



**MYNIC'S (.my) DOMAIN
NAME DISPUTE
RESOLUTION POLICY**

THE POLICY

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THE POLICY

1. Purpose

- 1.1 MYNIC's (.my) Domain Name Dispute Resolution Policy ("**MYDRP**") is prepared by us, MYNIC Berhad (i.e. Malaysian Network Information Centre). It sets out the terms which govern any dispute between you, the registrant of a .my Country Code Top Level Domain ("**Domain Name**") and a third party ("**Complainant**") over your registration or use of a Domain Name.
- 1.2 Any party which wants to use the MYDRP or to participate in a Domain Name dispute resolution proceeding ("**Proceeding**") must comply with the terms of the MYDRP.
- 1.3 All Proceedings are governed and administered in accordance with the MYDRP, the Rules of the MYDRP and the Supplemental Rules of the dispute resolution service provider(s) ("**Provider**") (collectively referred to as the "**Policy and Rules**"). These Proceedings are not arbitration.

2. Your representations

- 2.1 You agree that all of the information which you have provided to us in your registration, renewal of the Domain Name and/or in the course of a Proceeding (as applicable) is complete, current and true.
- 2.2 You also agree that the registration and any subsequent renewal of the Domain Name, either by yourself or through your authorised representative:-
 - (i) will not infringe the rights of any third party; and
 - (ii) is legal, valid and in compliance with the Policy and Rules as well as all relevant applicable laws.
- 2.3 You are solely responsible to make sure that your registration and any subsequent renewal of the Domain Name does not infringe the rights of any third party.
- 2.4 You agree that we will not be liable nor will we be required to indemnify you or your officers and employees ("**Employees**") for any damages or losses which you or your Employees may suffer, arising from any situation whatsoever including, among others, your registration or renewal of the Domain Name or where the Domain Name infringes the rights of any third party.

3. Transfers, Modification & Deletion

3.1 We will only transfer, modify or delete your registration of the Domain Name in the following circumstances:-

- (i) where you or your duly authorised representative has instructed us to do so subject to Paragraph 17 and such instructions are authorised and in compliance with MYNIC's applicable procedures, the Policy and Rules as well as all other relevant applicable laws;
- (ii) where you or your duly authorised representative has instructed us to do so pursuant to the Domain Name dispute being resolved amicably and in such instances, you are required to provide us with satisfactory evidence of the same;
- (iii) where we are required to do so by an order or judgment of a Malaysian Court and in such instances, only after we receive a certified true copy of such order or judgment; or
- (iv) where we are required to do so pursuant to the decision of a Panel deciding the Proceeding, subject to Paragraph 14.3,

upon which we will act accordingly.

3.2 We are not responsible to review or verify whether your instructions are valid or accurate.

3.3 We may, however, transfer, modify or delete your registration of the Domain Name in accordance with the terms of the Registration Agreement entered into between you and us or pursuant to the Policy and Rules as well as any relevant applicable laws.

4. Negotiations

4.1 You and the Complainant are strongly encouraged to explore the possibility of having the Domain Name dispute settled through negotiations, mediation, conciliation or any other alternative dispute resolution process before commencing a Proceeding.

5. The Proceeding

5.1 If the Complainant disputes your registration or use of the Domain Name, the Complainant may file a Complaint with a Provider.

5.2 The Complainant must establish **BOTH** of the following elements in the Complaint:-

- (i) the Domain Name is identical or confusingly similar to a trade mark or service mark to which the Complainant has rights; and
- (ii) you have registered and/or used the Domain Name in bad faith.

5.3 The Complainant may also submit a Complaint to the Provider in respect of more than one Domain Name but only if all of these other Domain Names were registered by you.

