



Dispute Resolution Regulations for .nl Domain Names

A. Introduction

These Dispute Resolution Regulations for .nl Domain Names came into effect on February 28, 2008 and were most recently amended on March 4, 2010. From that first date, any registrant of a .nl domain name involved in a dispute concerning the registration of that name will be subject to these regulations if a third party files a complaint against them pursuant to these regulations. By submitting a complaint against a registrant, third parties submit themselves to these regulations and are bound by the same.

B. Definitions

In the context of these regulations, the following definitions apply:

- (a) Pool: the list of potential panelists published by the center;
- (b) Registrar: an organization which is entitled, by virtue of the registrarship contract entered into with SIDN, to register domain names on behalf of domain name applicants;
- (c) Domain name: a domain name registered with SIDN under the country-code top level domain .nl;
- (d) Registrant: the party in whose name a domain name has been entered in the SIDN register;
- (e) Complaint: the remedies set out in the initial submission and the grounds in support of the same;
- (f) Complainant: the person or organization which submits a complaint against a registrant to the center;
- (g) Center: the World Intellectual Property Organization (WIPO) Arbitration and Mediation Center, accredited by SIDN for the administration of .nl domain name disputes;
- (h) Regulations: the Dispute resolution regulations for .nl domain names;
- (i) Panelist: the panelist appointed by the center to determine the merits of the dispute;
- (j) SIDN: the Foundation for Internet Domain Name Registration in the Netherlands ('Stichting Internet Domeinregistratie Nederland');
- (k) Respondent: the registrant against whom a complaint is submitted in accordance with these regulations;



- (l) Response: the submission with which the respondent defends itself against the complaint;
- (m) Change of registrant: the termination of the registration contract between SIDN and a registrant in relation to a particular domain name and the subsequent conclusion of a registration contract between SIDN and a new registrant in relation to the same domain name.

C. Who may seek what remedy and on what grounds?

Article 1. What remedy may be requested under the regulations?

1. Under the regulations, a complainant may seek only the following remedy:
A change of registrant, whereby the complainant becomes the registrant instead of the respondent.

Article 2. On what grounds may a complaint be submitted?

- 2.1. Complaints may be submitted by any party which asserts and establishes that:
- a. a domain name is identical or confusingly similar to:
 - I. a trademark, or trade name, protected under Dutch law in which the complainant has rights; or
 - II. a personal name registered in the General Municipal Register ('gemeentelijke basisadministratie') of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the complainant undertakes public activities on a permanent basis; and
 - b. the registrant has no rights to or legitimate interests in the domain name; and
 - c. the domain name has been registered or is being used in bad faith.
- 2.2. The mediation process described in article 8 is not applicable, and the panelist shall not be competent or shall declare not to be competent, if the complainant's claims are not based upon the grounds referred to in article 2.1.

Article 3. Examples of possible evidence to be submitted by parties

- 3.1. The complainant must demonstrate that the registrant has no rights to or legitimate interests in the domain name. The registrant may demonstrate such rights or legitimate interests on its part inter alia through the following circumstances:
- a. a. before having any notice of the dispute, the registrant made demonstrable preparations to use the domain name (or a name corresponding to the domain name) in connection with a bona fide offering of goods or services;
 - b. the registrant as an individual, business or other organization is commonly known by the domain name;



- c. the registrant is making a legitimate noncommercial use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish or otherwise damage the relevant trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation located in the Netherlands.
- 3.2. Evidence that a domain name has been registered or is being used in bad faith may be provided inter alia through the following circumstances:
- a. the domain name has been registered or acquired primarily for the purpose of selling, renting or transferring it to the complainant or to the complainant's competitors for valuable consideration in excess of the cost of registration;
 - b. the domain name has been registered in order to prevent the complainant from using it;
 - c. the domain name has been registered primarily for the purpose of disrupting the complainant's activities;
 - d. the domain name has been or is being used for commercial gain, by attracting internet users to a website of the registrant or other online location through the likelihood of confusion which may arise with the trademark, trade name, personal name, name of a Dutch public legal entity or name of an association or foundation registered in the Netherlands as to, for example, the source, sponsorship, affiliation or endorsement of the website of the registrant or other online location(s) or of products or services on the domain registrant's website or another online location.

