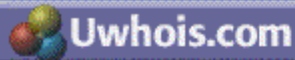
<http://www.uwhois.net>



Corporate.com

Incorporate your business and manage it without leaving your browser.

[Home](#) | [About Uwhois](#) | [Premium Services](#) | [Free Software](#) | [Contact Us](#) | [Legal](#)



Search:



To identify the registered holder of a domain name, enter the domain name, followed by either .com, .net, .org, or one of the 246 country code suffixes in the entry box above and click the go button.

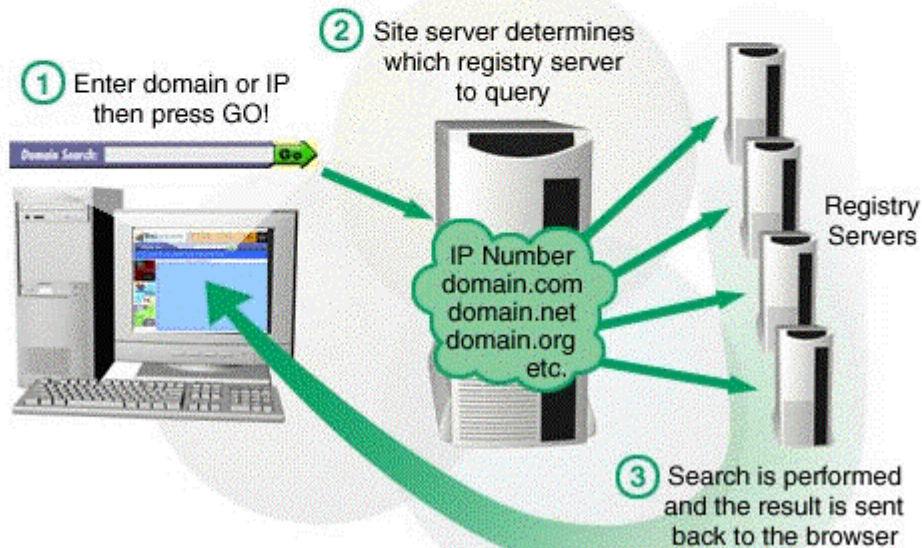
Financing.
Payroll.
Merchant services.
And more.

oneCore.com

ditto
Visual Search

Save here
with no fee
for one

Search multiple Generic and Country Code Top Level Domains.



<http://www.eprinters.com>

<http://www.eprinters.com>

<http://www.e-printers.com> (hyphenated)

<http://www.eprintr.com> (misspelling)

<http://www.eprinter.com> (plural or singular)

<http://www.iprinters.com> (common prefixes)

<http://www.1800eprinters.com>
(toll free variations)

<http://www.1866eprinters.com>

<http://www.eprinters-supplies.com> (with generic
product names)

Considerations in choosing a registrar:

- **Location**
- **Security of the WhoIs Information**
- **Cost**
- **Reliability and Stability of the Registrar**

- 1. Is a local presence required?**
- 2. Trade name requirement?**
- 3. Limitations on how many domains the client may register in that country?**
- 4. High registration fees?**
- 5. Restrictions on transferring ownership?**

**Information can be found at the web sites
of the authority in each country.**

**See www.iana.org and www.alldomains.com
for detailed information on registering
in the ccTLDs.**

New gTLDs

Seven new gTLDs are expected to be operational in late 2001:

- four unsponsored TLDs: .biz, .info, .name, .pro
- three sponsored TLDs:
 - .aero – air transport industry
 - .coop – cooperatives
 - .museum – museums
- information available at www.icann.org

Multilingual Domain Names

- two types
 - gTLDs – currently in test stage for over 60 languages
 - ccTLDs
- requires ability to type characters into URL

**Ability to register descriptive E-Marks
or I-Marks will require consultation
with trademark counsel in that
region of the world.**

It's Not Just Fanciful Anymore: It's Generic

Protection of E-Marks: Domains and Trademarks

Jeffrey H. Kaufman, Partner

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<http://www.eprinters.com>