



Practical guide for rights holders

2024



Imagine a domain name been registered by a third party in a way and you want to protect them...

Afnic provides this Guide for all rights holders, containing all the practical information needed to easily find your way around the domain name market.

This guide is also available for free download on our website www.afnic.fr under "Dispute resolution".

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1

How to know if a domain name infringes your rights?

On its website Afnic provides a Whois database that you can use to check if there are any domain names under the .fr Top-Level Domain (or any one of the other TLDs managed by Afnic) that are liable to infringe any of your rights.

Similarly, each day Afnic publishes the list of domain names registered under the .fr TLD for that day.

The Whois database

This is the database for which Afnic collects from registrars all of the domain names registered under the .fr TLD (and the other TLDs managed¹ by Afnic) and the identification data of the individual or corporate domain name holders.

By consulting the Whois database, free of charge, you can check the availability of a domain name, find those you have registered, or obtain:

- Administrative information² on the holder of the domain name and the various contacts (administrative, technical) associated with it;
- Technical information about the domain name itself.

The database can be accessed in two ways:

- Via the Afnic web interface in which queries are not fully automated;
- Via “Port 43”, which allows users to perform automated queries, the volume of which is subject to a limitation policy.



The Whois database does not belong to Afnic; it has a right to use the database, granted by the French State.

1 - Afnic manages the following country-code TLDs: .fr (France), .pm (St. Pierre and Miquelon), .re (Reunion Island), .tf (French Southern and Antarctic Territories), .wf (Wallis and Futuna) and .yt (Mayotte).

2 - In accordance with the French law of 6 January 1978 relating to computers, files and freedom, the personal information about individual holders (name, first name, postal address, telephone number, fax number, email address) are protected and are not published. This process, referred to as restricted information, applies by default unless otherwise requested by the holder of a domain name (see above).

Users of the Whois database must refrain from any collection or misuse of the personal information to which they have access, and generally, refrain from any act liable to infringe upon the privacy or reputation of individuals.

To ensure this is the case, Afnic has implemented the security measures required to regulate the ways in which the data are used by processing operations that are fair, non-discriminatory, and proportionate to the aims of the database described in the Afnic Naming Policy and in the policy governing the publication of, and access to information on domain name registrations.

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Afnic has chosen to implement measures to limit the number of queries in order to prevent possible abuses in the use of personal information but also to ensure the quality of the service provided.

Afnic may at any time filter access to its services, if malicious use is suspected.

The daily list of registered domain names

Under Article L.45-5 of the French Electronic Communications and Telecommunications Act (hereinafter referred to as the CPCE), Afnic publishes every day all the domain names that have been registered under each of the TLDs for which it is responsible.

These daily updates are available for 7 days, free of charge, under the ".gif" format.³

Monitoring services

In order to check whether a domain name infringes your rights or not, various monitoring services are available, including the "**FR Watch**" service provided by Afnic.

This service allows you to monitor your brands and trademarks, identify the domain names that use them, and thus measure the amount of traffic you are losing.

To set up this service, please contact your registrar. Please note that every registrar accredited by the .fr can provide this service.

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Please visit our website section entitled "[Products and services](#)".

³ - Although it is accepted for these data to be downloadable and available free of charge and reused for commercial purposes, Afnic is vigilant about illegal and fraudulent behavior that can lead to adverse effects for the holders contacted. If necessary Afnic intercedes with the inconsiderate parties in question.

2

What to do if a domain name under the .fr TLD infringes your rights?

If you have identified a domain name under the .fr TLD (or one of the other TLDs managed by Afnic) that infringes any of your rights – infringing your intellectual property rights, identity theft, fraud, etc., – Afnic provides a series of tools allowing you to reach an amicable solution with the Holder.

Failing an amicable agreement, the only remaining means are judicial or extrajudicial proceedings.

How to obtain the contact details of a domain name holder?

As we saw above, the [Whois database](#) is the first reflex to find out whether the contact details of the Holder are available⁴:

- If their contact details are available, we suggest you contact the domain name Holder in order to reach an amicable solution to your dispute;
- If the contact details are available on a “restricted information” basis, we provide an application form enabling you to request the disclosure of personal data, and, under certain conditions, obtain the contact details of the domain name Holder.

[The application form for the disclosure of personal data](#) can be used to obtain the contact details of the domain name Holder if and only if the latter has used in identical or almost identical fashion:

- The earlier trade mark registered and protected in France of which you are the holder;
- The earlier distinctive signs(s) that you own (company name, business name, trade name, brand and domain name);
- The earlier title protected by French copyright that you own;
- Your family name or pseudonym.

