

*Rules and Regulations
of the Dispute
Resolution System*

Syrel

afnic

Glossary

"AFNIC": French acronym for "Association Française pour le Nommage Internet en Coopération" (the French Network Information Centre).

An association governed by the provisions of the Act of 1 July 1901, responsible for assigning and managing certain Internet top-level domains corresponding to France and French territories.

"Registrar": technical service provider having signed a registration contract with AFNIC, responsible for processing the petitions of its customers (applicants or holders of domain names).

"Charter" or "Naming Charter": document defining the technical and administrative rules enabling an administrative act to be performed on a domain name. The Naming Charter is supplemented by a series of documents (Procedures Manual etc.) and information available on-line on the AFNIC website or directly from AFNIC on request.

"College": authority consisting of three full AFNIC members and two substitutes, responsible for taking a decision on a dispute submitted to it.

"Force Majeure": by express agreement between the Parties, any unavoidable and unforeseeable event or whose forecast occurrence has not allowed the Party involved from occurring will be considered as a case of force majeure. The following events in particular shall be considered as cases of force majeure (the list being non-exhaustive): acts of the Government, war (whether declared or not), invasions, rebellions, blockades, sabotage, vandalism, total or partial strikes, social conflict external to the Party involved, civil strife, bad weather, natural disasters, fire, pandemic and/or viral epidemics, blocking of the means of transport or of supply with particular reference to energy, breakdowns in the supply of electrical power, heating, air conditioning, of telecommunications networks, data transmission network, and breakdowns of satellites.

"Suspension of transactions": operation preventing any changes to the domain name. This does not affect the operation of the domain name (site access, email addresses, etc.)

"Parties": the claimant and the holder of the domain name in dispute are referred to as the "Parties" in these Rules and Regulations.

"Procedure": the present procedure for resolving disputes.

"Rapporteur": the person responsible for the administrative management of the case.

"Claimant": an individual or entity that initiates a procedure for resolving a dispute relating to one or more domain names, with reference to Article L 45-6 of the French Electronic Communications and Telecommunications Act.

"Deletion": operation which consists in deleting the domain name from the DNS and the Whois database so that the domain name, which is no longer operational, falls into the public domain and may be registered by a new Holder.

"SYRELI": French acronym for the AFNIC dispute resolution system (SYstème de REsolution de LItiges).

"Holder": individual or entity having registered one or more domain names and is therefore responsible for the operations involving the domain name(s) in question.

"Forced transmission ": the forced transmission procedure implies that the new registrant in whose favour the decision has been awarded will carry out all the formalities in respect of AFNIC and comply with the identification and eligibility checks.

I. General

Pursuant to Article L 45-4 of the French Electronic Communications and Telecommunications Act:

"Any individual that has a valid reason for doing so may petition the competent registry to delete or transfer a domain name for the individual's benefit when the domain name in question falls within the scope provided for in Article L. 45-2".

"The registry shall rule on this petition within two months of receipt of same, in accordance with an adversarial procedure as determined by the registry's rules of procedure which may provide for the intervention of a third Party chosen in accordance with transparent, non-discriminatory conditions that have been made public. In particular, the rules of procedure define the rules of conduct applicable to third Parties and ensure the impartial and contradictory nature of their intervention".

"The Rules of Procedure of the Registry are approved by order of the [French] Minister responsible for Electronic Communications".

i. Communications and lead-times

All the exchanges between the Parties and AFNIC under the Procedure as specified by these Rules and Regulations shall only take place in writing to the email address and / or postal addresses listed:

- by the Claimant in its petition;
- by the Holder upon registration of the domain name and as contained in the AFNIC Whois database on the opening day of the Procedure (Article (II) (iv)).

No meeting or meetings in person (including by telephone conference, video or Internet) are allowed.

All the exchanges between AFNIC and either one of the Parties will also be sent to the other Party.

All the exchanges provided for in these Rules and Regulations are deemed to have been made from the date of dispatch of electronic messages.

Except in cases of force majeure, AFNIC and the Parties are required to meet the deadlines specified in these Rules and Regulations.

ii. Binding Rules and Regulations

These Rules and Regulations shall be binding upon AFNIC and the Parties, who undertake to respect them.

