

Rules for CNNIC Domain Name Dispute Resolution Policy

September 2002

China Internet Network Information Center

Chapter I General Provisions and Definitions

Article 1 In order to ensure the fairness, convenience and promptness of a domain name dispute resolution procedure, these Rules are formulated in accordance with CNNIC Domain Name Dispute Resolution Policy.

Article 2 The proceedings for the resolution of disputes under CNNIC Domain Name Dispute Resolution Policy adopted by CNNIC shall be governed by these Rules and the Supplemental Rules of the Domain Name Dispute Resolution Provider.

Article 3 The following terms in the Rules for CNNIC Domain Name Dispute Resolution Policy (hereinafter referred to as these Rules or CNDRP Rules) have the following definitions:

(a) **CNDRP** means CNNIC Domain Name Dispute Resolution Policy adopted by CNNIC, which is incorporated by reference and made a part of the Registration Agreement, and binding to the holders of the domain names.

(b) **Registration Agreement** means the domain name registration agreement between a Registrar and a domain name holder.

(c) **Party** means a Complainant or a Respondent.

(d) **Complainant** means the party initiating a complaint concerning a domain name registration with Domain Name Dispute Resolution Provider in accordance with CNDRP and the CNDRP Rules.

(e) **Respondent** means the holder of the domain name against which a complaint is initiated.

(f) **Registry** refers to China Internet Network Information Center (CNNIC).

(g) **Registrar** refers to the entity authorized by CNNIC and responsible for acceptance of the domain name registration applications and completion of domain name registrations.

(h) **Agency** refers to the entity which accepts the applications for registrations of the domain names on behalf of the Registrar.

(i) **Provider** refers to a dispute resolution service provider approved by CNNIC to resolve the domain name disputes.

(j) **Panel** means a panel composed of 1 or 3 Panelists who are appointed by the Provider to be responsible for the resolution of a domain name dispute.

(k) **Panelist** means the individual who are listed among the Name List of Panelists approved by the Provider and published at the Provider's Web-site, and qualified to be members of the Panel for the resolution of the domain name disputes.

(l) **Supplemental Rules** means the rules adopted by the Provider to supplement CNDRP in accordance with CNDRP and these Rules.

Chapter II Communications

Article 4 Any communication under these Rules shall abide by the following principles:

(a) Any communication provided by a Party shall be copied and served to the other Party, the Panel and the Provider, as the case may be.

(b) Any communication by the Provider to any Party shall be copied and served to the other Party.

(c) Any communication by the Panel to any Party shall be copied and served to the other Party and the Provider.

(d) It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes.

(e) In the event a Party sending a communication receives notification of non-delivery of the communication, or thinks by himself that he has not delivered the communication successfully, the Party shall promptly notify the Provider of the circumstances of the notification. Further proceedings concerning the communication and any response shall be as directed by the Provider.

(f) Either Party may update its contact details by notifying the Provider.

Article 5 When forwarding a complaint to the Respondent, it shall be the Provider's responsibility to employ reasonably available means calculated to achieve actual notice to Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:

(a) Sending the complaint to all postal-mail and facsimile addresses shown in the Registry's and the Registrar's WHOIS database for the registered domain name holder, administrative contact, the technical contact, the undertaker and the bill contact; and

(b) Sending the complaint in electronic form (including annexes to the extent available in that form) by e-mail to the e-mail addresses shown in the Registry's and the Registrar's WHOIS database for the registered domain name holder, administrative contact, the technical contact, the undertaker and the bill contact, or if the domain name resolves to an active web page, sending the complaint in electronic form (including annexes to the extent available in that form) by e-mail to the e-mail addresses shown on that web page; and

(c) Sending the complaint to any address the Respondent has notified the Provider it prefers and, to the extent practicable, to all other addresses provided to the Provider by the Complainant.

