

Measures of the China Internet Network Information Center for the Resolution of Country Code Top-Level Domain Name Disputes[Effective]
中国互联网络信息中心国家顶级域名争议解决办法 [现行有效]

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Measures of the China Internet Network Information Center for the Resolution of Domain Name Disputes

中国互联网络信息中心域名争议解决办法

(Revised by the China Internet Network Information Center in 2014)

(中国互联网络信息中心 2014年修订)

Article 1 In order to resolve disputes over Internet domain names, these Measures are hereby developed in accordance with relevant laws, administrative regulations, and the Measures for the Administration of the Internet Domain Names of China.

第一条 为了解决互联网络域名争议,根据有关法律、行政法规及《中国互联网络域名管理办法》的规定,制订本办法。

Article 2 These Measures shall apply to the disputes arising out of the registration or use of Internet domain names. The disputed domain names shall be limited to the ".CN" and ".China" domain names that are in the charge of the China Internet Network Information Center ("CNNIC"). However, a domain name dispute resolution service provider (hereinafter referred to as a "dispute resolution service provider") shall not accept any dispute over a domain name that has been registered for more than two years.

第二条 本办法适用于因互联网络域名的注册或者使用而引发的争议。所争议域名应当限于由中国互联网络信息中心负责管理的".CN"、".中国"域名。但是,所争议域名注册期限满两年的,域名争议解决机构不予受理。

Article 3 The domain name disputes shall be accepted and resolved by the dispute resolution service providers as accredited by the CNNIC.

第三条 域名争议由中国互联网络信息中心认可的争议解决机构受理解决。

The dispute resolution service provider shall develop appropriate supplementary rules in accordance with these Measures and the Procedural Rules of the China Internet Network Information Center for the Resolution of Top-Level Domain Name Disputes (hereinafter referred to as the "Procedural Rules").

Article 4 A dispute resolution service provider shall implement a system of solving disputes by the expert panel. An expert panel shall consist of one or three experts who have expertise in the Internet and relevant legal knowledge, have relatively high professional ethics and can independently and neutrally render rulings for the domain name disputes. The dispute resolution service provider may provide a name list of experts online for the complainants and respondents to choose from.

Article 5 If any entity or person considers that a domain name registered by any other person conflicts with its or his lawful rights or interests, it or he may file a complaint with a dispute resolution service provider.

The dispute resolution service provider shall, after accepting the complaint, form an expert panel in accordance with the provisions of the Procedural Rules. The expert panel shall, in accordance with the Measures and the Procedural Rules and under the principles of "independence, impartiality and convenience," render a ruling for the dispute within 14 days from the date when the expert panel is formed.

Article 6 The language for the dispute resolution proceedings shall be Chinese, unless otherwise agreed upon by the complainant and respondent or determined by the expert panel.

Article 7 The complainant and the respondent shall bear the burden of proof for their own claims.

Article 8 A complaint shall be supported if it satisfies the following conditions:

(1) The disputed domain name is identical with or confusingly similar to the name or mark in which the complainant has civil rights and interests.

争议解决机构应当根据本办法和《中国互联网络信息中心国家顶级域名争议解决办法程序规则》，制订相应的补充规则。

第四条 争议解决机构实行专家组负责争议解决的制度。专家组由一名或三名掌握互联网络及相关法律知识，具备较高职业道德，能够独立并中立地对域名争议作出裁决的专家组成。域名争议解决机构通过在线方式公布可供投诉人和被投诉人选择的专家名册。

第五条 任何人认为他人已注册的域名与其合法权益发生冲突的，均可以向争议解决机构提出投诉。

争议解决机构受理投诉后，应当按照程序规则的规定组成专家组，并由专家组根据本办法及程序规则，遵循"独立、中立、便捷"的原则，在专家组成立之日起 14 日内对争议做出裁决。

第六条 裁决程序使用的语言为中文，但投诉人和被投诉人另有约定，或者专家组决定采用其他语言的除外。

第七条 投诉人和被投诉人应当对各自的主张承担举证责任。

第八条 符合下列条件的，投诉应当得到支持：

(一) 被投诉的域名与投诉人享有民事权益的名称或者标志相同，或者具有足以导致混淆的近似性；

(2) The holder of the disputed domain name has no lawful rights or interests in respect of the domain name or the major part thereof.

(3) The holder of the disputed domain name has registered or has used the domain name with malicious intent.

Article 9 If the holder of the disputed domain name is under any of the following circumstances, his act will constitute malicious registration or use of the domain name:

(1) The holder of the disputed domain name has registered or acquired the domain name for the purpose of selling, leasing or otherwise transferring the domain name to the complainant who is the owner of civil rights and interests relating to the domain name or to a competitor of the complainant to obtain unjustifiable benefits.

(2) The holder of the disputed domain name has, for multiple times, registered the domain names by using the names or marks in which other persons have lawful rights and interests in order to prevent other persons from using the names or marks in which they have lawful rights and interests in the form of domain names on the Internet.