Non-compliance with these Rules and Regulations is liable to incur the liability of the defaulting Party.

iii. Purpose of the Procedure

The measures that can be sought and obtained by the Claimant as part of the Procedure are limited exclusively to the transfer of the domain name to the benefit of the Claimant, or the deletion of the domain name(s) in dispute.

The Procedure is not designed to award damages to the Complainant.

iv. Language of the Procedure

These Rules and Regulations are written in French and English.

Proceedings are conducted in French.

If the exhibits are not written in French, the Party concerned shall produce a certified translation by a sworn translator.

The College reserves the right not to consider the documents submitted in languages other than the language of the proceedings if the requested translation is not provided, is incomplete, or is invalid.

v. Judicial or extrajudicial proceedings

The Claimant certifies to the best of its knowledge that no judicial or extrajudicial proceedings concerning the domain name in dispute are under way when making its petition.

Should it be brought to the Claimant's knowledge that judicial or extrajudicial proceedings involving the domain name in dispute are under way, it shall immediately inform AFNIC of same.

vi. Costs of proceedings

The Claimant shall bear the costs of the Procedure.

AFNIC is not held to take action until it has received full payment of the fees as indicated above.

No reimbursement shall be made by AFNIC of any payments received, regardless of the outcome of the Procedure.

II. Conduct of the Procedure

i. Opening and duration of the Procedure

The Procedure is opened on receipt of the complete petition submitted to AFNIC in electronic form. The petition is to be accompanied by the documents that the Claimant wishes to use in support of its petition.

As of the date of commencement of proceedings, the College shall rule on the petition within two (2) months. The Claimant may at any time terminate the Procedure after informing the College of same. In such cases, the suspension affecting the domain name involved in the dispute shall be waived.

ii. Completeness of the petition

Petitions to resolve disputes are managed by an AFNIC "Rapporteur" who has the skills and experience required to ensure the proceedings are properly carried out.

If the file is incomplete, the Rapporteur shall inform the Claimant of the missing items electronically within fifteen calendar days of receipt of the petition. The Rapporteur shall invite the Claimant to produce the missing items within seven (7) days.

Once the Rapporteur finds the file is complete, s/he shall inform the Claimant by electronic means of the opening of proceedings, specifying that from the date of opening AFNIC has a period of two months in which to rule.

The file is necessarily declared to be complete if:

- The petition form has been duly filled in.
- The costs of the Procedure have been paid by the Claimant.
- The domain name is active.
- The domain name has been created or renewed after 1 July 2011.
- The domain name to which the procedure refers is not subject to any current judicial or extrajudicial proceedings.

The Rapporteur ensures that progress in the proceedings is correctly communicated to the Parties.

The Rapporteur is responsible for presenting the case to the College without carrying out any further research, and for drafting the decision of the College.

Should the file not be completed on time and under the conditions specified in this Article, the petition shall be rejected

The Claimant is free to file a new petition and provide new evidence.

iii. Suspension of transactions on a domain name

At the opening of the Procedure, the Rapporteur suspends all the transactions involving the domain name in dispute for the duration of the procedure and, if necessary, beyond the duration of the procedure, in accordance with Article (II) (viii) of these Rules and Regulations.

Transactions on a domain name are suspended in accordance with the terms of the Naming Charter.

iv. Notification to the Holder of the opening of the Procedure

As soon as the Claimant has been informed that the file is complete, the Rapporteur shall also notify the Holder by email and by post of the opening of the Procedure, specifying:

- that as of this opening, AFNIC has a period of two months in which to rule,
- that transactions on a domain name have been suspended

- that the evidence and statements produced the Claimant are available from the Rapporteur by electronic means only.

The Rapporteur also informs by electronic means the Registrar with which the domain name was registered.

v. Reply from the Holder

The Holder shall have a period of twenty-one (21) calendar days from the date of notification of the Procedure to send a reply by electronic means to AFNIC.

In order to be complete, the reply must contain the reply form duly filled in for each domain name in dispute.

Up until the expiry of the twenty-one-day period, the Holder is entitled to add evidence and documents to its reply.

The Holder's reply can be consulted by the Claimant on the electronic platform.

vi. Decision

a. Composition of the College

The College consists of three members:

- The CEO of AFNIC, who chairs the College;
- Two full members appointed by the CEO from among the employees of AFNIC for their legal expertise, their knowledge of domain name market practices and their experience, all of which are required to ensure the proper handling of disputes as referred to in Article L45-2 of the French Electronic Communications and Telecommunications Act.

