

China Newsletter  
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Intellectual Property

## DOMAIN NAME ISSUES: SCAM EMAILS AND .CN DOMAIN NAME IN CHINESE

### SCAM EMAILS—don't be fooled

Companies have reported to have received emails from alleged domain registrars that claim to have received applications for domains very similar to that currently owned by the recipient company from a third party. Such emails often prompt the recipient to reply within a certain time limit to secure those domains.

It should be noted that the *'first-come, first-serve'* principle in domain registration provides for no obligation on the registrar to withhold a party's application and alert another party.

It is likely that the sender may not be an accredited registrar and may be attempting to forge an urgent situation luring companies to register new domains. To identify the credibility of the email, you are advised to perform a WHOIS search online to identify the status and registration details of the domain names concerned. Should registering those domain names become necessary, always register through a trusted service registrar.

### .CN DOMAIN NAME UPDATE

As of July 2010, traditional and simplified “.中国”(cn in Chinese) domain names have passed the ICANN evaluation. Under the present registration policy of Chinese domain names, users who have applied for a .cn domain name will automatically be entitled to obtain the relevant “.中国” domain names in both traditional and simplified versions. When applying for a .cn domain name, it is therefore advisable to also obtain the .cn name in Chinese.

### APPLYING FOR A .CN DOMAIN NAME

Companies owning or planning to own .cn domain names should already be aware of the regulations issued by the China Internet Network Information Center (“CNNIC”) and the Ministry of Industry and Information Technology of PRC (“MIIT”) in end-2009. In response to the increasing amount of pornographic materials on the Internet, these regulations were promulgated to increase the traceability of owners of domain names as well as operators of websites. Despite being targeted at illegal behaviour, the regulations have wide-reaching effects to foreign applicants.

### BASIC REQUIREMENTS

As of 14 December 2009, the rules for registering .cn domain names and Chinese domain names require the applicant company to submit to the CNNIC a copy of the Certificate of Business License of Legal Entity or the Certificate of National Organization Code as well as the Chinese Resident Identity Card of the contact person.

## EFFECTS OF SUCH REQUIREMENTS

*Individuals* are no longer permitted to register .cn domain names and Chinese domain names. This is a welcome change as it will make it harder for habitual squatters to register famous domain names.

However, the rule also affects *foreign companies*, and they are also no longer able to meet the requirements to register .cn domain names or Chinese domain names directly.

All registrants, whether individual or legal entities, are required to submit the aforementioned documentation to their service registrars which will then be transferred to CNNIC for verification. This will therefore also apply to *domain names registered prior to new rules*.

## PRACTICAL APPLICATION

*Foreign individuals* may submit copies of identification cards or passports while *foreign entities* may submit copies of their Certificate of Good Standing, Business Registration Certificate or Certificates of Incorporation to substitute the documentary requirements. However, an additional requirement by the CNNIC is that the application form is required to be sealed by the company. It is currently unclear how strictly the CNNIC is enforcing this rule.

CNNIC initially determined a deadline of 31 January 2010 for compliance by all companies, but later agreed to extend the grace period. The new deadline has yet to be announced but it would be prudent to comply as soon as possible.

*Foreign entities* may consider entrusting its branch, subsidiary or representative office to register on their behalf and to act as their administrative contact in China. Should the foreign company not have a branch in China, it may authorize a Chinese legal services agency to register on their behalf and have the domains assigned to a company branch in China once established.

## CONSEQUENCES OF FAILURE TO COMPLY

Although the new regulations did not specify the penalties for non-compliance, the following may result as a consequence of failure to comply:

- De-linking of domain names with functioning website servers without prior notice;
- Renewal of non-compliant domain may be prohibited;
- Assignment of such domain names may be restricted; or
- Cancellation of non-complying domain names.

Please note that you may, from time to time, receive requests from official bodies such as the China Internet Network Information Center ("CNNIC") requesting information or confirmation. You may need to attend to such emails to ensure that your domain name remains effective.

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