

Guide For rights-holders

| | | |
|---|--|----|
| 1 | The Internet addressing system | 2 |
| 2 | Domain names operated by Afnic | 4 |
| 3 | The technical operations possible on a domain name | 6 |
| 4 | How to know if a domain name infringes your rights | 9 |
| 5 | If a domain name infringes your rights | 11 |

1 The Internet addressing system

For Internet users, the services provided by the technical infrastructure are what represent value. The best-known services are websites and e-mails, but it is also possible to use the Internet for other activities, such as connecting multiple telephone conversations, downloading files or connecting to databases.

But how do you access these services? All the computers connected to the Internet have their own IP (Internet Protocol) address, which consists of a long series of numbers. This address is used to connect directly to a computer. However, to avoid users having to remember long strings of numbers, the system of domain names (hereinafter referred to as the «DNS» or Domain Name System) combines a unique domain name with the IP address in question.

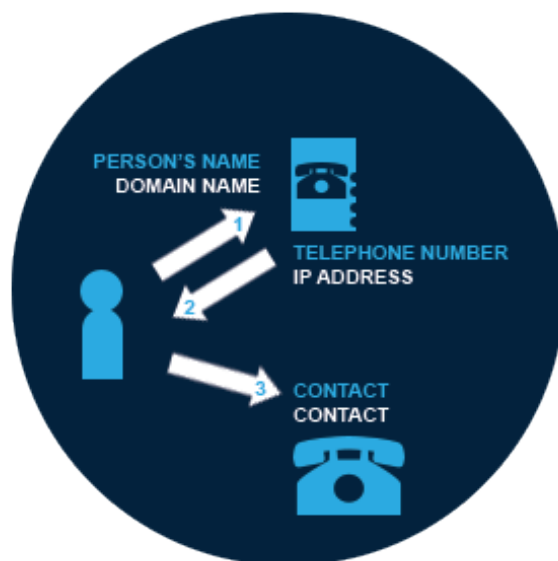
Presentation of the domain name system (DNS)

The DNS system is the Internet «phone book».

The domain name can be used to search for addresses in DNS in the same way you search for a name in the phone book to find the corresponding telephone number. This process triggers the search for an IP address, which is then used to contact the computer providing the service you want to access.

Domain names managed by Afnic are generally written in the form *<companyname.fr>*. If the domain name offers services such as websites or an e-mail service, the web address may be *www.companyname.fr*, and a standard e-mail address for this domain may be written *firstname.lastname@companyname.fr*.

It is important to know that it is possible to register a domain name - and be its holder - that does not offer services to users.



Organization of the DNS system

The DNS system is structured hierarchically, similar to the roots of a plant.

The upper level is often called the «root zone» of the DNS, or simply the «root».

The «top-level domains» represent the highest level located directly under the root. There are two types of TLDs:

- First there are the national codes, such as *.fr* (representing France) or *.re* (for Reunion Island) and the regulations governing these codes are determined by each registry in accordance with the country's national laws.
- The second type corresponds to the generic top-level domains such as *.com*, *.org* or *.net*. The regulations governing these domains are established by each registry in accordance with rules established at the international level.

Under the top-level domains, there are what is commonly equated with the term «domain name», i.e. second-level domains, such as *univ-paris1.fr* for the University of Paris 1.

Some top-level domains also have their own «second-level domain category». These domains are set up for specific groups, such as *.gouv.fr*, a category reserved for the services of the French state.

At the next level are the «sub-domains» such as *cenf.univ-paris.fr*.

The root-like structure also reflects the levels of responsibility associated with the domain name system. Various organizations are responsible for the «zones» at their respective levels.

Various registers take care of the administration of the regulations and operation of the central database for each individual TLD. Afnic performs this function for the first-level extensions *.fr*, *.re*, *.pm*, *.tf*, *yt*, and *.wf*.

Individual persons or organizations (the Holders) can only influence the level directly below its own level in the hierarchy. In other words, Afnic has no control over a domain such as the *.com* or domain names registered under this top-level domain. Similarly, it is not entitled to intervene in the management of *cenf.univ-paris.fr*, which is delegated to the manager of the «univ-paris.fr» zone.