The CEO of AFNIC also appoints two substitutes, under the same conditions as the full members, who attend the meetings of the College should any of the full members be absent.

The College must comprise three members in order to reach a decision

Decisions are taken by majority vote of the members present in the College and rendered by the CEO on behalf of AFNIC.

b. Operation of the College

For each file submitted by the Rapporteur during a hearing, the College is required to assess:

- the validity of the Claimant's reason for acting,
- whether the domain name involved in the dispute is:
 1. "Liable to disrupt public order or morality, or the rights guaranteed by the French Constitution or French law"; or

2. "Liable to infringe intellectual property rights or personal rights, unless the Claimant provides proof of a legitimate interest and is acting in good faith"; or

3. "Is 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, unless the Claimant provides proof of a legitimate interest and is acting in good faith";

The College shall rule on the petition exclusively in light of the documents and exhibits filed by both Parties without conducting further research, in accordance with these Rules and Regulations, as provided for in Article R 20-44-42 of the French Electronic Communications and Telecommunications Act.

If necessary, the College takes into account the occurrence of force majeure in its deliberations.

The College shall reach its decision within twenty-one (21) calendar days of the date of expiry of the lead-time left to the Holder to present its reply.

Depending on the scale of compensation sought by the Claimant, the College may order the transfer of the domain name to the complainant, the Deletion of the domain name, or reject the petition.

Should the Holder accept the compensation sought by the Claimant, the College shall acknowledge the Holder's decision as the date of expiry of the lead-time left to the Holder to present its reply. The decision shall be immediately enforceable.

The College's decision shall be substantiated in writing, and indicate the date on which it was made.

If the decision is adverse to the Claimant, the latter is free to file a new petition bringing new evidence.

vii. Notification of the decision

The Rapporteur shall notify the decision to each Party by email.

The Rapporteur shall forward the decision by electronic means to the Registrar with which the domain name was registered.

viii. Implementation of the decision

The College's decision is only implemented once the lead-time of fifteen (15) calendar days from the date of notification of the decision to the Parties has lapsed.

Implementation of the decision is suspended if, during the lead-time for implementation:

- the Claimant or Holder sends the College a document certifying that a court has commenced proceedings on the domain name in dispute (e.g. copy of a petition with the registration stamp of a commercial court registry).

Implementation of the decision shall be suspended until AFNIC has received a document certifying:

- that the aforementioned proceedings are no longer justified, or
- that a court decision has been handed down in accordance with the terms provided in the Naming Charter.

Until implementation of the decision or the outcome of the legal proceedings commenced in accordance with this Article of the Rules and Regulations, transactions involving the domain name shall remain suspended unless otherwise ordered by a court.

Implementation of the decision shall take place in accordance with the Naming Charter, particularly with regard to compulsory transfers.

If, within sixty (60) days, the College's decision has not been implemented, AFNIC reserves the right to delete the domain name in dispute.

ix. Publication of the decision

The duly substantiated decision shall be published on the AFNIC website (after making the information about individuals anonymous) once the lead-time for implementation as provided for in these Rules and Regulations has lapsed.

x. Deontology

Each member of the College and the Rapporteur shall consider and treat as confidential all the data and information received for the purposes of studying the dispute in question, and shall use none of the data or information for any purpose other than those specified in these Rules and Regulations.

All the members of the College and the Rapporteur are bound by a duty of neutrality and impartiality with respect to the evidence brought to their knowledge as part of the Procedure, with particular reference to the documents and statements of the Claimant and the Holder of the domain name.

Should a member of the College be subject to a conflict of interest, s/he shall be replaced by a substitute.

Should the Rapporteur be subject to a conflict of interest, the administrative management of the Procedure shall be entrusted to another Rapporteur.

The procedure is not designed to rule on a dispute over a domain name filed by AFNIC.

xi. Amendments to the Rules and Regulations of the Dispute Resolution System (SYRELI)

The Rules and Regulations of the Dispute Resolution System (SYRELI) have been approved by order of the Minister in charge of electronic communications (Article L. 45-6 of the French Electronic Communications and Telecommunications Act).

Any changes to the Rules and Regulations shall be approved by the Minister.

The applicable version of the Rules and Regulations in a dispute resolution procedure shall be that which prevailed at the time of filing the petition with AFNIC.