6. Registration and/or use of the Domain Name in bad faith

6.1 For the purposes of paragraph 5.2(ii), evidence of your registration and/or use of the Domain Name being in bad faith may include, among others, the following circumstances:-

- (i) you registered and/or are using the Domain Name mainly to sell, rent or transfer the Domain Name for profit to the Complainant, its competitor or the owner of the trade mark or service mark; or
- (ii) you registered and/or are using the Domain Name to prevent the owner of a trade mark or service mark from using the domain name which is identical with its trade mark or service mark; or
- (iii) you registered and/or are using the Domain Name to disrupt the business of the Complainant; or
- (iv) you registered and/or are using the Domain Name for the purposes of and with the intention to attract or divert, for commercial gain, Internet users to:-
 - (a) your web site;
 - (b) a web site of the Complainant's competitor; or
 - (c) any other web site and/or online location,

by creating a possibility of confusion or deception that the web site and/or online location is operated or authorised by, or otherwise connected with the Complainant and/or its trade mark or service mark.

7. Rights and legitimate interests in the Domain Name

7.1 In answer to Paragraph 6, you may prove that your registration and/or use of the Domain Name was not in bad faith by establishing, among others, that you have rights and legitimate interests in the Domain Name.

7.2 Evidence of your rights and legitimate interests in the Domain Name may include, among others, the following circumstances:-

- (i) before the date of your being informed of the Complainant's dispute, you had used or made preparations to use the Domain Name or a name corresponding to the Domain name in relation to a genuine offering of goods or services; or
- (ii) you are commonly known by the Domain Name even though you have acquired no trade mark or service mark rights in the same; or

- (iii) you are using the Domain Name for legitimate, non-commercial and/or fair purposes and have no intention of using the same for profits or to deceive the public.

8. Selection of the Provider, initiation of a Proceeding and appointment of the Panel

- 8.1 The Complainant must select a Provider from our list of approved dispute resolution service providers, which will manage the Proceeding (except in situations where Proceedings are consolidated). Once the Complainant has done so, it must submit its Complaint to the Provider in accordance with the Policy and Rules.
- 8.2 The procedures and steps to be taken in a Proceeding are explained in the Policy and Rules. They also explain how the Administrative Panel ("**Panel**"), which decides the Proceeding is appointed.

9. Consolidation

- 9.1 Where there is more than one Proceeding between you and the Complainant, either Party may petition to have these Proceedings consolidated and decided by the same Panel.
- 9.2 This petition must be brought before the first Panel which was appointed to decide the Proceedings. The Panel has the right and discretion to consolidate any of the Proceedings or all of them. However, it may only do so if these Proceedings are governed by the same versions of the Policy and Rules.

10. Fees

- 10.1 The Complainant will bear all the Fees (which comprise of the administrative fee and Proceeding fee) in relation to a Proceeding except where you choose to have the Proceeding decided by a three-member Panel rather than a single-member Panel chosen by the Complainant. In such an event, you must pay for half (1/2) of the Fees for the three-member Panel.

11. Our involvement in a Proceeding

- 11.1 We do not and will not get involved in a Proceeding and you agree that we will not be responsible or liable for any damages or losses which you, the Complainant or any other third party may suffer as a direct or indirect result of any act, omission or negligence on our part or that of the Provider, its Employees and the Panel including from the decision of the Panel.

12. Remedies

- 12.1 The Complainant may only request for one of the following remedies:-
 - (i) transferring your registration of the Domain Name to the Complainant; or
 - (ii) deletion of your registration of the Domain Name,

and in so doing, the Complainant must comply with MYNIC's applicable procedures, the Policy and Rules as well as all other relevant applicable laws.

- 12.2 Aside from the remedies stated in Paragraph 12.1, no other remedies are available. The Panel cannot grant and the Complainant cannot request for any other remedy or relief such as an award of damages or a payment of compensation.

13. Notification and publication

- 13.1 The Provider will inform us of the Panel's decision. All decisions will be published in full over the Internet. However, the Panel may, in exceptional circumstances, edit portions of its decision before the decision is published.

14. Availability of Court proceedings or other alternative dispute resolution process

- 14.1 You or the Complainant are not prevented from having the Domain Name dispute resolved by a Malaysian Court or through any other alternative dispute resolution process. Either Party may proceed to do so at any time, regardless of whether the Proceeding has commenced, concluded or otherwise.

