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検索

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[トップページ](#) > [JPNICライブラリ](#) > [ドキュメントライブラリ](#)

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This is an unofficial translation provided as reference material to aid in the understanding of this rule.

Only the original Japanese texts of the rule have legal effect.

<http://www.nic.ad.jp/ja/doc/validity.html>

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JP Domain Name Dispute Resolution Policy

Art. 1 Purpose

This "JP Domain Name Dispute Resolution Policy" (hereinafter referred to as "the Policy") has been adopted by Japan Network Information Center (hereinafter referred to as "JPNIC") and is incorporated by reference into the "Registration Rules for Organizational Type and Geographic Type JP Domain Names" and "Registration Rules for General-use JP Domain Names" (hereinafter referred to as "the Registration Rules"), which shall be abided by registrants who have registered their domain names at Japan Registry Service Co., Ltd. (hereinafter referred to as "JPRS") (hereinafter referred to those registrants as "the Registrant"). The Policy has determined the conditions in connection with a dispute between the Registrant and any third party over the domain name arising from the registration and the use of domain name registered by the Registrant. Proceedings on JP Domain Name Dispute Resolution under Art. 4 of the Policy shall be conducted according to the "Rules for Procedure of JP Domain Name Dispute Resolution Policy" (hereinafter referred to as "Rules for Procedure") and the supplemental rules of the selected dispute-resolution service provider that is approved by JPNIC (hereinafter referred to as "the dispute-resolution service provider").

Art. 2 Notice of the Registrant and Violation of Duty of Notice

By applying to register a domain name, or by asking JPRS to maintain or renew a domain name registration, the Registrant shall notify JPRS of that:

- a. the contents of statements made in the Registration Application are complete and accurate

- b. to the best knowledge of the Registrant, the registration of the domain name will not infringe upon or otherwise violate the rights or interests of any third party
- c. the Registrant is not registering the domain name for in bad faith (unfair purposes, that is, purposes of gaining unfair interests, of causing damages to others and other unfair purposes. The same shall apply in the followings.)
- d. the Registrant will not knowingly use the domain name in violation of any applicable laws or regulations

In the event that any of the above is not correct, the Registrant agrees that the domain name may be transferred or cancelled pursuant to the Policy.

Art. 3 Transfers and Cancellations of Domain Name

JPRS will transfer or cancel the domain name registration under the following circumstances:

- a. Subject to the provisions of Art. 8, the receipt by JPRS of written instructions from the Registrant or its authorized agent to take such action;
- b. The receipt by JPRS of the original (a copy of the original may be acceptable if circumstances require) of an order from a court or arbitration tribunal, in each case of competent jurisdiction, requiring such action; and/or
- c. The receipt by JPRS of a decision of an Administrative Panel requiring such action in JP Domain Name Dispute Resolution Proceedings to which the Registrant was a party and which was conducted under this Policy or a later version of this Policy adopted by JPNIC (See Art. 4 (i) and (k) of the Policy below.)

JPRS may also cancel or transfer the domain name registration in accordance with the terms of the Registration Rules or other legal requirements. If the transfer has been made, however, the JPRS will not establish the name server for the domain name unless the qualifications and requirements for registration are satisfied.

Art. 4 JP Domain Name Dispute Resolution Proceeding

This Article sets forth the type of disputes for which the Registrant is required to submit to JP Domain Name Dispute Resolution Proceedings. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed on the web site of JPNIC.

a. Applicable Dispute

The Registrant is required to submit to this JP Domain Name Dispute Resolution Proceeding in the event that a third party (hereinafter referred to as "Complainant") asserts to the applicable dispute-resolution service provider, in compliance with the Rules of Procedure, that

- i. the domain name of the Registrant is identical or confusingly similar to any mark such as trademark or service mark in which the Complainant has rights or legitimate interests; and
- ii. the Registrant has no relevant rights or legitimate interests in respect of the domain name; and
- iii. the domain name of the Registrant has been registered or is being used in bad faith (unfair purpose).