Article 6 Except as provided in the preceding Article, any written communication to Complainant or Respondent provided for under these Rules shall be made by the preferred means stated by the Complainant or Respondent respectively, or in the absence of such specification,

(a) By facsimile transmission, with a confirmation of transmission; or

(b) By postal or courier service, postage pre-paid and return receipt requested; or

(c) Electronically via the Internet, provided a record of its transmission is available.

Article 7 Any communication by the Complainant or the Respondent to the Provider or the Panel shall be made by the means and in the manner (including number of copies) stated in the Provider's Supplemental Rules.

Article 8 Unless otherwise agreed by the Parties or determined in exceptional cases by the Panel, the language of the domain name dispute resolution proceedings shall be Chinese. The Panel may order that any documents submitted in languages other than Chinese be wholly or partially translated into Chinese.

Article 9 Except as otherwise provided in these Rules, or decided by a Panel, all communications provided for under these Rules shall be deemed to have been made:

(a) If by facsimile transmission, on the date shown on the confirmation of transmission; or

(b) If by postal or courier service, on the date marked on the receipt; or

(c) If via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable.

Article 10 Except as otherwise provided in these Rules, the date calculated under these Rules when a communication begin to be made shall be the earliest date that the communication is deemed to have been made in accordance with the preceding Article.

Chapter III The Complaint

Article 11 Any person or entity may initiate a domain name dispute resolution proceedings by submitting a complaint in accordance with CNDRP and these Rules to any Provider approved by CNNIC.

Article 12 The complaint shall be submitted in hard copy and (except to the extent not available for annexes) in electronic form, and shall:

(i) Request that the complaint be submitted for decision in accordance with CNDRP and these Rules;

(ii) Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the complaint and of any representative authorized to act for the Complainant in the proceedings;

(iii). Specify a preferred method for communications directed to the Complainant in domain name dispute resolution proceedings, including person to be contacted, medium to be adopted and address information, for each of electronic-only material and material including hard copy;

(iv) Designate whether Complainant elects to have the dispute decided by a single member Panel or a three-member Panel and, in the event Complainant elects a three-member Panel, provide the names of three candidates from the Provider's list of panelists to serve as one of the Panelists in the order of its own preference. The Complainant may also entrust the Provider to appoint the panelist on his behalf;

(v) Provide the name of the Respondent (domain name holder) and all information (including any postal and e-mail addresses and telephone and telefax numbers) known to Complainant regarding how to contact Respondent or any representative of Respondent, in sufficient detail to allow the Provider to send the complaint as described in Article 5 of these Rules;

(vi) Specify clearly the domain name (s) that is/are the subject of the complaint;

(vii) Identify the Registrar and/or the Agency with whom the domain name (s) is/are registered at the time the complaint is filed;

(viii) Specify the rights or legitimate interests on which the complaint is based with regard to the disputed domain name, annexing all materials evidencing the rights or interests;

(ix) Describe, in accordance with CNDRP, the grounds on which the complaint is made including, in particular,

(1) the disputed domain name is identical with or confusingly similar to the complainant's name or mark in which the Complaint has civil rights or interests;

(2) the disputed domain name holder has no right or legitimate interest in respect of the domain name or major part of the domain name;

(3) the disputed domain name holder has registered or is being used the domain name in bad faith.

(The description should, for elements (3), discuss any aspects of Article 9 of CNDRP. The description shall comply with any word or page limit set forth in the Provider's Supplemental Rules.)

(x) Specify, in accordance with Article 13 of CNDRP, the remedies sought;

(xi) Identify any other legal or arbitral proceedings which have been commenced or terminated in connection with or related to any of the domain name (s) that are the subject of the complaint. All materials concerning the above proceedings that can be obtained by Complainant shall be submitted.