- 14.2 When the Provider informs us of the Panel's decision in Paragraph 13.1, the Provider will also, where applicable, inform us whether the Panel has decided that your registration of the Domain Name is to be transferred to the Complainant or deleted. However, we will not implement the decision of the Panel until the expiry of ten (10) Working days (any day other than a Saturday, Sunday or a Federal public holiday) from the date the Provider informs us of the Panel's decision.

- 14.3 If you are not satisfied with the decision of the Panel, you may commence a Court action or any alternative dispute resolution process in respect of the subject matter of the Proceeding and in so doing, you must provide us with official documentation pertaining to the Court action or the alternative dispute resolution process, as the case may be, as evidence of the same. This must be done within ten (10) Working days from the date the Provider informs us of the Panel's decision. If you do not do so within the said time period, we will proceed to implement the decision of the Panel above. If we receive the said official documentation pertaining to the Court action or the alternative dispute resolution process within the ten (10) Working days time period, we will, subject to Paragraph 14.4, not take any further action in the Domain Name dispute until we receive:-

- (i) satisfactory evidence that you and the Complainant have resolved the Domain Name dispute amicably together with your instructions to transfer or delete the registration of the Domain Name, as the case may be; or
- (ii) satisfactory evidence that the Court action or the alternative dispute resolution process, as the case may be, has been withdrawn or dismissed; or

- (iii) a certified true copy of an arbitral award or an order or judgment of a Malaysian Court pertaining to the subject matter of the Proceeding,

upon which we will act accordingly.

- 14.4 You acknowledge that during the course of any Court action or any other alternative dispute resolution process concerning the Domain Name, should you fail to renew the registration of the said Domain Name we shall have the right to suspend and/or terminate the Domain Name and you agree that we will not be liable nor will we be required to indemnify you for any damages or losses which you may suffer as a consequence of such suspension and/or termination.

15. All other disputes or litigation

- 15.1 All other disputes or litigation between you and any third party (other than us) concerning the Domain Name which are not brought pursuant to the Policy and Rules must be resolved through Court action or any other alternative dispute resolution process.

16. Our involvement in all other disputes or litigation

- 16.1 We do not and will not, at any time and under any circumstances whatsoever, participate in any disputes or litigation between you and any other third party concerning the Domain Name.
- 16.2 You agree not to name us as a party or include us in such disputes or litigation. However where you do so, we have the right to raise any defenses and to take all necessary steps to defend ourselves and avoid any damages or losses which may arise. You also agree to provide us with all necessary assistance and information which we may require for these purposes.

17. No Transfers during a Proceeding

- 17.1 You warrant not to transfer your registration of the Domain Name to any third party:-
 - (i) during the course of a Proceeding or for a period of fifteen (15) Working days after the Proceeding has ended; and
 - (ii) during a pending Court action or any other alternative dispute resolution process in respect of the Domain Name, unless the transferee agrees in writing to be bound by the decision of the Court or the alternative dispute resolution process, as the case may be,

and for the purposes of Paragraph 17.1(ii), you are required to inform us of the Court action or alternative dispute resolution process and provide us with satisfactory evidence of the agreement between the transferee and you as soon as possible.

17.2 Notwithstanding the above, we reserve the right and discretion to restrict and/or reverse any transfer of the Domain Name which is not in compliance with the Policy and Rules as well as other relevant applicable laws.

18. Modifications to the MYDRP

18.1 We have the right and discretion to modify the MYDRP at any time. In the event that we do so, we will post the modified MYDRP on our web site at least one (1) month before such modifications come into effect except where circumstances beyond our control prevent us from doing so.

18.2 The version of the MYDRP in force at the time the Complainant submitted its Complaint to the Provider shall govern the Proceeding.

18.3 If you object to the modifications made to the MYDRP, your sole remedy would be to delete your registration of the Domain Name. If you do so, we are not required to refund you any fees which you may have paid to us for the registration of the Domain Name. Accordingly, all modifications which are made to the MYDRP will apply to you unless you delete your registration of the Domain Name as stated above.