In the JP Domain Name Dispute Resolution Proceeding, the Complainant must prove each of these three elements.

b. Proof of Registration or Use in In Bad Faith (Unfair Purpose)

To determine whether or not there are factual elements provided by this Article (a)(iii), the panel of the dispute-resolution service provider must consider that the registration or use of a domain name is for in bad faith (unfair purpose) if the Panel found especially the following circumstances, in particular but without limitation.

- i. circumstances indicating that the Registrant has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the Complainant or to a competitor of that Complainant, for valuable consideration in excess of the out-of-pocket costs (amount to be confirmed by documentation) directly related to the domain name; or
- ii. the Registrant has registered the domain name in order to prevent the Complainant from reflecting any trademarks or other indication in a corresponding domain name, provided that the Registrant has engaged in a plural numbers of such interference; or
- iii. the Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. by using the domain name, the Registrant has intentionally attempted to attract, for commercial gain, Internet users to the web site or other on-line location of the Registrant, by intending to make a confusion as to the source, sponsorship, affiliation, or endorsement of the web site or location or of a product or service thereon.

c. How to Demonstrate the Relevant Rights to and Legitimate Interests in the Domain Name

When the Registrant receives a complaint, the Registrant should refer to Art. 5 of the Rules of Procedure and submit the response to the dispute-resolution service provider. In order to determine whether or not the factual situation provided by this Article a (ii), if the panel reviewed all evidence presented either by the Complainant or the Registrant and especially found the following circumstance, in particular but without limitation, the Panel must consider that the Registrant holds the relevant rights or legitimate interests to the domain name:

- i. before the Registrant receives any notice of the dispute related to the subject domain name by any third party or the dispute-resolution service provider, the Registrant uses of, or apparently demonstrate preparations to use of, the domain name or a name corresponding thereto, in order to offer of goods or services for a valid purpose; or
- ii. the Registrant has been commonly known by any name under the domain name, regardless of registration or others by the Registrant of any trademark and other indications.
- iii. The Registrant is using the domain name for a noncommercial purpose or is making fair use of the domain name, without intent for commercial gain to misleadingly divert consumers by utilizing the trademark and other indications of the Complainant or to tarnish any trademark and other indications of the Complainant.

d. Selection of dispute-resolution service provider

The Complainant shall select the dispute-resolution service provider from among those approved by JPNIC by submitting the complaint to that dispute-resolution service provider. The selected dispute-resolution service provider shall administer and conduct the JP Domain Name Dispute Resolution Proceeding, except in cases of consolidation as described in this Article (f).

e. Initiation of Proceeding and Process and Appointment of Panel.

The Rules of Procedure state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute.

f. Consolidation

In the event of multiple disputes between the same Registrant and the Complainant, either the Registrant or the Complainant may petition to consolidate the disputes before a single panel. This petition shall be made to the first panel appointed to hear a pending dispute between the parties. This panel may consolidate before it any or all such disputes at its sole discretion, provided that the consolidated disputes are governed by this Policy or later versions of this Policy adopted by JPNIC.

g. Fees

All fees charged by a dispute-resolution service provider in connection with any dispute case before a panel pursuant to this Policy shall be paid by the Complainant, except in cases where the Registrant elects to expand the number of panelist from one to three as provided in Art. 5 of the Rules of Procedure, in which case all the fees will be shared evenly between the parties.

h. The Involvement of JPNIC and JPRS in the JP Domain Name Dispute Resolution Proceedings

JPNIC and JPRS do not, and will not participate in the administration or conduct of any proceeding before a panel. In addition, JPNIC and JPRS will not be liable for decisions itself rendered by the panel.

i. Remedies

The remedies available to the Complainant pursuant to any proceeding before a panel shall be limited to requiring the cancellation of the domain name of the Registrant or the transfer of the domain name registration to the Complainant.

j. Notification and Publication

The dispute-resolution service provider shall notify JPNIC and JPRS of any decision made by a panel with respect to the domain name. JPNIC shall reposit and publish all decisions over the Internet, provided, however, that JPNIC may not publish certain portions of its decision when JPNIC determines it necessary. The dispute-resolution service provider shall agree on JPNIC's reposition and the publication of the decisions.