(3) The holder of the disputed domain name has registered or acquired the domain name for the purpose of damaging the reputation of the complainant, disrupting the normal business of the complainant, creating confusion with the name or mark of the complainant or misleading the general public.

(4) Other malicious circumstances.

Article 10 Where the respondent falls under any of the following circumstances before receiving the written complaint as served by the dispute resolution service provider, it shows that he has the lawful rights and interests in the domain name:

(1) The respondent has used the domain name or a name matching with the domain name bona fide during the course of offering goods or services.

(2) The domain name held by the respondent has already been well known even if the respondent has acquired no trademark or service mark rights.

(二) 被投诉的域名持有人对域名或者其主要部分不享有合法权益;

(三) 被投诉的域名持有人对域名的注册或者使用具有恶意。

第九条 被投诉的域名持有人具有下列情形之一的, 其行为构成恶意注册或者使用域名:

(一) 注册或受让域名的目的是为了向作为民事权益所有人的投诉人或其竞争对手出售、出租或者以其他方式转让该域名, 以获取不正当利益;

(二) 多次将他人享有合法权益的名称或者标志注册为自己的域名, 以阻止他人以域名的形式在互联网上使用其享有合法权益的名称或者标志;

(三) 注册或者受让域名是为了损害投诉人的声誉, 破坏投诉人正常的业务活动, 或者混淆与投诉人之间的区别, 误导公众;

(四) 其他恶意的情形。

第十条 被投诉人在接到争议解决机构送达的投诉书之前具有下列情形之一的, 表明其对该域名享有合法权益:

(一) 被投诉人在提供商品或服务的过程中已善意地使用该域名或与该域名相对应的名称;

(二) 被投诉人虽未获得商品商标或有关服务商标, 但所持有的域名已经获得一定的知名度;

(3) The respondent has properly and lawfully used lawfully used the domain name for non-commercial purposes without the intent to make commercial gains or to mislead consumers.

Article 11 In the event of multiple disputes over several domain names of a same respondent, the complainant or the respondent may request the dispute resolution service provider to combine these complaints into one and allow the same expert panel to handle it. Whether these complaints should be combined or not shall be decided by the expert panel.

Article 12 Before the expert panel renders a ruling regarding the disputes in question, if either the complainant or the respondent think that any member of the expert panel has an interest in the other party and may affect the impartial ruling of the case, he may request the dispute resolution service provider to disqualify him or her; however, the specific facts and reasons for disqualification shall be explained and supporting evidence be provided. Whether the disqualification is necessary shall be decided by the dispute resolution service provider.

Article 13 During the course of resolving domain name disputes, except where the information on the registration or use of the domain name provided by a domain name registration service institution at the request of the dispute resolution service provider, the CNNIC or the domain name registration service institution shall not participate in the dispute resolution proceedings in any capacity or manner.

Article 14 The expert panel shall render a ruling based on the evidence submitted by the complainant and the respondent and the facts involved in the dispute. Where the expert panel holds that the complaint is established, it shall render a ruling to cancel the registered domain name or transfer it to the complainant; otherwise, it shall render a ruling to reject the complaint.

Article 15 Before a complaint is filed in accordance with the Measures, or during the course of resolving the dispute, or after the expert panel has rendered a ruling, either the complainant or the respondent may institute an action regarding the same dispute with a Chinese court at the locality of the CNNIC or request a Chinese arbitration

(三) 被投诉人合理地使用或非商业性地合法使用该域名, 不存在为获取商业利益而误导消费者的意图。

第十一条 投诉人针对同一被投诉人的多个域名提出争议的, 投诉人或者被投诉人可以请求争议解决机构将多个争议合并为一个争议案件, 由同一个专家组处理。是否合并处理, 由专家组决定。

第十二条 在专家组就有关争议作出裁决之前, 投诉人或者被投诉人认为专家组成员与对方当事人有利害关系, 有可能影响案件的公正裁决的, 可以向争议解决机构提出要求专家回避的请求, 但应当说明提出回避请求所依据的具体事实和理由, 并举证。是否回避, 由争议解决机构决定。

第十三条 在域名争议解决程序中, 除域名注册服务机构根据争议解决机构的要求提供与域名注册及使用有关的信息外, 中国互联网络信息中心和域名注册服务机构不以任何身份或者方式参与争议解决程序。

第十四条 专家组根据投诉人和被投诉人提供的证据及争议涉及的事实, 对争议进行裁决。专家组认定投诉成立的, 应当裁决注销已经注册的域名, 或者裁决将注册域名转移给投诉人。专家组认定投诉不成立的, 应当裁决驳回投诉。

第十五条 在依据本办法提出投诉之前, 争议解决程序进行中, 或者专家组作出裁决后, 投诉人或者被投诉人均可以就同一争议向中国互联网络信息中心所在地的中国法院提起诉讼, 或者

institution to conduct arbitration based on the agreement between the parties.