(xii) State that a copy of the complaint has been sent or transmitted to the Respondent (domain name holder) as well as the concerned Registrar and/or the Agency respectively;

(xiii) Conclude with the following statement followed by the signature or stamp of the Complainant or its legal representative or its authorized representative:

"Complainant certifies that the complaint was filed in accordance with CNNIC Domain Name Dispute Resolution Policy and Rules for Domain Name Dispute Resolution Policy as well as the relevant laws; that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate; that the corresponding claims and remedies shall be solely against the domain name holder and waives all such claims and remedies against the dispute resolution Provider and

Panelists, the Registry and the Registrar, the registry administrator as well as the Agency";

(xiv) Annex, as attachments, any documentary or other evidence upon which the complaint relies.

Article 13 The Complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

Article 14 After receipt of the complaint, the Provider shall review the complaint for administrative compliance with CNDRP and these Rules and, if in compliance, shall forward the copy of the complaint to the Respondent, in the manner prescribed by Article 5 of these Rules, within three (3) calendar days following receipt of the fees to be paid by the Complainant in accordance with Chapter VIII of these Rules.

If the Provider finds the complaint to be administratively deficient, it shall promptly notify the Complainant of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies of the complaint. If the Complainant does not correct the deficiencies identified or the corrected complaint cannot satisfy the requirements under CNDRP and these Rules, the complaint will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.

Article 15 The date of commencement of the domain name dispute resolution proceedings shall be the date on which the Provider completes its responsibilities under Article 5 of these Rules in connection with forwarding the Complaint to the Respondent.

Article 16 The Provider shall immediately notify the parties, the concerned Registrar and CNNIC of the date of commencement of the domain name dispute resolution proceedings.

Chapter IV The Response

Article 17 Within twenty (20) calendar days of the date of commencement of the proceedings the Respondent shall submit a response to the Provider.

Article 18 The response shall be submitted in hard copy and (except to the extent not available for annexes) in electronic form, and shall:

(i) Respond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name (This portion of the response shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

(ii) Provide the name and contact details of the Respondent and of any representative authorized to act for the Respondent in the proceedings (postal and e-mail addresses, and the telephone and telefax numbers);

(iii) Specify a preferred method for communications directed to the Respondent in the domain name dispute resolution proceedings, including person to be contacted, medium to be adopted and address information, for each of electronic-only material and material including hard copy;

(iv) If Complainant has elected a single member Panel in the Complaint, state whether Respondent elects instead to have the dispute decided by a three-member panel;

(v) If either Complainant or Respondent elects a three-member Panel, provide the names of three candidates from the Provider's list of panelists to serve as one of the Panelists in the order of its own preference. The Respondent may also entrust the Provider to appoint the panelist on his behalf

(vi) Identify and state any other legal or arbitral proceedings which have been commenced or terminated in connection with or relating to any of the domain name(s) that is/are the subject of the complaint and provide all information available concerning such proceedings;

(vii) State that a copy of the response has been sent or transmitted to the Complainant in accordance with these Rules;

(viii) Conclude with the following statement followed by the signature or stamp of the Respondent or its legal representative or its authorized representative:

"Respondent certifies that the response was filed in accordance with CNNIC Domain Name Dispute Resolution Policy and Rules for CNNIC Domain Name Dispute Resolution Policy as well as the relevant law; that the information contained in this Response is to the best of Respondent's knowledge complete and accurate; that the corresponding defenses and assertions shall be solely against the Complainant and waives all such defenses and assertions against the Provider and Panelists, the Registry and the Registrar, the registry administrator as well as the Agency.";

(ix). Annex, as attachments, any documentary or other evidence upon which the response relies.

Article 19. If Complainant has elected to have the dispute decided by a single member Panel and Respondent elects a three-member Panel, Respondent shall be required to pay one-half of the applicable fees for a three-member Panel as set forth in the Provider's Supplemental Rules. This payment shall be made together with the submission of the response to the Provider. In the event that the required payment is

not made, the dispute shall be decided by a single member Panel.

Article 20 At the request of the Respondent, the Provider may, under some special circumstances, extend appropriately the period of time for the filing of the response. The period may also be extended by the agreement between the parties, provided that the agreement is approved by the Provider.