⁴ - The non-disclosure of personal data concerning individuals is an obligation imposed on Afnic by France’s data protection authority (CNIL). With regard to the anonymity of Whois data, both at first instance and on appeal, the liability of the Afnic was ruled out and the de-personalization procedure confirmed by the Paris Court of Appeal on 19/10/2012.



Afnic **refuses to lift anonymity** for the following reasons:

- If the domain name was registered prior to the date on which your trade mark was filed;
- If the domain name was registered prior to the date on which your company was registered;
- When your application concerns second level domains (e.g. <example.example.fr>);
- If the application relates to the content of the website.

Should Afnic refuse to lift the holder's anonymity, it is possible **to file a new application, or file an application for a preliminary order before the ordinary courts** (see below). On receipt of the order, Afnic will proceed to implement the order within two days.

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You can use the **contact form** to send a message to the administrative contact for the domain name, without knowing their contact details:

Afnic is not informed of the content of the message and does not charge any fee for sending it. Afnic proceeds to transfer the message without checking its contents, whether the transfer is successful, the accuracy of the recipient's address, or the identity of the issuer.

There is no guarantee of a response from the administrative contact, or even any guarantee that the latter has received and/or read the message sent. The administrative contact is free to reply and to decide or not whether to transfer the e-mail to the holder of the domain name if the administrative contact and registrant are two different people.

What to do if the contact details obtained by Afnic do not allow you to contact the holder

The items of information available in the Whois database are those provided by the holder when registering the domain name with the registrar in charge of that domain name. Even though holders are obliged to update their identification data, the latter may be inaccurate.

The [application form to check](#) the contact details of the domain name holder allows you to request that Afnic verify on the one hand the **eligibility** of a holder of the domain name under Afnic's Naming policy, and their **reachability** on the other.

This verification procedure is free of charge and consists of **two (2) distinct processes**:

- **WHOIS VERIFICATION**, initiated upon receipt of the form without the provision of any documents in support. The verification process does not affect the holder's portfolio of domain names;
- **SUBSTANTIATION**, a verification process indicating the holder's eligibility or reachability is unsatisfactory, or following a reasoned complaint from a third party via the verification form or even at its own initiative, Afnic contacts the registrar.

This substantiation procedure takes a little more than a month during which the Holder must provide evidence substantiating its compliance with the eligibility and/or reachability rules.

Substantiation has an impact on the domain name portfolio of the domain name holder because the portfolio is suspended, then blocked before being deleted by Afnic if there is no evidence proving that the holder has complied with the eligibility and reachability rules.

ELIGIBILITY:

Under the Naming policy, any individual or corporation is considered to be eligible if they reside or have their headquarters or principal place of business

- Within the territory of one of the member states of the European Union;
- Within the territory of the following countries: Iceland, Liechtenstein, Norway or Switzerland.

REACHABILITY:

Any individual or corporation is considered to be reachable if they indicate a working telephone number, email and mailing address and their identification is accurate.

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By consulting the Whois database, it is possible to know the verification status of a domain name holder. When the check has been successfully carried out, the field that has been checked is marked (as well as the date and originator of the check) in the Whois database.



The verification procedure is interesting on the one hand because it is free, and on the other for its impact.

In a little more than month, a domain name holder who has not substantiated or corrected their contact information has their entire domain name portfolio immediately deleted.

Warning: if the domain name is deleted, the former holder may register it again. Afnic does not offer any pre-reservation services or waiting lists to obtain deleted domain names.

In addition, the eligibility of the domain name holder obtained under the aegis of a previous Naming policy cannot be checked under the terms of the currently applicable Naming policy. Only their reachability can be checked and where appropriate, corrected.

What to do if you have contacted the holder but cannot obtain the latter's agreement?

If you have not been able to reach an amicable solution with the holder through your own means, you may resort to:

- **the mediation procedure;**
- **one of the Alternative Dispute Resolution procedures (SYRELI or PARL EXPERT);**
- **judicial avenues (through the courts).**

As part of its role as registry, Afnic has put in place a mediation procedure ahead of the two Alternative Dispute Resolution (ADR) procedures: SYRELI and PARL EXPERT.



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It is not within Afnic's remit or qualifications to provide legal advice. Do not hesitate to seek legal aid to facilitate your procedure.

1. The mediation procedure

If you find yourself in a communication impasse or are involved in a dispute with a holder concerning a domain name under one of the TLDs managed by Afnic (.fr and French overseas TLDs), you may request a mediation procedure at no cost.

The procedure is entirely free and governed by its **Regulations**. The parties and the mediator are subject to strict confidentiality and no rulings are published. The Parties are free to agree on the solution of their choice and to bring an end to the procedure at any time.

Afnic provides a **form on its website** to allow you to request the appointment of a mediator to facilitate the management of a dispute concerning the disputed domain name.