What happens when you consult a domain name?

Each domain name is linked to a series of computers that respond to requests concerning the addresses registered under the domain name. These computers are called name servers. In general, users are unaware of the communications with these computers.

Here is an example of a standard query:

You want to view a specific event posted on the website of the University of Paris 1. You know the address of the university is *www.univ-paris1.fr*, so you enter it in the address bar of your browser.

A small piece of software in your computer contacts another computer, called the «recursive resolver», which is configured to process requests received by the domain name system. This computer is usually housed by the Internet Service Provider (ISP) or the Registrar.

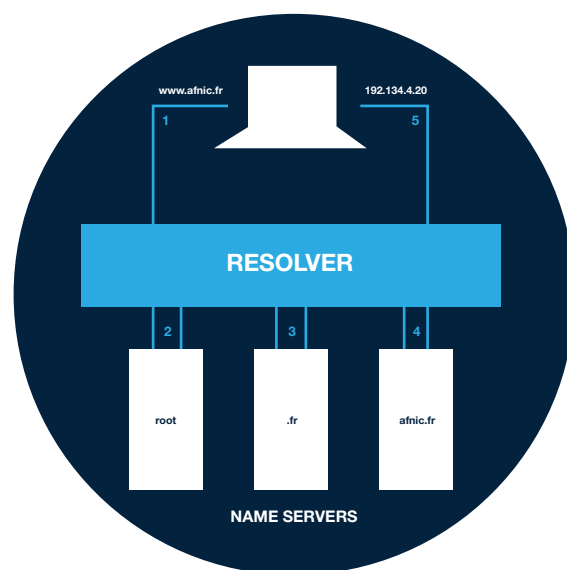
The function of the recursive resolver is to find the IP address of *www.univ-paris1.fr*. It forwards the request to a name server in order to query the root of the domain name system. Since the root name servers only recognize the level directly below them in the hierarchy, they return the list of name servers for the *.fr*.

The resolver then sends the query to one of the name servers for the *.fr*. Since the latter only recognize the level directly below them, they return the list of name servers for *univ-paris1.fr*.

The resolver repeats the query to one of the name servers for *univ-paris1.fr*, which replies with the IP address of *www.univ-paris1.fr*.

Finally the resolver sends the IP address to your computer. When your browser receives the address, it can contact the web server of the university and download the site you have requested.

Watch a video showing the operation of a domain name system: <http://www.youtube.com/watch?v=dclrB8qRCbA>.

