

Abuse and Dispute Management Policy



Top-Level Domains
managed by Afnic

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Preamble: Domain names at the intersection of myriad 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 inherently unique: there cannot be two identical domain names registered under the same TLD.

Furthermore, 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 situation that disputes arise.

In order to reach a solution, Afnic provides several options in the form of procedures that can be used, both litigious and non-litigious, by any individual or natural or legal person, whether in their capacity as a rights holder or as the holder 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 Policy**, and in certain cases may be required to hand down decisions pursuant to Articles L 45 et seq. of the French Post and Electronic Communications Code

The applicant is responsible for ensuring that the term it wishes to use does not infringe the rights of third parties.

The rights holder is responsible for protecting and defending its rights.

The registrar is responsible for ensuring its customers' compliance with all legal and regulatory provisions currently in effect and with the naming policies.

The goal of Afnic's dispute management policy is to enable each stakeholder to understand their role in the process and to adopt the strategy best suited to their situation.

Although not exhaustive, Afnic's website provides access to various rulings handed down by the authorities or by Afnic itself in order to give as thorough information as possible.

1. Prevention and monitoring

Prevention and monitoring are the first lines of defence.

Companies, for example, should develop a registration strategy adapted to their activity that ensures they can quickly identify 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 are notified as soon as possible and can rapidly halt the litigious conduct in question,**
- **evidence of the holder's conduct is not lost.**

At this point, judicial and extrajudicial procedures are not the only means of actions. An alternative option is direct negotiation with the domain name holder, whose contact details are available in the **Whois** database, subject to the obligations relating to the protection of personal data.

2. Non-litigious solutions available to rights holders

2.1. Get in touch with the administrative contact for a domain name under restricted publication

In accordance with the regulations in force, Afnic specifically protects the personal data of private individual holders.

These data, protected by default, are not accessible via the public **Whois** service and are displayed as “restricted publication” information. They are only disclosed at the request of the holder.

To contact a holder under restricted publication, rights holders can use the tool to get in touch with the administrative contact of a domain name, available at the following address:

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/administrative-contact-for-a-domain/>

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

Afnic transfers the message without checking its content, without any final control, verification of the accuracy of the recipient's email address or verification of the identity of the sender.

There is no guarantee of a response on the part of the administrative contact, nor that the latter has received and opened the message sent. The administrative contact is free to reply and to decide whether or not to transfer the email to the domain name holder if the administrative contact and holder are two different people.

2.2. Request for disclosure of personal data

2.2.1. Request for disclosure by a third party providing evidence of a legitimate interest

Afnic may, at the request of a third party providing evidence of a legitimate interest, disclose the personal data of a private individual (natural person) who is the holder of a domain name registered under restricted publication and under the TLDs operated by Afnic, namely: *.fr*, *.pm*, *.re*, *tf*, *.wf*, and *.yt*.

In this case, Afnic conveys the contact details of the holder, within two working days, to the issuer of the request when identical, nearly identical or similar reproduction of a prior right is established (trademark, family name, company name, etc.).

Each request must therefore be supported by documentary evidence of its validity.

In order to submit a substantiated request for disclosure of personal information to Afnic, the rights holder must use the online form available at the following address:

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/data-disclosure-request/>

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

2.2.2. Access request by authorised third parties

Authorised third parties that have concluded an ad-hoc contract with Afnic on the basis of their right of communication have restricted and secure read-only access to the data of private individual holders of domain names via an API (Registration Data Access Protocol or RDAP).

Requests made in the registry's database may not refer to anything other than a domain name or a NIC handle.

Only information on the contact holder attached to the domain name or the NIC handle are accessible. It is not possible to gain access to the list of all the domain names in a holder's portfolio.

Other requests (such as for the history of a domain name, details of the administrative contact, etc.) are not dealt with via this direct access system. In these specific cases, authorised third parties submit their request directly to Afnic.

2.3. Request for verification of a holder's eligibility and reachability

According to the **Naming Policy** for domain names registered under the top-level domains (TLDs) operated by Afnic, the registration or renewal of a domain name can be requested by any natural person residing and any legal person having its registered office or main establishment:

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

Whatever the status of the holder (natural or legal person), rights holders have the possibility to request that Afnic carry out data checks as part of its qualification operations to ensure the eligibility and/or reachability of the holder of the domain name.

This qualification procedure comprises two (2) distinct processes, namely the verification process and the substantiation process.