Article 16 If the dispute resolution service provider rules to cancel the registered domain name or to transfer it to the complainant, the domain name registration service institution shall enforce the ruling within ten days from the date on which the ruling is issued. If the respondent submits valid evidence proving that a judicial organ or an arbitral institution with jurisdiction has accepted the dispute within ten days from the date when the ruling is issued, the enforcement of the ruling rendered by the dispute resolution service provider shall be suspended.

For the ruling rendered by the dispute resolution service provider the enforcement of which is suspended, the domain name registration service institution shall handle it as follows:

(1) If there is evidence proving that both parties have reached a reconciliation, the reconciliation agreement shall be enforced.

(2) If there is evidence proving that relevant application for lawsuit or arbitration has been rejected or withdrawn, the ruling rendered by the dispute resolution service provider shall be enforced.

(3) If the judicial organ or arbitration institution has rendered a judgment that has come into force, the judgment shall be enforced.

Article 17 In the course of resolving a domain name dispute or before the ruling is completely executed, the holder of the domain name shall neither apply for transfer or cancellation of the disputed domain name nor change the domain name registration service institution, unless the transferee agrees to be bound by the ruling of the dispute resolution service provider in written form.

Article 18 A dispute resolution service provider shall establish a special Internet site for receiving online complaints regarding domain name disputes and publish the materials of domain names disputes. However, at the request of the complainant or the respondent, the dispute resolution service provider may not release the materials or information if it holds that the release thereof may cause

基于协议提请中国仲裁机构仲裁。

第十六条 争议解决机构裁决注销域名或者裁决将域名转移给投诉人的，自裁决公布之日起满 10 日的，域名注册服务机构予以执行。但被投诉人自裁决公布之日起 10 日内提供有效证据证明有管辖权的司法机关或者仲裁机构已经受理相关争议的，争议解决机构的裁决暂停执行。

对于暂停执行的争议解决机构的裁决，域名注册服务机构视情况作如下处理：

（一）有证据表明，争议双方已经达成和解的，执行和解协议；

（二）有证据表明，有关起诉或者仲裁申请已经被驳回或者撤回的，执行争议解决机构的裁决；

（三）有关司法机关或者仲裁机构作出裁判，且已发生法律效力，执行该裁判。

第十七条 在域名争议解决期间以及裁决执行完毕前，域名持有人不得申请转让或者注销处于争议状态的域名，也不得变更域名注册服务机构，但受让人以书面形式同意接受争议解决裁决约束的除外。

第十八条 争议解决机构建立专门的互联网站，通过在线方式接受有关域名争议的投诉，并发布与域名争议有关的资料。但经投诉人或者被投诉人请求，争议解决机构认为发布后有可能损害投诉人或者被投诉人利益的资料和信息，可不予发布。

damage to the interests of either the complainant or the respondent.

Article 19 The CNNIC may amend these Measures in accordance with the development of the Internet and the domain name technology, the revision of relevant Chinese laws, administrative regulations or policies and other circumstances. The amended measures shall be issued on the website and come into force 30 days after the date of issuance. The amended measures shall not apply to the domain name disputes that have been submitted to a dispute resolution service provider prior to the amendment of these Measures.

The amended measures shall automatically become a part of the existing domain name registration agreements between the holders of domain names and the domain name registration service institutions. If the holder of any domain name does not wish to be bound by these dispute resolution measures or the amended version thereof, it or he shall notify the domain name registration service institution in a timely manner. The domain name registration service institution shall continue the domain name services for the holder of the domain name for 30 days upon receipt of such notification and shall cancel relevant domain name registration after 30 days.

Article 20 These Measures shall be subject to interpretation by the CNNIC.

Article 21 The Measures shall come into force on September 1, 2014. The former Measures of the China Internet Network Information Center for the Resolution of Domain Name Disputes, which came into force on June 28, 2012, shall be repealed concurrently.

第十九条 中国互联网络信息中心可以根据互联网及域名技术的发展，以及中国有关法律、行政法规及政策的变化等情况对本办法加以修改。修改后的办法将通过网站公布，且于公布之日起 30 日后实施。本办法修改前已经提交到争议解决机构的域名争议不适用新办法。

修改后的办法将自动成为域名持有人与域名注册服务机构之间已经存在的域名注册协议的一部分。域名持有人不同意接受争议解决办法或者其修改后的文本约束的，应当及时通知域名注册服务机构。收到通知后，域名注册服务机构将为其保留 30 日域名服务；30 日后，有关域名将予注销。

第二十条 本办法由中国互联网络信息中心负责解释。

第二十一条 本办法自 2014 年 9 月 1 日起施行。2012 年 6 月 28 日施行的原《中国互联网络信息中心域名争议解决办法》同时废止。