As soon as your request is received, the mediator shall take steps to contact the holder in order to obtain their consent to take part in the mediation procedure.

What happens if the holder gives their consent?

- The mediator informs each of the parties of the opening of the procedure and the discussion dates;
- The parties have 7 business days in which to find a solution with the help of the mediator;
- Once this time has elapsed and if the parties agree on a solution, a report is notified. If the solution involves an agreement to the transfer or deletion of the domain name, this is immediately enforced and Afnic implements the required operations;
- If no solution is found by the set date, a closure report is notified. In this case you may choose to initiate one of the Alternative Dispute Resolution procedures (see 2.).

What happens if the holder does not give their consent?

- If the holder does not respond or responds in the negative within the 7 days, the mediation request is terminated.
- In this case you may choose to initiate one of the Alternative Dispute Resolution procedures (see 2.).

2. ADR procedures

These two procedures are adversarial and allow any person (natural or legal) to **recover a domain** name or to obtain the deletion thereof within two months as of the date of the request.

Whichever of the procedures you use, you must prove you have a right to bring action, and substantiate by any means that the domain name in dispute falls under one of the cases listed in Article L.45-2 of the CPCE, namely that the domain name is:

- liable to disrupt public order or morality, or the rights guaranteed by the French Constitution or French law; or
- liable to infringe your intellectual property or personal rights, and that the holder has no right to bring action and is acting in bad faith; or
- identical or related to that of the French Republic, of a local authority or group of local authorities, of an institution or a local or national public service, and that the holder has no right to bring action and is acting in bad faith.

Once the procedure has started (the case file is complete), the Holder of the domain name has a period of 21 days in which to reply to the claim. At the end of the period granted to the Holder, you can check the latter's response but cannot reply in turn.

There are two noteworthy differences between the Expert ADR and SYRELI procedures:

- **The costs and financial arrangements;**
- **The person analyzing the case files:**
 - In the Expert ADR procedure, your case will be studied by an expert selected by the WIPO from a list previously drawn up in conjunction with Afnic;
 - In the SYRELI procedure, a College (consisting of Afnic employees) is in charge of studying the case.

For further details about these procedures and how to use them, please visit the [SYRELI PLATFORM](#) and the [EXPERT ADR PLATFORM](#).

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Check our [Practical User's Guide to ADR](#) before filing your case under one of our procedures to ensure that your case file is as complete as possible.



WARNING!

- Each application is assessed exclusively on the basis of the documents and deeds filed by both parties, and no further research is done by the people analyzing your file;
- Proceedings are conducted in French. If important documents are in another language, please provide an official translation.

COMPLETENESS:

A case file is said to be complete when:

- The domain name is registered;
- The petition form has been duly filled in;
- The costs of the procedure have been paid by the Claimant;
- The domain name to which the procedure refers is not subject to any current judicial or extrajudicial proceedings.

What to do if the SYRELI or ADR EXPERT decision is in your favor?

As of the date of receipt of the ruling, the Holder has 15 days to seek judicial remedies.

Once this time has elapsed, and only in the case of transfer of the domain name, you must contact **the registrar** of your choice and provide them with the ruling in your favour.

The registrar will ask you to sign an Afnic Operation Request (DOA) which it will send to Afnic in order to carry out the compulsory transfer of the domain name under dispute.

In the case of a delete ruling, no further action is required on your part. Afnic will delete the domain name at the end of the 15-day period.

The deleted domain will subsequently be available for registration on a first come first served basis.

What to do if the SYRELI or ADR EXPERT decision rendered by Afnic is not in your favor or does not apply to your case?

You have a period of 15 days from the notification of the decision to submit the case to the competent court of first instance. During this period, the domain name remains suspended.

After this period, the Afnic decision will be enforceable and the domain name returns to its initial configuration. Since the ADR regulations have been approved by the Minister in charge of electronic communications and published in the Official Gazette, no change is possible.



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By carefully studying the ruling handed down, you can identify the reasons why your claim has been rejected.

Depending on your analysis, you may decide to file a new claim with new evidence in accordance with the terms of the ADR Regulation (both ADR procedures are alternative and are mutually exclusive) or take the case to court.

The domain name in dispute does not fall within one of the cases listed in article L.45-2 of the CPCE

If you think you are a victim of a cybercrime, we recommend you use the online assistance tool (<https://www.cybermalveillance.gouv.fr/diagnostic/accueil>).

You can read the recommendations of the public interest group ACYMA (Action Against Cyber Crime) here: <https://www.cybermalveillance.gouv.fr/cybermenaces>

If in doubt, contact a legal advisor for assistance.



