

LIBERALIZED DOMAIN NAME REGISTRATION AS OF MARCH 1, 2000

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In line with the legislative activity in other European countries, and in order to promote the growth of e-commerce in Hungary, the Council of Internet Service Providers (“the Administrator”) adopted its “Rules of Delegation and Registration of Internet Domain Names in the Public Domain” (“the Rules”). The Rules can be viewed at: www.domain.hu/english. The Administrator itself does not undertake registrations. As a national center, it only provides to its members with the technical means for operating and keeps a register of the service providers. The domain name registration is undertaken by the members of the Administrator. In order to become a member, certain conditions must be fulfilled. The presumption that the conditions for becoming a member of the Administrator are restricting competition was rejected. According to the Competition Committee of the Competition Office, the three conditions which are laid down for internet service providers to become entitled to register and maintain the domain name do not restrict competition. Firstly, the technical condition is to ensure the level of service. Secondly, the one-year operating period is to ensure that the provider will be able to maintain several thousand domain names at the same time and thirdly, the permission of the Hungarian Communication Authority is the only official documentation of present internet service provision. Currently, there are 38 members of the Administrator, which are entitled to register and maintain domain names.

LIBERALIZED RULES

Under the Rules, applicants are no longer limited to applying only for such “.HU” top-level domain names which are identical to their officially registered company name, trademark publication title, etc. Consequently, from March 1, 2000, domain names do not have to be officially connected to the applicant. They are assigned on a “first come, first serve” basis.

TRADEMARKS AND COMPANY NAMES

An application is given priority if the chosen name (i) is identical with the registered, whole or abbreviated company name, or (ii) forms a series of characters of a trademark registered by the Hungarian Patent Office. These applications are served in chronological order. Thus, any other application is not given priority if it is not documented that the above requirements are fulfilled. Applications without priority relating to a specific domain name are published on the Internet and within two weeks after the publication, other entities may apply for the same domain name if they can evidence priority on the basis of corresponding company name or trademark. If no such applications are made, the domain will be delegated to the applicant without priority.

Before drafting the Rules, the Hungarian domain name litigation was based on tort law, however, no substantive court practice concerning trademark infringement by domain names was developed. According to the Communication of the Hungarian Patent Office, the use of a

trademark as a domain name without the consent of the trademark holder shall constitute trademark infringement.

Applicants are responsible for the selection, use and its consequences of the domain names. There are several technical rules regarding the selection of domain names. The list of protected names are indicated at the Internet, these names can under no circumstances be selected. Furthermore, the applicant can not choose a domain name which use and/or meaning is presumably illicit, deceptive or causes disgust.

SUSPENSION WITHDRAWAL OR RESIGNATION FROM THE DELEGATION

The Rules contains the reasons for suspension and withdrawal of the domain name. If the applicant eliminates the cause of suspension, he/she will be entitled to use that name. In case of withdrawal of the domain name, the delegation ceases to exist and the domain name is freed. The applicant may resign from the delegation. This has to be reported to the Registrar and the domain name is freed.

FEES PAID FOR THE REGISTRATION

There is a one-time registration fee and a regular maintenance fee which shall be set in the mandate contract concluded between the applicant and the registrar. The fees can be set individually by the Registrators.

DISPUTE SETTLEMENT, ARBITRATION

By submitting the application for domain name registration, the applicant declares that in case of disputes regarding the availability of domain names he submits to the decision of the Registrar and the Advisory Body (“Body”) of the Administrator. The Body is a special committee consisting of experts working next to the Administrator.

In case of legal disputes concerning the domain name registration, the applicant submits to the final and binding decision of an *ad hoc* arbitration panel, consisting of three members (at least one lawyer), supported by the Administrator. The award shall be rendered within 3 months after the filing of the claim.

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