D. The procedure

Article 4. How to initiate proceedings

- 4.1. The complainant may initiate proceedings at the center by:
 - a. drafting a complaint in accordance with the regulations and with the complaint form of annex 1, which is deemed to be an integral part of the regulations; and
 - b. submitting the complaint including attachments electronically to the center's e-mail address in accordance with the practical guidelines published on the center's website.
- 4.2. The center shall confirm to the complainant the receipt of the complaint including the date of receipt.
- 4.3. Concerning payment by the complainant of the costs of proceedings, reference is made to article 23, as well as article 7.4 and 8.4, as the case may be.

Article 5. Notification of the complaint

- 5.1. Within three (3) calendar days of receiving the complaint, the center shall determine whether the complaint meets the requirements set out in article 4. If the complaint is found to do so, the center shall forward the complaint together with a notification document to the respondent in accordance with article 16.4. SIDN, the concerned registrar and the complainant shall be copied on this message. The proceedings commence on the date mentioned in the notification document.
- 5.2. If the center finds the complaint not to have been drafted and submitted in accordance with the requirements of article 4, it shall promptly notify the complainant of such deficiency. The complainant shall have five (5) calendar days to correct such deficiency and to re-submit the complaint to the center. If the complainant fails to do so, the procedure shall not continue, without prejudice to the right to submit a new complaint.



Article 6. Locking of the domain name

6. From the moment it is informed by the center of the receipt of the complaint, SIDN shall not cooperate with any cancellation, change of registrant or endorsement of a pledge of the domain name concerned until the proceedings have come to an end and any resulting change of registrant has been implemented.

Article 7. The response

- 7.1. The center must receive the response no later than twenty (20) calendar days after the date of commencement of the proceedings.
- 7.2. The response shall be complete only when:
 - a. drafted in accordance with the regulations and in accordance with the response form of annex 2, which is deemed to be an integral part of the regulations; and
 - b. submitted together with the attachments thereto electronically to the center's e-mail address in accordance with the practical guidelines published on the center's website, and the complainant is copied on such message.
- 7.3. The center shall confirm receipt of the response to the parties, stating the date of receipt, or shall notify the parties that the period referred to in article 7.1 has expired without a response being received.
- 7.4. If the respondent fails to submit a response to the center within the specified period, the procedure described in articles 9 to 14 shall nevertheless be followed. The complainant shall pay to the center, within ten (10) calendar days of the confirmation referred to in article 7.3, the administration charges and panelist's fee referred to in article 23. If the complainant fails to do so, the procedure shall be terminated, without prejudice to the right to submit a new complaint.

Article 8. Mediation

- 8.1. The free-of-charge mediation process commences within five (5) calendar days of the center forwarding the response to SIDN.
- 8.2. The mediation process ends within thirty (30) calendar days of its commencement, or as much earlier as SIDN determines that mediation shall not be successful. This period may, with the consent of both parties, be extended twice for periods of up to thirty (30) calendar days.
- 8.3. If SIDN determines the mediation to be successful, SIDN shall inform the center accordingly by e-mail, copied to the complainant and the respondent, whereafter the center shall terminate the procedure.
- 8.4. If SIDN determines the mediation to have not been successful, SIDN shall inform the center accordingly by e-mail, copied to the complainant and the respondent. The complainant shall pay to the center, within ten (10) calendar days of this communication, the administration charges and panelist's fee referred to in article 23. If the complainant fails to do so, the procedure shall be terminated, without prejudice to the right to submit a new complaint.

Article 9. Panelist appointment

- 9.1. Within five (5) calendar days of the receipt of the complainant's payment pursuant to article 7.4 or 8.4 of the fee referred to in article 23, the center shall appoint a panelist from the pool.
- 9.2. The panelist shall confirm the appointment and declare not to have a personal or business connection with any of the parties.



- 9.3. Once the panelist has been appointed, the center shall inform the parties thereof.
- 9.4. The center may relieve panelists of their appointment and replace them; when doing so, the center shall state the reason. Replacement of a panelist shall take place in accordance with the rules of appointment set out in the present article.

