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DN Dispute Resolution Policy

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Taiwan Network Information Center Domain Name Dispute Resolution Policy

[Translation][1] Passed 8 March 2001 / Amended 4 December 2001

Article 1 Purpose

This Domain Name Dispute Resolution Policy (hereinafter, the "Policy") is specially adopted for the resolution of disputes arising between Registrants and third parties in respect of Domain Names registered with the Taiwan Network Information Center and Registrars.

Article 2 Definitions

The following terms, as used in this Policy, are defined as follows:

1. **Domain Name** means a name issued by the Registry Administrator or Registrars in accordance with applicable policies promulgated by the Taiwan Network Information Center and in which the country-code top-level domain (ccTLD) is ".tw".
2. **Registry Administrator** means the Taiwan Network Information Center (TWNIC).
3. **Registrar** means an institution responsible for Domain Name registration under an agreement signed between it and the Registry Administrator.
4. **Dispute-Resolution Provider ["Provider"]** means a neutral institution approved by the Registry Administrator to handle Domain Name disputes.
5. **Registrant** means a person who has registered and may use a Domain Name pursuant to applicable policies promulgated by the Registry Administrator.
6. **Complainant** means a person who asks a Provider to resolve a Domain Name dispute pursuant to this Policy.
7. **Party** means a Registrant or Complainant.
8. **Panelist** means an individual selected and publicly announced by a Provider as qualified to handle Domain Name disputes.
9. **Panel** means a panel composed of Panelists to handle Domain Name disputes.
10. **Work Day** means a regular work day of the Registry Administrator or Provider, excluding Saturdays, Sundays, public holidays announced by the government, and other holidays designated by the Registry Administrator or Provider.

Article 3 Registrant's Obligation of Disclosure

When applying to register or renew registration of a Domain Name or to change Domain Name registration information, the registrant shall disclose to the Registrar and warrant the truthfulness of the below-listed matters, and shall assume sole responsibility for any infringement of rights or interests of others:

1. That the statements made on the application form are complete and accurate;
2. That, to the Registrant's knowledge, the Domain Name registered by it does not infringe on rights or interests of others;

3. That it is not registering, and will not use, the Domain Name for improper purposes;
4. That it is not deliberately registering, and will not deliberately use, the Domain Name in a manner that violates applicable laws or regulations.

Article 4 Cancellation or Transfer of a Domain Name

In any of the following circumstances, the Registry Administrator may cancel or transfer a registered Domain Name:

1. The Registry Administrator receives written instructions from the Registrant or its agent, provided this shall not apply in the circumstances in Article 14;
2. The Registry Administrator receives an irrevocable judgment of a court or a certifying document having the same force as an irrevocable judgment of a court;
3. The Registry Administrator receives a written decision of a Provider.

The Registry Administrator may also cancel or transfer a registered Domain Name pursuant to applicable registration policies agreed to by the Registrant or provisions of other laws or regulations.

Article 5 Grounds for Complaint Filing and Relevant Principles

A Complainant may, on the grounds that the below-listed circumstances exist in respect of the Registrant's Domain Name registration, file a complaint with a Provider pursuant to this Policy:

1. The Domain Name is identical or confusingly similar to a trademark(s), mark(s), personal name, business name, or other emblem(s) of the Complainant;
2. The Registrant has no rights or legitimate interests in respect of the Domain Name;
3. The Registrant has registered or used the Domain Name in bad faith.

Evidence submitted by both Parties, and all other materials, shall be considered when determining the presence of the elements in the subparagraphs of the preceding paragraph. If any of the circumstances in the subparagraphs below are present, a determination may be made that the Registrant has rights or legitimate interests in the Domain Name:

1. Before receiving any notice of the Domain Name dispute from a third party or a Provider, the Registrant used in good faith, or made demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in selling goods or offering services;
2. The Registrant's use of the Domain Name is well known to the general public;
3. The Registrant is making a lawful, non-commercial, or legitimate use of the Domain Name and is not using it for commercial profit in a manner that would confuse or mislead consumers or detract from or harm the trademark(s), mark(s), personal name, business name, or other emblem(s) at issue.

The circumstances in the following subparagraphs may be considered when making a determination of bad faith in the registration or use of a Domain Name under paragraph 1, subparagraph 3:

1. The Registrant registered or acquired the Domain Name primarily for the purpose of gaining from the Complainant or a competitor thereof, by selling or renting the Domain Name or by some other means, a profit in excess of the expenses related to registering the Domain Name;
2. The Registrant registered the Domain Name for the purpose of preventing the Complainant from using a trademark(s), mark(s), personal name, business name, or other emblem in a Domain Name registration;
3. The Registrant registered the Domain Name primarily for the purpose of disrupting the business activities of a competitor;
4. The Registrant, for purposes of profit-seeking, has intentionally sought to induce or mislead network users to visit the Registrant's web site or other on-line location by creating confusion with the trademark(s), mark(s), personal name, business name, or other emblem(s) of the Complainant.

