



**Litigation Management Policy  
for Top-Level Domains  
managed by AFNIC**

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The Association Française pour le Nommage Internet en Coopération - the French Network Information Centre – (hereinafter referred to as AFNIC), an association governed by the provisions of the Law of 1 July 1901, has been designated to serve as the Registry for *.fr* Top-Level Domain names in the Internet addressing system.

The framework for AFNIC's functions is defined by:

- specific provisions of the French Electronic Communications and Telecommunications Act with respect to naming;
- the State–AFNIC Agreement.

Within that framework, AFNIC defines the non-discriminatory and transparent rules and regulations ensuring respect for and compliance with the freedom of communication, freedom of enterprise and intellectual property rights specified under Article L.45-1 of the French Electronic Communications and Telecommunications Act.

The guidelines for the registration and maintenance of domain names are described in each of the naming policies for French extensions managed by AFNIC, including the *.fr* and *.re* TLDs in particular.

The guidelines are intended to define the conditions to be met by future registrants in order to obtain the domain names they wish to acquire.

They are also intended to clarify the roles and responsibilities of each stakeholder in the registration chain (registrars, registrants, and AFNIC) and the possible options for resolving conflicts involving domain names, under satisfactory conditions for one and all.

## Foreword: Domain names involve several types of rights

The allocation of domain names is on a "first come, first served" basis.

However, unlike similar trademarks which can co-exist in different classes, a domain name is unique in nature: there cannot be two identical domain names registered under the same extension.

In addition, several persons may claim different rights concerning the same domain name (intellectual property rights, the right to the name, commercial rights etc.). It is in this type of context that disputes arise.

In order to reach a solution, AFNIC provides several options in the form of procedures that can be used, either as part of litigation or not, or by any individual or entity, whether in their capacity as a claimant or owner of a domain name.

At this stage it is important to recall the roles and responsibilities of each of the stakeholders involved:

- AFNIC is responsible for implementing and enforcing the provisions of the [naming policies](#), and in certain cases may have to hand down decisions pursuant to Articles L 45 *et seq.* of the French Electronic Communications and Telecommunications Act
- The applicant is responsible for ensuring that the term it wishes to use does not infringe rights of third parties.
- The claimant is responsible for protecting and defending its rights.
- The Registrar is responsible for ensuring compliance by its customers with all legal and regulatory provisions currently in effect and with the naming policies.

À travers sa politique de gestion des litiges, l'AFNIC souhaite permettre à chacun de se repérer dans ce processus et d'adopter la stratégie la plus adaptée à sa situation.

Pour une information la plus complète possible, et sans que cela soit exhaustif, l'AFNIC permet à partir de son site web d'accéder aux diverses décisions rendues par la justice, par les organismes extrajudiciaires ou par elle-même.

## 1. Prevention and monitoring

First and foremost, prevention and monitoring are the best defence!

Companies should develop a filing strategy, adapting its records and registrations to its business, so that it can quickly note any litigious conduct, either by means of in-house monitoring, or by using an automated monitoring service (certain [registrars](#) offer this type of service), so that they:

1. are informed as quickly as possible and can rapidly stop the litigious conduct in question
2. do not lose the evidence of bad faith of the registrant,
3. do not risk an objection being raised for their lack of response in the event of an application for the adoption of interim measures.

It is possible at this stage not to engage in legal or extralegal proceedings, and to favour direct negotiations with the registrant of the domain name: the contact details of the registrant are available in the [Whois](#) database, subject to the obligations relating to the protection of personal data.

## 2. Non-litigious solutions available to beneficiaries

### 2.1. Write to the administrative contact of a domain name having opted to be classified as restricted information

In accordance with the law of 6 January 1978 and at the request of France's data protection authority ([CNIL](#)), AFNIC has set up a specific protection system for the personal data of individuals for their registration under the .fr and .nom.fr extensions.

These data, which are protected by default, are not accessible via the [Whois](#) public service and are displayed as "restricted information". They are only disclosed if the registrant makes the request itself.