Decree No. 2011-926 of 1 August 2011 provides for an easily accessible system allowing any person to bring to Afnic's notice any domain name considered to be unlawful or contrary to public policy:

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/report-a-domain-name/>

The Afnic form does not cover the contents of websites or behavior that are unlawful or contrary to public policy. In such cases, please visit the reporting platform of the Ministry of the Interior, Overseas Territories and local authorities: www.internet-signalement.gouv.fr

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Procedures and purposes

Afnic is not obliged to take protective measures:

Afnic commits no error in refusing to suspend or block domain names on simple request from, or when subpoenaed by third parties, as confirmed by the Judgment of the Court of Appeal of Paris dated October 19, 2012: the plea for Afnic's behavior to be incriminated for not setting up measures to block or suspend disputed domain names on request from third parties must be rejected.



Afnic does not freeze, block or delete domain names on its own initiative. It carries out these operations within the framework of the procedures detailed in the Naming Policy, or in accordance with a court order.

There are various types of technical operations that Afnic, in cases strictly defined in the Naming Policy, may apply to a domain name.

Suspending a domain name

Definition

The suspension of a domain name cancels all the transactions currently being processed by Afnic and prevents any future transaction request on the domain name from being carried out (change of registrar, transfer of domain name, etc.). This does not affect the operation of the domain name, however.

A domain name suspended:

- When a court order suspending the domain name is notified to Afnic: the suspension is maintained in accordance with the provisions of the court order and is raised after a new ruling has been handed down;
- When an ADR procedure is initiated (see above): the suspension is maintained until the ruling is enforced;
- When a verification procedure is initiated (see above): the suspension is maintained for a period of 7 days.

How to know if a domain name has been suspended?

Query the Whois database; the results of the search will indicate the status of the domain name.

Blocking a domain name

Definition

The blocking of a domain name cancels all the transactions currently being processed by Afnic and prevents any future transaction request on the domain name from being carried out. This makes the domain name inoperative (the website and its email address(es) no longer work).

A domain name blocked:

- When a court order ordering the blocking of the domain name is notified to Afnic: the blocking is maintained in accordance with the provisions of the court order and is raised after a new ruling has been handed down;
- When a verification procedure is in progress (see above): the blocking occurs after the suspension period and is maintained for a further period of maximum 30 days;
- When the domain name is an orphan (when no registrar is any longer in charge of the domain name).

How to know if a domain name has been blocked?

Query the Whois database; the results of the search will indicate the status of the domain name.

Deleting a domain name

Définition

Deleting a domain name makes it re-enter the public domain and can be registered again on a first-come, first-served basis.

When the redemption period allowed for domain names deleted at a registrar's request has elapsed, deletion is irreversible. During the redemption period, the domain name can be reactivated with the same configuration (same holder and same registrar).

Once deleted, the domain name re-enters the public domain and can be registered by a new applicant.

A domain name is deleted

- When the deletion is requested by its registrar, in which case, deletion becomes irreversible once the redemption period of 30 days has elapsed. During the redemption period, the domain name can be reactivated with the same configuration;
- Further to a court decision ordering the deletion of the domain name and meeting the terms and conditions stipulated in the Naming Policy;
- Following a decision to delete the domain name taken as part of the ADR procedure (see above);
- Further to a deletion agreement in a mediation;
- Further to an order of the administrative authority responsible for competition and consumer affairs pursuant to section 2c) of Article L. 521-3-1 of the French Consumer Code;
- Following an unsuccessful verification procedure (see above);
- Following an orphaned domain procedure (when no registrar is any longer in charge of the domain name).

This means that you can no longer obtain the IP address of the service you have requested by consulting the domain name. Instead, you see an error message telling you that the domain cannot be found. Deletion affects all services within the domain and all of its subdomains.



Here is no redemption period when Afnic deletes a domain name. Its effect is immediate and leads to the withdrawal of the domain name from the domain name system. It can be registered again by a third party on a first-come, first-served basis.

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Under certain conditions, and to organizations that request it to do so, Afnic provides the list of domain names registered each day under the .fr TLD, together with the names of the registrars who have registered the domain names, and the names of the holders that have registered the domain names (with the exception of individuals who opt for access to that information to be restricted).

For more information on the SQUAW service (the French acronym for the Qualified Whois Data Access Service), see the "[Products and Services](#)" section of the Afnic website.

USEFUL INFORMATION



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[Download our Legal Practical Guides](#)

About Afnic

Afnic is the French Registry for the .fr (France), .re (Reunion Island), .yt (Mayotte), .wf (Wallis and Futuna), .tf (French Southern Territories), .pm (Saint-Pierre and Miquelon).

Afnic is also positioned as a provider of technical solutions and services for registries and registrars. Afnic (the French Network Information Centre) comprises public and private stakeholders, including government authorities, users, and Internet service providers (Registrars). It is a non-profit organisation.