

Domain Name Regulation in Turkey

1 Jan 2011

There has been a significant recent development to Turkey's Internet and domain name legislation. The Internet Domain Name Regulation — in the making since 1993 — was finally accepted and published in the Official Gazette on November 7, 2010. The regulation had been expected and needed for a long time since there was no legal arrangement for assigning and registering domain names or resolving domain name disputes.

The Internet Domain Name Regulation regulates the procedures and principles of domain name registration with a .tr extension. Under this arrangement, the authorization of country code top level domain name (ccTLD) registration will be transferred from the Middle East Technical University (METU) to .tr Network Information System, called TRABIS, which will be established within three years.

One of the significant changes brought by the regulation is the 'first-come, first-served' system of assigning domain names. Until now, domain names were assigned on a document-required basis in order to lessen disputes. With this new regulation, ccTLDs (such as com.tr, gen.tr, info.tr, biz.tr) will be assigned on a first-come, first-served basis without any documentation required.

Additionally, the Information Technology and Communication Institute will start assigning .tr domain names without '.com', as in domain.tr. But the first assignments will be on a document-based system.

The new regulation also changes the sale and assignment of domain names. Until now, the sale, rental or assignment of ccTLD domain names was not possible unless the basis right (on which the application is based) was not assigned to the assignee. With the new regulation, the registrants can sell or assign their domain names and can record this change of ownership with TRABIS. In addition, when the registrant dies, the rights of the domain name will be passed down to the heirs.

The regulation also contains a dispute resolution mechanism. Before the regulation, there weren't any legal arrangements regarding domain names. For this reason, 'Nic.Tr' under the aegis of METU, examined complaints (filed by the rights holders concerned) according to its own policies, without any judicial review. The regulation provides a new dispute resolution mechanism in which disputes will be settled by independent dispute resolution service providers.

In the case of a domain name dispute, the rights holders concerned can apply to any dispute resolution service provider they wish and request the settlement of the dispute. The rights holder can apply to dispute resolution service provider if the following requirements are met:

- The subject domain name is identical or confusingly similar to a trademark that the complainant has rights to or has used in trade or as a trade name.
- The applicant for the subject domain name does not have rights or legitimate interests in respect of the domain name.
- The subject domain name is registered or being used in bad faith.

Dispute resolution service providers examine the complaints based on related legal arrangements, court practices and courts of appeal decisions and can order either the transfer of the subject domain name or cancellation of the complaint. In fact, the new dispute resolution mechanism seems to be similar to WIPO's UDRP system.

Although the regulation was published in the Official Gazette last November, the regulation allows two years for the Information Technology and Communication Institute to establish the TRABIS system. For this reason, it seems that the sale and assignment of domain names will not be possible until the establishment of TRABIS unless the basis right (which the application is based on) is not assigned to the assignee.

Trademark Fees

The Turkish Patent Institute has revised the official fees for trademark applications and proceedings. With Communiqué no. 2011/1, the Turkish Patent Institute accepted a new official fee tariff, which came into effect as of December 31, 2010 and will be in effect through 2011.

With this change, the official fees of any trademark-related matter are reduced by between 7 and 50 percent. The Turkish Patent Institute has also changed the fee system for trademark applications. The Institute will determine a basic one-class application fee and an additional class fee for extra classes. Now, the cost of a multi-class trademark application is approximately 50 percent lower than before, for each additional class.

Also, according to the new tariff, the official fees for recording a change of address, pledging the trademark as a security, removal of licence, pledge or security and abandonment of a trademark are abolished.

Related Practices

- [Domain Names and Internet Infringement](#)

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