

DOMAIN REGISTRATION AND MAINTENANCE RULES UNDER THE “.HU” PUBLIC DOMAIN

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(I) ADMINISTRATION OF DOMAIN REGISTRATION UNDER THE “.HU” TLD AND SLD

The Rules of Registration and Maintenance of Internet Domains in the “.hu” Public Domain (“Rules”) including the administration thereof and resolution of disputes which may arise in connection with the eligibility (selection), delegation, maintenance or withdrawal of domain names is based on self-regulation. Such Rules have been adopted by the Council of Internet Service Providers (“CISP”) which is an association. The members (except for honorary and sponsoring members) of such associations may be such entities who provide Internet services in the territory of Hungary. (The Rules are available at www.nic.hu/english/regsab.)

Until December 1, 2000, the members of the CISP were responsible for the registration and maintenance of domain names. As of December 1, 2000, the CISP delegated the responsibility for the coordination and supervision of the administrative registration and maintenance tasks to a so-called public interest company which was founded by the CISP. Therefore, at present any persons, who sign a “Franchise Agreement” with the public interest company (ISZT Kht.) and agree to be bound by the Guidelines of Domain Registration Business Policy, as adopted by the General Meeting of the CISP as of February 12, 2001, (which essentially incorporates the Rules) may register and maintain domain names. The list of registering entities - who are entitled to provide domain registration and maintenance services - is available www.domain.hu.

There is a one-time registration fee and a so-called regular maintenance fee which shall be fixed in the mandate contract concluded between the applicant and the registering entity. The fees can be set individually by the registering entities.

(II) ELIGIBILITY OF A DOMAIN FOR REGISTRATION

An applicant may be any Hungarian natural person, legal or non-incorporated entity domiciled in Hungary. A foreigner may only be an applicant if he/she has a trademark registered in and/or for Hungary.

The domain name application procedure was liberalized on March 1, 2000, in Hungary. In other words, any applicants may now request the delegation and registration to the benefit of the applicant any names without the obligation to evidence any link to such name (i.e., trademark or corporate name).

The Rules themselves, however, explicitly specify certain restrictions applicable during the course of examining the eligibility of names for domain registration. (Additionally, the applicant must accept that the registering entity may withdraw a domain, if subsequently, evidence is

obtained regarding the applicants unlawful use of the domain name during the course of its commercial activities, e.g. on the basis of applicable trademark laws or laws applying to the right to incorporate or tradenames. It should be noted, however, that beyond the Rules, registering entities currently do not have to verify as to whether the application conflicts with any other parties' trademark or tradename rights. Under the Rules, it is the responsibility of the applicants to comply with applicable legal regulations on trademarks, company names and tradenames registered or used in Hungary, when they select and apply for the registration of a domain.)

The Rules explicitly exclude the names of settlements from available domain names. Such names may only be registered per request of municipalities. The Rules further explicitly exclude the eligibility for registration of "protected names", such as "sport, internet, email, priv" which are published on the CISP's website www.nic.hu/regsab/specnev.shtml. In addition, the applicant may not select a domain name the use or meaning of which is or may be deemed unlawful, disgusting, threatening or misleading.

If an application is filed with any registering entity, provided that the applicant evidences through the submission of extracts from public registries that the selected domain is identical with its corporate name or trademark, such name will be immediately registered to the person, unless the name has been registered to a prior applicant on the basis of official documents. (i.e., if the selected domain is identical with a trademark held by the person who has a lawful trademark registered for class 5, and on such basis such person has a prior right to use such name as a domain, such domain may not be challenged by a subsequent applicant who has the same word registered as a trademark for class 12).

If the applicant is not able to evidence its trademark or corporate name right to the name at submission of the domain application, the application is published on the website of the CISP and within a period of two weeks thereafter, any person who has a valid trademark or corporate name corresponding to the applied domain may, on the basis of priority, challenge the application and request the registering entity to register the domain to him/her instead of the applicant.