Article 10. Panelist's task and powers

- 10.1. The panelist shall be impartial and independent. A panelist shall request to be excused from a case if and as soon as:
 - a. he has a personal or business connection with one of the parties; or
 - b. prior to his appointment, he has, directly or indirectly, expressed his opinion on the case to either party.
- 10.2. The panelist shall act in accordance with the regulations and shall decide on his own competence.
- 10.3. The panelist shall determine the admissibility, relevance and weight of the evidence submitted. If no response has been submitted, the panelist shall rule on the basis of the complaint. The complaint shall in that event be granted, unless the panelist considers it to be without basis in law or in fact.
- 10.4. The panelist shall ensure that the proceedings take place with due expedition. The panelist may extend the periods provided for in the regulations, upon party request or by himself.

Article 11. Further submissions

- 11.1. The panelist may invite the parties to submit further statements and/or (further) submissions.
- 11.2. Should a party file a further submission without being so invited, the panelist shall determine the admissibility of such submission.
- 11.3. The panelist shall not accept documents which have not been submitted in the prescribed manner through the center.
- 11.4. The panelist shall not accept documents which have been made available to the mediator by the parties during the mediation process, except insofar as any such document is submitted in accordance with articles 11.1 and 11.2 and he chooses to accept it.

Article 12. Conclusion of written phase of procedure

- 12.1. The written phase of the procedure shall be concluded after the appointment of the panelist, provided that any requested or admitted submissions made thereafter shall be deemed to be part of the record.
- 12.2. The center shall forward the case file to the panelist.

Article 13. Hearing

- 13. In principle, there shall be no in-person hearing during the proceedings, subject to exception if the panelist considers it necessary for deciding the dispute.

Article 14. Decision

- 14.1. The panelist shall decide on the requested remedy in accordance with the regulations. The panelist shall render his decision in writing.



- 14.2. Except exceptional circumstances, the panelist shall forward the decision to the center within fourteen (14) calendar days of conclusion of the written phase of the procedure.
- 14.3. The panelist's decision shall state:
 - a. the grounds for the decision;
 - b. the name of the panelist;
 - c. the names and places of residence/registration of the parties;
 - d. the date of the decision.
- 14.4. Within three (3) calendar days of receiving the decision from the panelist, the center shall forward a copy of the decision together with a notification document to the parties and SIDN.

E. General provisions concerning the procedure

Article 15. Contact

15. Neither a party nor any person acting on behalf of a party shall have any direct contact with the panelist, other than as specified in the regulations. All communications between a party and the panelist shall take place through the center.

Article 16. Communication: the method of submitting documents

- 16.1. All communications under the regulations shall be sent exclusively by e-mail. Should this not be possible, communications may be sent by registered mail (return receipt requested), by courier, by fax or by any other means of communication providing a probative record of transmission.

- 16.2. Any communication to the center shall be sent by e-mail to domain.disputes@wipo.int;

In the exceptional event, as mentioned in article 16.1, that communication by e-mail is impossible, communications shall be sent to the center as follows:

- a. in hard copy to the address of the center: WIPO Arbitration and Mediation Center, 34 Chemin des Colombettes, 1211 Geneva 20, Switzerland;
 - b. by fax to: +41 22 740 3700.
- 16.3. Except for the complaint, parties shall send any submission, including the response and any other submissions both to the center and to the other party.
 - 16.4. In forwarding the complaint to the respondent, the center shall employ reasonably available means to achieve actual notice to the respondent. To that end the Center shall send:
 - a. the complaint with attachments and a notification document to all e-mail addresses indicated in the publicly available WhoIs information of SIDN and to all other e-mail addresses of the respondent indicated by the complainant, or to the e-mail address at which the respondent has indicated to prefer receiving communications from the center; and
 - b. with reference to the communication of article 16.4 sub a, a notification document to all postal addresses and fax numbers indicated in the publicly available WhoIs information of SIDN and to all



other postal addresses and fax numbers of the respondent indicated by the complainant, or to the postal address or fax number at which the respondent has indicated to prefer receiving communications from the center.

- 16.5. Any communication shall be deemed to have been made:
- a. by e-mail, at the time of transmission of the communication, provided that such time is verifiable;
 - b. by fax, at the time confirmed by the transmission report;
 - c. by postal or courier service, at the time confirmed by the return receipt.