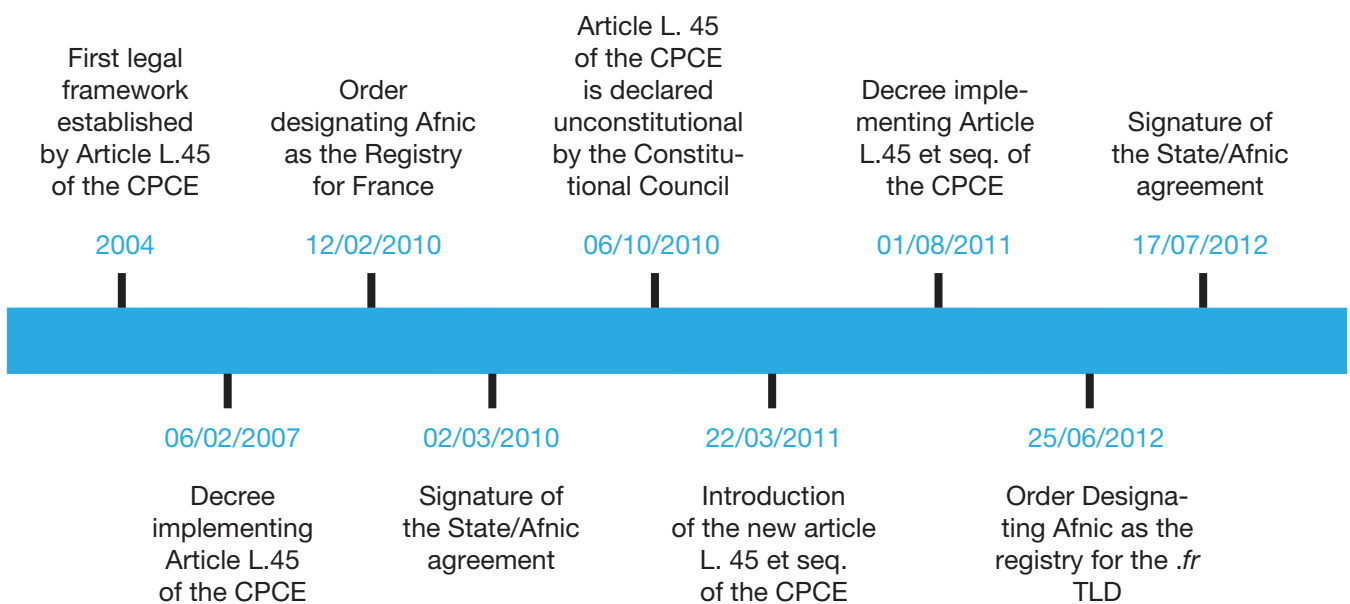


2 Domain names operated by Afnic

The domain names operated (or managed) by Afnic reference the domain names registered under the country code for France (.fr), but also for Saint-Pierre and Miquelon (.pm), Reunion Island (.re), the French Southern and Antarctic Territories (.tf), Wallis and Futuna (.wf) and Mayotte (.yt). All the domain names listed directly under these national codes are stored in a database (the Whois database). In November 2012, this database accounted for a total of over 2.5 million registered domain names.

Legal framework

For 10 years or so, no legal text structured the use of domain names. Only a charter drafted by Afnic, called the «naming policy», defined the conditions for allocating and managing domain names. A legal framework for domain names was created in 2004, however, and has continually evolved ever since.



Today, the domain names operated by Afnic are administered in accordance with Article 19 of Law no. 2011-302 of 22 March 2011 (implementing various provisions adapting French legislation to that of the European Union on health, labor and electronic communications) and its implementing Decree No. 2011-926 of 1 August 2011 on the management of top-level domain names of the Internet corresponding to country codes of the national territory.

Law no. 2011-302 of 22 March 2011: <http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=?cidTexte=JORFTXT000023751262&dateTexte=&oldAction=rechJO&categorieLien=id>.

Implementing decree no. 2011-926 of 1 August 2011: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTXT000024425287&dateTexte=&categorieLien=id>.

Afnic organization, role and responsibilities

Afnic helps develop a secure and stable Internet, open to innovation, in which the French Internet community plays a major role.

Since its inception, Afnic has managed and allocated the top-level domains corresponding to the French territory (.fr, .re, .pm, .tf, .wf, .yt) but also develops and shares its expertise to facilitate the transitions involved in the Internet of the future.

It ensures the allocation of domain names through registrars.

REMINDER:

The registrar is solely responsible for:

- the relationship it has with its customers (holders);
- any third party claims in respect of one or more domain names;
- the correct technical processing of the transaction request to be sent to Afnic, the entry of the data corresponding to the registrant's choices, especially in terms of personal information, and for forwarding that data to Afnic;
- meeting the verification requests and activities sent to it by Afnic.

For the duration of its mission, Afnic is prohibited from operating as a Registrar for the domain names under the extensions that it operates; this is why domain name transaction requests cannot be sent directly to Afnic.

Afnic establishes non-discriminatory and transparent rules that guarantee the freedom of communication, the freedom of enterprise and intellectual property rights.

Pursuant to Article L. 45-1 of the French Electronic Communications and Telecommunications Act (CPCE), a domain name is registered under the sole responsibility of the applicant ; the same applies to the use and operation of a domain name.

Afnic does not perform:

- any due diligence of applications for registration, except those relating to the terms subject to prior review;
- any research for pre-existing rights to check if the term chosen is available or if a third party may assert a right of any kind on it.

Afnic is bound by no obligation to provide advice either to applicants, registrars or third parties.