Chapter V Appointment of the Panel

Article 21 The Provider shall maintain and publish a publicly available name list of panelists. The Panel in charge of the domain name dispute resolution shall be composed by either one single Panelist or three Panelists.

Article 22 If neither the Complainant nor the Respondent has elected a three-member Panel, the Provider shall appoint, within five (5) calendar days following receipt of the response by the Provider, or the lapse of the time period for the submission thereof, a single Panelist from its list of panelists. The fees for a single member Panel shall be paid entirely by the Complainant.

Article 23 If either the Complainant or the Respondent elects to have the dispute decided by a three-member Panel, the Provider shall appoint three Panelists in accordance with the procedures identified in Article 25 and 26 of these Rules. The fees for a three-member Panel shall be paid in their entirety by the Complainant, except where the election for a three-member Panel was made by the Respondent, in which case the applicable fees shall be shared equally between the Parties.

Article 24 Unless it has already elected a three-member Panel and provided the names of the three candidates, the Complainant shall submit to the Provider, within three (3) calendar days of communication of a response in which the Respondent elects a three-member Panel, the names of three candidates to serve as one of the Panelists.

Article 25 In the event that either the Complainant or the Respondent elects a three-member Panel, the Provider shall endeavor to appoint one Panelist from the list of candidates provided by each of the Complainant and the Respondent. In the event the Provider is unable within five (5) calendar days to secure the appointment of a Panelist on its customary terms from either Party's list of candidates, the Provider shall make that appointment from its list of panelists. The third Panelist shall be appointed by the Provider from its list of panelists. The third Panelist shall be the Presiding Panelist.

Article 26 Where the Respondent fails to submit the response or, has submitted the response but fails to indicate how to designate the Panel, the Provider shall proceed to appoint the Panel as follows:

(i) If the Complainant has designated a single member Panel, the Provider shall appoint the Panelist from its list of panelists;

(ii) If the Complainant has designated a three-member Panel, the Provider shall, subject to availability, appoint one Panelist from the list of candidates provided by the Complainant and shall appoint the second Panelist and the Presiding Panelist from its list of panelists.

Article 27 The Panelists shall have the right to decide by themselves whether to accept the appointment. To ensure the promptness and smoothness of the domain name dispute resolution proceedings, if any of the Panelists designated cannot accept the appointment, the Provider shall appoint another Panelist from its list of panelists at its own discretion.

Article 28 Once the entire Panel is appointed, the Provider shall promptly forward the case file to all members of the Panel and shall notify immediately the parties of the Panelists appointed and the date by which the Panel shall forward its decision on the complaint to the Provider.

Article 29 A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the proceedings, new circumstances arise which could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Panelist.

Prior to the acceptance of appointment as a Panelist, a candidate shall be required to submit to the Provider a Declaration of Independence and Impartiality in writing.

Where either party thinks that any Panelist has material interests with the opposing party and that such circumstance may affect the fair ruling of the case, that party may request to the Provider for removing the Panelist before the Panel has rendered its decision. Removal of the Panelist shall be in the Provider's discretion.

Article 30 No Party or anyone acting on its behalf may have any unilateral communication with the Panel. All communications between a Party and the Panel or the Provider shall be made to a case administrator appointed by the Provider in the manner prescribed in the Provider's Supplemental Rules.

Chapter VI Hearing and Ruling

Article 31 The Panel shall conduct the proceedings in such manner as it considers appropriate according to these Rules, and decide a complaint on the basis of the statements and documents submitted and in accordance with CNDRP, as well as any

rules and principles of law which it deems applicable. If a Respondent does not submit a response, the Panel shall, in absence of exceptional circumstances, decide the dispute based upon the complaint.

In all cases, the Panel shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case, give out its reasons and provide the evidence.

The Panel shall ensure that the proceedings take place with due expedition. It may, at the request of a party, extend, under some special circumstances, a period of time fixed by these Rules.

The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

Article 32 In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the parties.