k. Availability of Court Proceedings

Either of the parties may submit the dispute to a court before the JP Domain Name Dispute Resolutions Proceeding is commenced, whilst such proceeding is pending or after such proceeding is concluded. Any

requirement set forth in this Article shall not prevent the parties from submitting the dispute to a court under this clause. If the panel decides that the domain name registration of the Registrant should be canceled or transferred, JPRS will wait ten (10) business days (as observed in the location of the head office of JPRS) after JPRS is informed by the applicable dispute-resolution service provider of the Panel's decision before implementing that decision. JPRS will then implement the decision unless JPRS has received from the Registrant during the ten (10) business day period officially certified copy of document (such as a copy of a complaint, file-stamped by the clerk of the court) that the Registrant has commenced a lawsuit against the Complainant in a jurisdiction to which the Complainant has submitted under Art. 3 (b) (xii) of the Rules of Procedure. (In general, that jurisdiction is either the Tokyo District Court or the location of the address of the Registrant as shown in the domain name's registration data in JPRS. See Art. 1 and Art. 3 (b) (xii) of the Rules of Procedure.) If JPRS receives such officially certified copy of the document within the ten (10) business day period, JPRS will not implement the panel's decision. JPRS will take no further action concerning the implementation of the Panel's decision until JPRS receives (i) the certified copy of settlement agreement between the parties made in notarized documentation, (ii) the officially certified copy of the petition for withdrawing the action brought by the Registrant and of consent for the withdraw by the Complainant, or (iii) the officially certified copy of a final judgment or the documentation equivalent to it of such court dismissing the lawsuit or ordering that the Registrant does not have the right to continue to use the domain name. Any copy may be submitted instead of the officially certified copy of the document mentioned above.

Art. 5 All Other Disputes and Litigation

All other disputes between the Registrant and the Complainant regarding the domain name registration, which are not brought pursuant to Art. 4 of the JP Domain Name Dispute Resolution Proceeding, shall be resolved between the parties through any court, arbitration or other proceeding that may be available.

Art. 6 The Involvement of JPNIC and JPRS in Disputes

Both JPNIC and JPRS will not participate in any way in any dispute between the Registrant and any third party regarding the registration and use of the domain name. The Registrant shall not name JPNIC and/or JPRS as a party/parties or otherwise include JPNIC and/or JPRS in any such proceeding. In the event that JPNIC and/or JPRS are/is named as a party/parties in any such proceeding, JPNIC and/or JPRS reserve(s) the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend itself/themselves.

Art. 7 Maintaining the Status Quo

JPRS will not transfer, cancel or otherwise change the status of any domain name registration under this Policy except as provided in Art. 3 of this Policy and in the Registration Rules.

Art. 8 Transfers of Domain Name During a Dispute

The Registrant may not transfer the domain name registration to another holder under each of the following conditions.

- i. during a pending JP Domain Name Dispute Resolution Proceeding pursuant to Art. 4 or for a period of fifteen (15) business days

(as observed in the location of the head office of JPRS) after such proceeding is concluded; or

- ii. during a pending court proceeding or arbitration unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator.

JPRS reserves the right to delete any registration of a domain name transferred to another holder or to disapprove of any application for transfer of registration which are made in violation of this Article.

Art. 9 Policy Modifications

JPNIC reserves the right to modify this Policy at any time. JPNIC and JPRS will post the revised Policy on each website at least thirty (30) calendar days before it becomes effective. When the Proceeding was initiated by the submission of a complaint to the dispute-resolution service provider, the Policy in effect at the time it was invoked will continue to be applied to the proceeding until it is concluded. In the event that the proceeding was not initiated under this Policy, all the changes shall be applied to all JP Domain Name Dispute Resolution Proceeding, whether the dispute arose before, on or after the effective date of the change. In the event that the Registrant objects to a change in this Policy, the sole remedy for the Registrant is to cancel the domain name registration with JPRS, provided that the Registrant will not be entitled to a refund of any fees paid to JPRS. The revised Policy will apply to the Registrant until the Registrant completes the cancellation of domain name registration.

Art. 10 Applicable Law in this Policy

All the provisions in this Policy shall be construed in accordance with the laws of Japan. The panel that will conduct dispute resolution under this Policy shall render decisions pursuant to the laws of Japan.

[ページトップへ](#)

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