Article 17. Language of the proceedings

- 17.1. Proceedings shall be conducted in the Dutch language whenever both the complainant and the respondent are residing or registered in the Netherlands. In exceptional circumstances however, the center (subject to the panelist's determination) or the panelist may decide that proceedings are to be conducted in English, or that the complainant or the respondent may make submissions in English.
- 17.2. Whenever the complainant or the respondent neither resides nor is registered in the Netherlands, proceedings shall be conducted in the English language. In exceptional circumstances however, (such as when both parties appear to have full command of the Dutch language), the center (subject to the panelist's determination) or panelist may decide that proceedings are to be conducted in Dutch, or that the complainant or the respondent may make submissions in Dutch.
- 17.3. The center or the panelist may require that any document submitted in a language other than the language of proceedings is accompanied by a partial or complete translation into the language of proceedings.

Article 18. Non-compliance with the regulations

18. In the event of a party's non-compliance in part or in full with the regulations, the panelist shall draw such inferences as he considers appropriate.

Article 19. Settlement or other basis for termination of dispute

- 19.1. The center or the panelist, as the case may be, shall terminate the proceedings in the following three instances:
- a. if the parties reach a settlement before the panelist renders a decision;
 - b. if it becomes unnecessary or impossible to continue the proceedings;
 - c. if the complainant withdraws the complaint during the proceedings.
- 19.2. The center shall inform the parties and SIDN of the termination of the proceedings, whereupon SIDN shall arrange for termination of the lock that has been placed upon the domain name pursuant to article 6.
- 19.3. The center or, if appointed, the panelist may upon the complainant's written request suspend the proceedings for a limited period of time in order to give parties the opportunity to agree and implement a settlement.
- 19.4. In all of the above cases, no fees already paid shall be refunded to the parties, except for the amount reserved as the panelist's fee in case no panelist has yet been appointed.



F. Consequences of the decision

Article 20. Cooperation with decision by SIDN

- 20.1. If a panelist orders a change of registrant, so that the complainant is to become the registrant, SIDN shall cooperate with such decision by executing a registrant update request and/or a domain name transfer request submitted by a registrar acting for the complainant, as provided for in Article 20.2. SIDN shall execute the request(s) ten (10) working days after being notified of the decision by the center, unless SIDN has within that period received proof from the respondent (e.g. a copy of a writ of summons) that the respondent has instituted legal proceedings at a Dutch court against the complainant in relation to the registration of the domain name at issue. In such event also, SIDN shall not cooperate with any cancellation, change of registrant or endorsement of a pledge of the domain name, until SIDN has received sufficient proof that the dispute has been resolved between the parties, that the court proceedings have been terminated or withdrawn, or that the court has denied the respondent's claim or determined that the respondent has no right to the domain name.
- 20.2. In order to facilitate the implementation of the panelist's decision referred to in article 20.1, the complainant must submit through its registrar a request to SIDN for a change of registrant in accordance with SIDN's General Terms and Conditions. The service agreement between SIDN and the respondent, on which the respondent's use of the domain name is based, shall terminate through the change of registrant.

Article 21. Concurrent court proceedings

21. Participation in proceedings covered by these regulations (including the mediation process) does not prevent either the respondent or the complainant from submitting the dispute to an independent court of competent jurisdiction.

Article 22. Publication of decision

22. Unless the panelist determines otherwise, the decision shall be published in full by the center and/or SIDN.

G. Costs

Article 23. Costs

- 23.1. In case article 7.4 or article 8.4 applies, the complainant is required to pay a fixed fee to the center. Such fee shall consist of the administration charges and the panelist's fee, as specified in the table in annex 3. The center shall be under no obligation to further consider a case until it has received such payment.
- 23.2. If the center does not receive full payment of the fixed fee in the circumstances referred to in article 23.1, the complaint shall be deemed withdrawn and the proceedings shall be terminated. Any administration charges already paid shall not be refunded.
- 23.3. Should the procedure require special action in the opinion of the center or the panelist, the costs of which cannot reasonably be covered by the administration charges and/or panelist's fee set out in annex 3, such action shall be undertaken only upon payment by the party or parties instructed by the center of such additional amount as may be determined by the center.
- 23.4. The regulations do not provide for an award of costs.



H. Other provisions

Article 24. Exoneration

24. Neither the center, the panelist, the registrar, SIDN, nor the management or employees of any of these entities, shall be liable to any party for any damages that may arise pursuant to any act or omission on their part in connection with these regulations and disputes submitted thereunder.

Article 25. Amendment of regulations

25. SIDN may at any time amend or replace the regulations to introduce new regulations on the resolution of disputes concerning domain names. Any such amendment or replacement shall not apply to any proceedings pending at that time.