The Complainant shall select one of the Providers approved by the Registry Administrator with which to file its complaint.

Article 6 Basis for Dispute Resolution

The Provider shall handle the dispute in accordance with this Policy.

The Registry Administrator shall separately prescribe Rules setting forth the procedures for dispute resolution.

Article 7 Consolidated Resolution

In the event of multiple Domain Name disputes between the same Registrant and Complainant, either Party may petition the first Panel appointed to hear a [pending] Domain Name dispute between the Parties to consolidate the disputes. The Panel may thereupon decide to consolidate any or all such disputes to which this Policy applies as provided herein.

Article 8 Fees

Dispute resolution fees shall be paid by the Complainant, except in cases where the Registrant elects for a three-member Panel as provided in Article 6 of the Rules, in which case the fees shall be evenly split between the Parties.

Article 9 Remedies

The remedies available to a Complainant shall be limited to cancellation of the Registrant's Domain Name or transfer of the Domain Name to the Complainant.

The Provider shall deliver the decision of the Panel to the Registry Administrator.

The decision of the Panel shall be published in full on a public web site; provided, if the Panel deems there to be just cause for redaction, it may publish the content in part only.

Article 10 Litigation

The provisions of this Policy shall not prevent the Parties from filing a lawsuit in a court with respect to Domain Name disputes.

When a Panel renders a decision to cancel or transfer a Registrant's Domain Name, the Provider shall send the decision to the Registry Administrator and the Parties.

If the Registrant has not submitted documentation of litigation as provided in Article 3, paragraph 4, subparagraph 12 of the Rules within ten (10) Work Days of the day the Registry Administrator receives service of the decision from the Provider, the Registry Administrator shall implement the decision.

If the Registrant submits the documentation in the preceding paragraph within the period specified in the preceding paragraph, the Registry Administrator will provisionally stay implementation; provided, if either Party submits [either of] the following documents to the Registry Administrator, implementation shall be in accordance with the content of the document:

1. A notarized settlement agreement between the Parties;
2. Documentation that the lawsuit has been withdrawn, an irrevocable court judgment, or a certifying document having the same force as a court judgment.

Article 11 Applicable Scope

This Policy shall not apply to any Domain Name disputes arising between a Registrant and another person(s) except for disputes governed by this Policy as provided herein.

Article 12 Neutrality of the Registry Administrator

The Registry Administrator shall not participate in any dispute between a Registrant and any other person regarding Domain Name registration and use.

During Domain Name dispute resolution proceedings, the Registry Administrator will not participate in such proceedings in any way, with the exception that it shall provide information regarding Domain Name registration and use at the request of the Provider. The Registry Administrator shall execute the decision of the Panel, and shall be in no way liable for the outcome of the dispute resolution.

Article 13 Principle of Maintaining the Status Quo

The Registry Administrator may not cancel or transfer any Domain Name registration except as provided in Article 4, Article 10, paragraphs 3 and 4, and Article 14, paragraph 2 of this Policy.

Article 14 Transfer of a Disputed Domain Name

The Registrant may not transfer the Domain Name registration to another person under any of the following circumstances:

1. During a pending dispute resolution proceeding or within twenty (20) days after such proceeding is concluded;
2. During a proceeding before a court or arbitration body, unless the assignee consents in writing to be bound by the judgment of the court or the decision of the arbitration body.

The Registry Administrator may cancel transferred registrations where the transfer was made in violation of the provisions of the preceding paragraph.

Article 15 Policy Modifications

The Registry Administrator may modify this Policy as necessitated by developments in the Internet and the Domain Name system.

Revised Policy content shall be published on the Registry Administrator's web site thirty (30) days before it becomes effective. In cases where the complaint was filed with the Provider before the effective date of the revisions to Policy content, the unrevised Policy shall apply to related proceedings. In all cases where the complaint was filed with the Provider [from] the effective date of revisions to Policy content [onward], the revised Policy shall apply to related proceedings, irrespective of when the dispute arose.

In the event that the Registrant objects to revised content, its sole remedy is to petition the Registry Administrator to cancel the Domain Name registration. It will not be entitled to a refund of any fees paid. The revised Policy shall be binding upon the Registrant until cancellation of the Domain Name registration.

Article 16 Applicable Laws

Matters on which this Policy is silent shall be governed by the laws of the Republic of China.

The Registry Administrator shall be responsible for interpreting this Policy.

Article 17 Effective Date

This Policy shall become effective thirty days after its promulgation.

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In case of any discrepancy between this translation and the original Chinese text, the Chinese text shall govern. Terms in this translation expressed in the singular should be construed as also including the plural, and vice versa.