To contact a registrant having opted to be classified as restricted information, the claimant can use the tool to link with the administrative contact of the domain name available at the following address:

[www.afnic.fr/outils/formulaires/contact-admin\\_en](http://www.afnic.fr/outils/formulaires/contact-admin_en).

This tool does not disclose the identity of the registrant and its use is the sole responsibility of the sender of the message.

AFNIC proceeds to transfer the message issued without checking either its contents, or its outcome, or the accuracy of the address of the recipient, 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 registrant of the domain name if the administrative contact and registrant are two different people

### 2.2. Request for the disclosure of personal data

AFNIC may, at the request of third parties, lift the anonymity of an individual (natural person), who has registered a domain name under the .fr TLD and chose the "restricted publication" option.

AFNIC communicates the contact details of the registrant within a few days to the issuer of the request, if AFNIC finds the registrant has used the same or nearly identical reproduction of a protected sign (typosquatting, dotsquatting, etc.)

This means any application must be supported by evidence proving its validity.

To submit a duly justified request for the disclosure of personal information to AFNIC, the claimant must use the form available at the following address:

[www.afnic.fr/outils/formulaires/divulgarion-donnees\\_en](http://www.afnic.fr/outils/formulaires/divulgarion-donnees_en).

AFNIC cannot be held liable for a refusal to satisfy a request for the disclosure of personal data.

The information however is forwarded by AFNIC to the competent authorities to whom the request should be made.

## 2.3. Application to check compliance with the naming policy

The [naming policy](#) for the *.fr* TLD provides that domain names under the *.fr* TLD may be allocated to individuals or entities that have a connecting link with France.

Whatever the quality of the registrant (individual or entity), it is possible for a claimant to ask AFNIC to check:

- that the information in the [Whois](#) database is accurate and can be used to contact the registrant of the domain name;
- and that, if the registrant is an individual, it meets the eligibility criteria, i.e. is an adult and has an address in France.

This application may be made using the form available at the following address [http://www.afnic.fr/outils/formulaires/verification\\_en](http://www.afnic.fr/outils/formulaires/verification_en) and will be transmitted by AFNIC to the registrar in charge of the domain name after its admissibility has been checked.

AFNIC will forward to the applicant the reply obtained, and if its checks prove to be unsuccessful, will apply the provisions of the Naming Policy (blocking and deletion of the domain name).

## 3. Litigation solutions available to claimants

### 3.1. Extrajudicial procedures for dispute resolution

In accordance with Article L.45-6 of the French Electronic Communications and Telecommunications Act, the registrant of a domain name undertakes to comply with procedures for resolving disputes concerning domain names in accordance with the regulations specific to each of the procedures available here: <http://www.afnic.fr/doc/ref/juridique> (in French).

Pursuant to Article 4 of the Appendix to AFNIC's Designation Order, AFNIC is not authorised, unless as a result of legal proceedings, to delete or transfer domain names outside of the procedures as specified below.

These procedures are exclusively designed to resolve disputes relating to the registration of domain names between registrants and third parties, and are in no way designed to resolve disputes relating to the liabilities or responsibilities of AFNIC or Registrars.

AFNIC undertakes to implement decisions taken pursuant to a dispute resolution procedure in a timely manner.

### **3.2. Legal proceedings**

Whatever the case, claimants retain the right to go to court in order to resolve a dispute over a domain name.

The choice of the court having jurisdiction to decide on the case is the most difficult issue because it depends on several criteria.

In general, jurisdiction is attributed to the court competent for the place of residence of the registrant of the domain name in dispute, but may vary depending on the amount of damages at stake and the person behind the case.

While these procedures can result in the granting of damages, the lead-times and costs involved as well as their outcome are difficult to predict, as is the enforcement of the judgment ("enforcement proceedings" when the decision is rendered by a foreign court).

There is no need to incur AFNIC's liability for it to implement court decisions: the Naming Policy sets out the conditions under which court decisions are implemented.