Afnic, however, which is bound by the legal provisions and by its contract with the French state, has implemented various internal procedures in order to overcome the shortcomings of holders who have registered a domain name:

- That is liable to disrupt public order or morality, or the rights guaranteed by the French Constitution or French law;
- That is liable to infringe intellectual property rights or personal rights, unless the applicant provides proof of a legitimate interest and is acting in good faith;
- That 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 applicant provides proof of a legitimate interest and is acting in good faith;
- By providing inaccurate identification data (see «A domain name infringes my rights»).

The technical operations possible on a domain name

Suspending a domain name

Définition

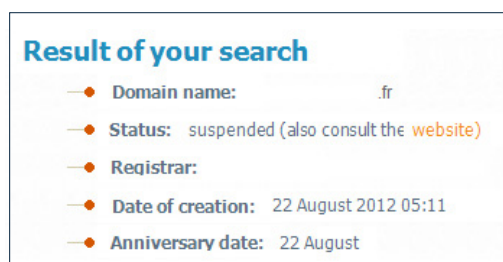
«The suspension of a domain name cancels all the transactions currently being processed by Afnic and prevents any future transaction request on the domain name from being carried out (change of registrar, transfer of domain name, etc.). This does not affect the operation of the domain name, however».

When a domain name is 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;
- On opening a Syreli procedure (see below): the suspension is maintained until the ruling is enforced;
- On opening a verification procedure (see below): the suspension is maintained for a period of 30 days.

How to know if a domain name has been suspended?

In the Whois database in the «Status» field as shown below:



Blocking a domain name

Définition

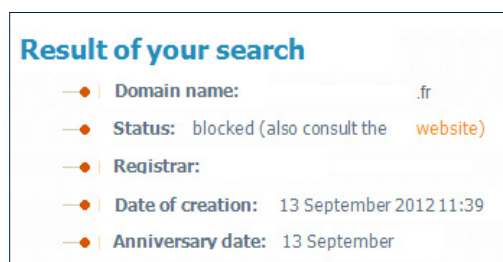
«The blocking of a domain name cancels all the transactions currently being processed by Afnic and prevents any future transaction request on the domain name from being carried out. This makes the domain name inoperative (the website and its email addresses no longer work).»

When a domain name is 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 verification procedure is in progress (see below): the blocking occurs after the 30-day suspension period and is maintained for a further period of 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?

In the Whois database in the «Status» field as shown below:



Afnic is not obliged to take precautionary 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».

Deleting a domain name

Définition

«Deletion returns the domain name to the public domain, and can be registered again on a first come, first served basis».

Deletion becomes irreversible when the redemption period allowed for domain names deleted at a registrar’s request has elapsed. 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.

Result of your search

—● Domain name: .fr
—● Status: deleted (also consult the [website](#))
—● Registrar:
—● Date of creation: 5 June 2011 19:40
—● Anniversary date: 05 June

When a domain name is deleted?

- At the request of the 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 Syreli procedure (see below);
- Following an unsuccessful verification procedure (see below);
- Following an orphaned domain procedure (when no registrar is any longer in charge of the domain name).

This means that you cannot 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.

REMINDER:

There is no redemption period when Afnic deletes the domain name. Its effect is immediate and leads to the withdrawal of the domain name from the domain name system.

How to know if a domain name infringes your rights

The Whois database

Afnic is tasked with collecting from registrars the data required to identify the individual or corporate holders of domain names and to use that data to create a database (the «Whois database»).

The Whois database provides:

- Exact administrative information about the holder of the domain name and about the various contacts associated with it,
- Technical information about the domain name itself.

This information can then be used to check the availability of a domain name, to contact the holder of a domain name or anyone connected with the domain name or to check one's own registration data etc.

Afnic provides a free, public Whois query service so that the information contained in the database can be consulted using two modes of access:

- Non-automated access via the interface on the Afnic website;
- «Port 43» type access, in which the number of daily queries is subject to a limitation policy.

In both cases, there is only one search criterion: that of the domain name.

Users of the Whois database must refrain from any collection or misuse of the personal information to which it has access, and generally, refrain from any act likely 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.