The substantiation process is initiated in several cases:

- **After a verification highlighting the implausible nature of the eligibility data and/or the reachability of the holder;**
- **When the verification after a report proves to be unsuccessful;**

- **As a result of a duly substantiated complaint from a third party by means of the verification form available on the Afnic website; this request is made to Afnic with supporting documentation via the form available at the following address:**

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/holder-eligibility-and-contact/>

When the substantiation process is initiated, Afnic sends the registrar a substantiation request and informs the holder and the third party of same. Concomitantly, Afnic suspends the portfolio of the holder of the domain name for a maximum period of seven (7) days. If, after this maximum period of seven (7) days, there is no evidence to conclude that the holder complies with the eligibility and reachability rules, Afnic informs the registrar, the holder and the third party and blocks the holder's portfolio for a maximum period of thirty (30) days.

If, after this maximum period of thirty (30) days, there is no evidence to conclude that the holder complies with the eligibility and reachability rules, Afnic informs the registrar, the holder and the third party and deletes the holder's portfolio.

When the substantiation process is initiated by Afnic upon registration of a domain name, Afnic sends the registrar a substantiation request and informs the holder of same. Concomitantly, Afnic suspends the publication of the domain name in the DNS for a maximum period of seven (7) days.

- ✓ If, after this maximum period of seven (7) days, there is no evidence to conclude that the holder complies with the eligibility and reachability rules, Afnic informs the registrar and the holder and blocks the holder's portfolio for a maximum period of thirty (30) days.

- ✓ If, after this maximum period of thirty (30) days, there is no evidence to conclude that the holder complies with the eligibility and reachability rules, Afnic informs the registrar and the holder and deletes the holder's portfolio.

The situation can be rectified at any time by sending supporting evidence, in which case, Afnic closes the current procedure and informs the holder and the third party.

2.4. Request for deletion of misappropriated information in the Whois directory

Identity theft occurs when a holder has registered a domain name under the identity of a third-party natural person without the latter's authorisation.

To identify the scope of the fraud or all the domain names registered under misappropriated information, the victim must submit a request to Afnic to access their personal data via the form available at the following address:

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/access-to-whois-information/>

Once the request is received, Afnic promptly provides a list of domain names registered with the personal data of the applicant. Any victim of identity theft for the registration of a domain name must first file a complaint with the competent authorities (Police, Gendarmerie) then send it to Afnic via the dedicated form accessible at the following address:

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

Once this request is received, Afnic takes prompt action to ensure that the registrar responsible for the domain name(s) concerned deletes the misappropriated personal information.

2.5. Report a domain name that is unlawful or contrary to public order

Article R. 20-44-40 of the French Post and Electronic Communications Code provides for an easily accessible mechanism allowing any person to notify Afnic of a domain name of an unlawful nature or contrary to public order via an online form accessible at the following address:

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

This mechanism does not cover the content of websites of an unlawful nature or contrary to public order. This type of content should be reported to the dedicated platform of the Ministry of the Interior and Overseas France:

<https://www.internet-signalement.gouv.fr>

2.6. Mediation

Afnic offers a free and strictly confidential mediation procedure between a claimant and the holder of a domain name, prior to the opening of a dispute resolution procedure Syreli and PARL EXPERT. The procedure is governed by the Mediation Rules, which can be accessed here: <https://www.afnic.fr/wp-media/uploads/2023/05/afnic-mediation-rules-2023-07-03.pdf>

At the end of the procedure, the Mediator draws up a report on whether or not a negotiated solution has been reached. When the solution negotiated by the Parties concerns the transfer or deletion of the domain name that is the subject of the mediation, the solution shall be implemented immediately.

Afnic shall implement the required procedures in the event of forced transmission or deletion of the domain name.

3. Litigious solutions available to rights holders

3.1 Extrajudicial dispute resolution procedures

In accordance with Article L.45-6 of the French Post and Electronic Communications Code, the holder of a domain name undertakes to comply with the dispute resolution procedures

regarding domain names in application of the regulations specific to each of these procedures accessible here:

<https://www.afnic.fr/en/domain-names-and-support/resolve-a-dispute/adr-alternative-dispute-resolution/>

These procedures only cover disputes regarding the registration of domain names between a holder and a third party and do not in any case cover disputes relating to Afnic's liability or that of registrars.

Afnic undertakes, for its part, to apply the rulings handed down in application of a dispute resolution procedure within the specified time frames.

3.2 Legal proceedings

In any case, rights holders retain the possibility of judicial remedy to resolve a dispute regarding a domain name.

The choice of competent court remains the most difficult to assess as it depends on several criteria.

In general, the competent court is that of the place of residence of the holder of the domain name under dispute but may vary depending on the amount of the damage and the person bringing the case.

Although these proceedings may result in the recovery of damages, the time frames, costs and outcomes are hard to predict, as is the enforcement of rulings ("exequatur procedure" when the ruling is handed down by a foreign court).

Afnic's liability does not need to be incurred in order for it to apply court rulings: the Naming Policy establishes the conditions under which court rulings are implemented.