Article 33 Under the normal circumstances, there shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panel determines that such a hearing is necessary for deciding the complaint. Either of the parties may request the Panel to hold an in-person hearing at his own expenses.

Article 34 In the event that a party, in the absence of exceptional circumstances, does not comply with any of the provisions established by these Rules or any of the time periods fixed by the Panel, the Panel shall proceed to a decision on the complaint.

Article 35 If a party, in the absence of exceptional circumstances, does not comply with any provisions of these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Article 36 In the event of multiple disputes between the parties, either party 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 in its sole discretion, provided that the disputes being consolidated are governed by CNDRP adopted by CNNIC.

Article 37 In the absence of exceptional circumstances, the Panel shall render its decision on the complaint and forward the decision to the Provider within fourteen (14) calendar days of its appointment.

Article 38 The Panelists shall submit the draft decision to the Provider before signing

the decision. The Provider may review the form of the award on condition that the Panelists' independence of decision is not affected.

Article 39 In the case of a three-member Panel, the Panel's decision shall be made by a majority. Each Panelist possesses an equal vote. Where the majority cannot be reached, the decision shall be decided by the Presiding Panelist. Any dissenting opinion shall accompany the majority decision.

Article 40 The Panel's decision shall be made in electronic form and in hard copy, provide the final decision and the reasons on which it is based, indicate the date on which it was rendered and identify the name(s) of the Panelists.

If the Panel concludes that the dispute is not within the scope of CNDRP, it shall so state. If after considering the submissions the Panel finds that the complaint was brought in bad faith, the Panel may declare in its decision that the complaint constitutes an abuse of the domain name dispute resolution procedure.

Article 41 In the event of any legal or arbitral proceedings initiated prior to or during the domain name dispute resolution proceedings in respect of a domain name which is the subject of the complaint, the Provider or the Panel shall have the discretion to decide whether to suspend or terminate the proceedings, or to proceed to a decision.

Where a party initiates any legal or arbitral proceedings during the pendency of the domain name dispute resolution proceedings in respect of a domain name which is the subject of the complaint, it shall promptly notify the Panel and the Provider.

Article 42 Before the Panel's decision, the domain name dispute resolution proceedings may be terminated, if

- (i) The parties agree on a settlement.
- (ii) The Panel thinks that it becomes unnecessary or impossible to continue the proceedings for other reasons, unless a party raises justifiable grounds for objection within a period of time to be determined by the Panel.

Chapter VII Communication and Publication of the Decision

Article 43 Within three (3) calendar days after receiving the decision from the Panel, the Provider shall communicate the full text of the decision to each party, the Registrar and CNNIC.

Article 44 Unless the Panel, at request of one party or considering the specific situation of the Case, determines otherwise, the Provider shall publish the full decision on a publicly accessible web site within the time limit stipulated in Article 43.

Chapter VIII Fees

Article 45 The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Provider's Supplemental Rules, within the time and in the amount required. A Respondent electing to have the dispute decided by a three-member Panel, rather than the single member Panel elected by the Complainant, shall pay the Provider one-half the fixed fee for a three-member Panel. In all other cases, the Complainant shall bear all of the Provider's fees.

Article 46 No action shall be taken by the Provider on a complaint until it has received from Complainant the initial fee in accordance with the Provider's Supplemental Rules.

Article 47 If the Provider has not received the fees within eight (8) calendar days of receiving the complaint, the complaint shall be deemed withdrawn and the proceedings terminated.

Article 48 In exceptional circumstances, in the event the Panel, at the request of a party, determines that an in-person hearing is to be held, the Provider shall request the parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.

Chapter IX Supplementary Provisions

Article 49 Except in the case of deliberate wrongdoing, neither the Provider nor a Panelist shall be liable to a party for any act or omission in connection with any proceedings under these Rules.

Article 50 These Rules are subject to the interpretation of CNNIC.

Article 51 These Rules are effective as from Sep.30, 2002.

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