AFNIC has a right to use the «Whois» database, since it is owned by the French state. The database is protected by the provisions of the Act of 1 July 1998 on the legal protection of databases.

The Afnic extra:

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.

REMINDER:

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 (see below).

The daily list of registered domain names

<http://www.afnic.fr/en/products-and-services/services/daily-list-of-registered-domain-names/>

Article L.45-5 of the French Electronic Communications and Telecommunications Act provides that registrars publish every day a list of the domain names they have registered.

Afnic publishes a daily list of the domain names registered for each of the extensions under its responsibility.

The daily information remains available for 7 days.

Alert services

In addition to the tools provided by Afnic to check whether a domain name infringes upon your rights, there are various alert services offered by outside providers.

The Afnic extra:

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, see the «Products and Services» section of the Afnic website.

If a domain name infringes your rights

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

Consulting the Whois database is first thing to do in order to find out whether the contact details Holder are searchable (<http://www.afnic.fr/en/products-and-services/services/whois/>) :

- If the contact details are available, we suggest you contact the holder of the domain name in order to reach an agreement about the 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, without any guarantee that you will obtain the contact details of the Holder of the domain name.

Holder: **Restricted, non-public data**

Administrative contact: **Restricted, non-public data**

The application form for disclosure of personal data can be used to obtain the contact details of the holder of the domain name when the latter is identical or almost identical (<http://www.afnic.fr/medias/documents/afnic-formulaire-divulgation-donnees-perso-01-2012.pdf>) :

- The earlier trade mark registered and protected in France of which you are the holder;
- The earlier denomination or name of firm protected in France of the company that you represent;
- The earlier trade name or brand protected in France of the company that you represent;
- The earlier title protected by French copyright that you own;
- Your family name or pseudonym.

The non-disclosure of personal data concerning individuals is an obligation imposed by France's data protection authority (CNIL) on Afnic.

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.

REMINDER:

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 (see the organization of the DNS);
- If the application relates to the content of the website.

In the case of refusal, it is possible to make a new application or file an application for an order which closes the proceedings before the ordinary courts (see below).

The Afnic extra:

You can use the contact form to send a message to the administrative contact for the domain name, without knowing their contact details (<http://www.afnic.fr/en/dispute-resolution/tools-and-procedures/reach-a-domain-name-administrative-contact/>):

Afnic does not know the content 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 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 application form for verification of the contact details of the holder of the domain name allows you to request that Afnic verify on the one hand the eligibility of a holder of the domain name under the naming policy, and secondly their reachability (<http://www.afnic.fr/en/dispute-resolution/tools-and-procedures/verification-request-8.html>):

This verification procedure consists of two distinct processes:

- Whois verification: initiated upon receipt of the form without adding documents in support. The verification process does not affect the holder's portfolio of domain names.
- Substantiation: after a verification process indicating the incorrect eligibility or reachability or following a reasoned complaint from a third party through the verification form or even at its own initiative, Afnic contacts the registrar.

This procedure takes 60 days during which the Holder must provide evidence supporting 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 for 30 days 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 eligible if it has its 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, and Switzerland.

The Afnic extra:

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

```
eligstatus: ok
eligsourcesource: REGISTRY
eligdate: 22/11/2012 15:07:54
reachmedia: phone
reachstatus: ok
reachsourcesource: REGISTRY
reachdate: 22/11/2012 15:07:54
identif: SIRENE/.....
identif: STRUCT/S
source: FRNIC
```

REMINDER:

The verification procedure is interesting on the one hand because it is free, and on the other for its impact: If the holder of the domain name has not substantiated or corrected their contact details within two months, their portfolio of domain names is liable to be deleted. The first comer can register the domain names that were included in the portfolio.

If any of them are deleted, the former holder may re-register the domain names. Afnic does not offer any pre-reservation services or waiting lists to obtain deleted domain names.

In addition, the eligibility of the holder of a domain name 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?

SYRELI (Afnic's dispute resolution procedure) allows you to obtain a decision to delete or transfer a domain name within two months of filing the claim (www.syreli.fr).

Entering into effect on 21 November 2011 when the new legal framework was implemented in France, Syreli is a procedure available to all rights holders, who may be represented in order to submit their claim.

