

THE NEW CHINESE DOMAIN NAME REGISTRATION REGIME

By the end of 2011, Chinese websites reached a volume of over 2 million while the number of e-shoppers amounted to over 100 million. In light of the rapid growth of e-commerce and internet in China, the China Internet Network Information Centre (CNNIC) has recently revised the CNNIC Implementing Rules of Domain Name Registration (the "Implementing Rules"), the CNNIC Domain Name Dispute Resolution Policy (the "Policy") as well as the CNNIC Domain Name Dispute Resolution Policy Rules (the "Policy Rules").

The revised Implementing Rules took effect from 29 May 2012 whilst the revised Policy and Policy Rules did from 28 June 2012. This issue will discuss the relevant changes and how they can facilitate innovation and Internet development in China.

WHAT ARE THE IMPROVEMENTS UNDER THE IMPLEMENTING RULES?

For the most part, the changes to the Implementing Rules have been positively viewed as an effort to relax the registration rules and as a resolution to fight against rampant privacy and information/data leakage problems in China.

- Article 14 has expanded the applicant of domain names include natural persons so that individuals now can own a unique ".CN" domain name with their names.
- A new Chapter 6 has been introduced on how to deal with registration files. Article 12 further imposes minimum information security requirements on domain name registrars
- A "renewal confirmation period" of 30 days, which spontaneously follows the expiration of domain name, is now in place under Article 52. Although the registrar can cancel any domain name which fails to be renewed afterwards, it cannot change or suspend any domain name on the grounds of non-payment within this period.

AM I BETTER PROTECTED UNDER THE REVISED POLICY?

Yes, both the transferees and domain name holders are now better assured during the resolution process. The revision not only guarantees fairer proceedings, but also better informs domain name holders as to what they are not allowed to do.

Under Article 17, during the dispute resolution proceedings and before the enforcement of arbitral awards, domain name holders now shall not apply for the transfer or cancellation of the disputed domain name, nor change the registrar unless the transferee agrees in writing.

HOW ARE COMPLAINTS NOW PROCESSED UNDER THE REVISED POLICY RULES?

The revision has adopted electronic media as the main processing channel. These changes have aligned the domain name dispute resolution procedure in China with international practice, making it more efficient and convenient for all relevant parties.

ZURICH INSURANCE COMPANY LTD V. STATE TRADEMARK APPEAL BOARD

In this case, the Applicant sought to register a mark containing the city name "ZURICH". At issue was Article 10(2) of the Trademark Law, which essentially disallowed "foreign geographical names well-known to the public" to be used as a trademark. The Higher People's Court of Beijing held that Article 10(2) did not only apply to trademarks "solely" made up of the abovementioned geographical names, but also those "containing" such. The lower court's interpretation that Article 10(2) only applied to the former category of trademarks was criticized as being too narrow.

The decision of the Higher People's Court can be supported by two other reasons:-

- Firstly, the language of the geographical name is important. People in China were not familiar with the English term "Zurich," despite their familiarity with the Chinese term. Thus, the application did not contravene Article 10(2).
- Secondly, the trademark was not devoid of distinctive characteristics. The word "ZURICH" was used together with other device components in the applicant's trademark. Thus, it is unlikely that the general public will confuse the trademark with the geographical location itself.

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