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Alternative Dispute Resolutions (ADR) for *.fr* and *.re* domain names

Introduction

The Alternative Dispute Resolutions are extrajudicial procedures provided for anyone who consider that a *.fr* or *.re* domain name registration made by a third party affects their rights. Three alternative procedures for resolving disputes are implemented and are administered by two different bodies. It is to be noted that AFNIC remains neutral.

Aims of the implementation of these procedures are:

- short period (within one and two months);
- cheap costs (from 0 to below 1500 Euros);
- the possibility to submit the dispute to a court with jurisdiction.

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1. Overall presentation

The *.fr* and *.re* naming [Charters](#) expressly remind you, in compliance with the terms of the French draft bill for electronic and audiovisual communication services, that it is the responsibility of the person registering the domain name or exploiting the domain name to verify that it does not breach the rights of third parties.

To do this, and in parallel with the traditional legal channel, two alternative procedures for resolving disputes are implemented within the zone files, *.fr* and *.re*, designated by the acronym, "ADR for *.fr* and *.re*".

When they request the registration of a domain name and subscribe to the naming Charter, the registrant of the domain name undertakes to comply with these procedures.

Each of these issues is administered by a different body and has separate regulations.

These are:

- the ADR for *.fr* and *.re* by "on-line recommendation"**, administered **by the Centre de Médiation et d'Arbitrage de Paris (CMAP)** [Centre for Mediation and Arbitration of Paris] whose regulations can be accessed at www.mediationetarbitrage.com;
- the ADR for *.fr* and *.re* by "technical decision"**, administered **by the Centre of Mediation and Arbitration of the World Intellectual Property Organisation (WIPO)**, whose regulations can be accessed at <http://arbitr.wipo.int/domains/cctld/fr/index-fr.html>.
- the ADR for *.fr* by "médiation"**, administered **by the Internet Rights Forum** whose regulations can be accessed at <http://www.foruminternet.org>.



2. ADR for *.fr* and *.re* by on-line recommendation (CMAP)

The ADR for *.fr* and *.re* by "on-line recommendation" enables the parties to a dispute relating to one or several domain names to entrust, by common agreement, the task of formulating a "recommendation" to a "dispute-resolution provider" designated by CMAP.

The "dispute-resolution provider" intervenes to facilitate the emergence of an out of court solution.

If the parties accept the recommendation, it is then used to draft a transaction protocol and to put an end to the dispute.

The solution chosen will then be implemented by AFNIC at the request of the service provider administering the domain name.

Having many things in common with mediation, this innovative solution is not restrictive, in the sense that the parties agree both to start the procedure and to apply the recommendation of the "dispute-resolution provider" or to base their decision on the suggestion of the latter.

The dispute-resolution provider may suggest solutions other than mere deletion or transfer of the domain name and may make it possible to serve the entire dispute, dealing, in particular, with the problem of compensation.

My account

Access restricted to Members, Registrars and Partners.



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learn more about it :



Read the [Charters](#) (registration rules for *.fr* and *.re* domain names).

learn more about it :



Read the [Decree](#) ^{REF} of 6 February, 2007 on domain names (In French only).

learn more about it :

View WIPO UDRP domain name decisions. (Click on *.fr* or *.re*.)

This extremely rapid and easy procedure (it takes about 16 days) is especially suitable in the event of disputes about legitimacy, as, for example, litigation between franchisers and franchisees or, in merger, acquisition, partial capital operations etc., that is all conflictual situations that are not necessarily cases of bad faith registrations of domain names (cybersquatting), which does not exclude this procedure also being used in the situation.



Recommendations of CMAP are not published and remain confidential (contrary to WIPO UDRP domain name decisions).



3. ADR for *.fr* and *.re* by technical decision (WIPO Centre)

The ADR for *.fr* and *.re* by "technical decision", administered by the WIPO Centre is a UDRP (Uniform Domain Name Dispute Resolution Policy) adapted to the *.fr* and *.re* zones.

This is a binding procedure, which the owner of the domain name cannot evade.

It is, however, possible to submit the dispute to a court with jurisdiction at any time.

Under this procedure, the expert designated by the WIPO Centre will have to decide whether to reject the complaint or to transmit the name of the complainant or to remove them.

This decision is sent to AFNIC, which implements it after a period of 20 days, during which the owner may file a complaint with the French Courts to contest the decision. In that case, the application of the administrative decision then depends on the decision of the Courts.

This type of procedure, which has been used since 1999, both for gTLD (generic Top Level Domains) and in the case of some ccTLD (country-code Top Level Domains), has proved its efficacy, in particular, in combating the fraudulent registration of domain names. It will be seen, however, that the field of application of the UDRP procedure is limited to breaches of brand law.

On the other hand, ADR for *.fr* and *.re* "by administrative decision" applies to breaches of third party rights protected in France and, in particular, to intellectual property (literary and artistic property and/or industrial property), to the regulations on competition and fair trading and to the right to the name, first name or pseudonym of an individual.

While it is possible to implement a ADR for *.fr* and *.re* "by technical decision" after a recommendation has been made within the framework of a "ADR by on-line recommendation", the reverse is not possible because of the binding nature of the "technical decision".



WIPO makes public its UDRP domain name decisions (including the cases related to *.fr* or *.re* domain names).



4. ADR for *.fr* by mediation (Internet Rights Forum)

The Internet Rights Forum (part of the European Internet coregulation network) handle the extra judicial settlements of *.fr* domain disputes brought by individuals.

Two types of disputes are concerned: between two individuals or between an individual and a company.

The Internet Rights Forum's mediation service is free of charge and web users are invited to make their requests at the following address: www.mediateurdunet.fr.



5. Role of AFNIC

Each of the ADR for *.fr* and *.re* is administered on a case-by-case basis, either by the CMAP, or by the WIPO Centre, or by the Internet Rights Forum without the intervention of AFNIC, which remains strictly neutral in its capacity as registry.

The role of AFNIC is restricted to:

- informing the CMAP dispute-resolution provider or the WIPO expert or the Internet Rights Forum of the information in their possession on the owner of the domain name and their domain name assets (number and time);
- freezing operations on the domain name or domain names that is the subject of a ADR;
- applying either the decision arrived at by agreement between the parties as a result of an "on-line recommendation" or of the "technical decision" made by the WIPO expert or the result of the mediation by the Internet Rights Forum .

Under the terms of the naming Charter, ADR for *.fr* and *.re* does not apply to disputes that are the responsibility of AFNIC or to that of service providers, which, where possible, are brought before the courts with jurisdiction.



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