In your claim you must prove that you:

- have a right to bring action and,
- that the domain name involved in the dispute 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 legitimate interest 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 legitimate interest and is acting in bad faith.

The evidence can be produced in any way, for example, by providing screenshots of the website associated with the domain name in dispute: «parking» pages, sponsored links referring users to competing sites, exchanges of letters etc.

The Afnic extra:

Check the Syreli trends before starting a Syreli procedure to make sure your file is as complete as possible;

Check the progress in the Syreli procedure each month using Scope on Syreli.

Completeness:

A 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 extra-judicial proceedings.

Once the procedure has been started, 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.

CAUTION:

Afnic rules on each claim solely on the basis of the documents and records filed by both parties and does not carry out any research. We recommend you take legal advice to help you in your claim.

The CMAP (Paris Mediation and Arbitration Centre) can also help you solve your dispute.. The centre provides a procedure enabling mediation between you and the Holder in order to find an amicable solution. Afnic is not involved in any way in the procedure, which is confidential to the Parties involved, and it is up to the Parties involved to enforce the agreement between them.

Action before a Court of Justice is another way of resolving 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 holder of the domain name in dispute, but may vary depending on the amount of damages at stake and the person filing the claim.

What to do if the SYRELI procedure does not rule in your favor or is not applicable to your case?

If the SYRELI College of experts does not rule in your favor, you have a period of 15 days from the notification of the decision in which to bring the matter before a Court of Justice. During this period, the domain name remains suspended. If, however, at the end of this period Afnic has received no notification that the claim is pending in a court of law, the domain name returns to its initial configuration. The Syreli regulations have been approved by the Minister in charge of electronic communications and published in the Official Gazette, no change in that lead-time is possible.

The Afnic extra:

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

That way, depending on their reasons, you can decide whether to renew your claim supplemented with new evidence or refer the matter to the Court of Justice direct.

If the SYRELI procedure is not applicable to your case, and if:

- You have a dispute with an Internet professional or have been the victim of a scam, this does not fall within the scope of competence of Afnic, and we therefore strongly advise you to contact the Directorate General for Competition, Consumer Affairs and Fraud Control (DGCCRF), the authority for dealing with such situations.
- You have been a victim of «Phishing», please visit the website of the Phishing Initiative Association: <http://www.phishing-initiative.com/>.
- If you have received spam, please visit the national platform for reporting SPAM in connection with the competent authorities: <https://www.signal-spam.fr/>.

REMINDER:

Decree No. 2011-926 of 1 August 2011 provides an easily accessible mechanism allowing any person to bring to Afnic's notice any domain name considered to be unlawful or contravene public policy (<http://www.afnic.fr/en/dispute-resolution/tools-and-procedures/reporting-a-domain-name-that-is-illicit-or-contrary-to-public-law-and-order/>)

This form is not intended to be used for the content of websites or behavior that is unlawful or contrary to public policy. In such cases, please go to the reporting platform of the Ministry of the Interior, Overseas Territories and local authorities: www.internet-signalement.gouv.fr.

Useful information and thanks

To contact Afnic:

Afnic

Direction juridique

Immeuble International

2, rue Stephenson

78181 Saint Quentin en Yvelines Cedex

France

Tél. : +33(0)1 39 30 83 00

Fax : +33(0)1 39 30 83 01

support@afnic.fr

Useful links:

[The Afnic Naming Policy](#)

[The Afnic policy for the publication of, and access to information about domain name registration](#)

[The Afnic dispute resolution policy](#)

[Law No. 2011-302 of 22 March 2011](#)

[Implementing decree no. 2011-926 of 1 August 2011](#)

[Syreli trends](#)

www.syreli.fr

www.afnic.fr

Thanks

Afnic wishes to thank our Norwegian counterpart «UNINETT Norid AS» and especially Ms. Annebeth B Lange, Director of the Legal Affairs Department of the Norwegian registry, for allowing us to reuse their excellent explanation of the Internet addressing system which was published in a guide drafted by the registry for the judicial authorities and police in Norway.