The CISP specifies the second level domains under which the registration and delegation rules are similar, except that under the ".tm.hu" SLD, only those entities may apply for domain registration who has a registered trademark with the Hungarian Patent Office, and in the course of registration, the registering entity does not have a preliminary publishing obligation for two weeks prior to the registration of the domain to the benefit of the applicant, rather the application is administered on a "first come, first take" basis.

From time to time, the CISP also has the right to suspend the eligibility of certain names for domain registration, the registration of which may cause an unfair advantage to the applicant, e.g. "business.hu", "turizmus.hu", etc. A team of legal experts shall examine whether or not the registration and maintenance of such names infringes on any valid (e.g., economic or consumer) interests. Such names are published at the website www.nic.hu/regsab/zarolt.shtml.

If an applicant gives up his rights to a domain registered and maintained for his/her benefit, the domain will become free and again eligible for registration for the benefit of another applicant.

(III) DISPUTES AND DISPUTE RESOLUTION

3.1 Termination of maintenance, suspension withdrawal or resignation from the registration

Any applicant who submits a domain registration request to any registering entity by signing the application form declares his acknowledgment of the Rules, including the rights reserved for any registering entity pursuant to the Rules to discretionally terminate the maintenance of a domain name, or to suspend or withdraw a domain name in certain cases specified in the Rules.

Causes for suspension or withdrawal, pursuant to the Rules, are deemed to occur when:

- (i) the applicant does not comply with the conditions specified in the Rules, (including the requirement of the Rules concerning valid, actual and immediate use of a domain name as a condition of a domain name delegation and registration);
- (ii) the applicant submitted incorrect data in the application, which data influenced the evaluation of the registration claim;
- (iii) the data relating to the applicant changed and the registration could not occur on the basis of the changed data;
- (iv) final court decision, act or decree requiring the suspension or withdrawal of same;
- (v) the applicant lost the right to use the domain name;
- (vi) the applicant applied for the domain name or uses it unlawfully, in a misleading or bad faith manner;
- (vii) the use of the domain name by the applicant caused disruptions in the operation of the Internet.

3.2 Dispute Resolutions

- (a) By submitting the application for domain name registration, the applicant declares that in case of disputes regarding the availability and eligibility of domain names, he/she submits the decision to the registering entity or the administrator (which is the CISP's public interest company as specified in Section (I)). If a dispute arises between the interpretation of the registering entity and the administrator on the eligibility of a domain name for registration, the opinion of the administrator governs, provided however, that both parties may submit such dispute resolution, pursuant to the Rules by which all [entities] and the administrator are bound, to the Advisory Board ("Board"). The Board is a special committee consisting of independent experts mandated by the administrator to carry out this task. The dispute resolution is subject to a fee which must be paid by the registering entity of the applicant, a third party registering entity or the administrator, depending on who requests the decision of the Board. The Board, apart from making decisions on individual cases, has issued a number of general statements also on the relationship between domain registration and registered trademarks, as well as the evaluation of priority of trademarks and tradenames in the course of evaluation of a domain name application.
- (b) In case of legal disputes concerning the domain name registration and maintenance, the applicant, by submitting the application for domain name registration, agrees to submit such dispute resolution to the final and binding decision of an *ad hoc* arbitration panel, consisting of three members (at least one lawyer). Pursuant to the Rules, registering entities and the administrator also undertake to submit any dispute resolution to the final decision of an *ad*

hoc arbitration panel. Such ad hoc arbitration is supported by the CISP and operates according to the rules of procedure suggested by the CISP. The procedural rules and the list of technical and legal experts who may be selected as arbitrators by the applicant and/or a registering entity or the Administrator and/or a third party is published on the website of the CISP at www.nic.hu/vb. The award in such disputes shall be rendered within 3 months after the filing of the claim. The fees are specified in the arbitration rules. So far, there have been 3 arbitration awards published by the CISP, in each cases the subject of the disputes were prior trademark or tradename rights of third parties against applicants of domain names corresponding to the prior trademarks or tradenames.

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