

# FREQUENTLY ASKED QUESTIONS

## 1. What is “Internet Keyword”?

Answer: Internet Keyword is a technique for visiting network names. It is a convenient way to browse the Internet by establishing a corresponding relationship between Internet Keyword and URL. The only thing to do is to type the address of the Internet Keyword you want to go. For example, to visit the website of CNNIC, by inputting 'China Internet Keyword Information Centre' (in Chinese), you can quickly arrive at the CNNIC website - <http://www.cnnic.net.cn>.

## 2. What is the relationship between Internet Keyword, domain names, and URL?

Answer: These are three different concepts and the most basic one is the domain name. Therefore, if you want to register an Internet Keyword, you must first register your domain name, (e.g. Abc.com.cn) and then direct the Internet Keyword to the URL, which is based on domain names (e.g. www.abc.com.cn or abc.com.cn). Once you submit it to the Registrar, the Internet Keyword can point to the website you intended to visit.

## 3. If one wishes to file a Complaint regarding a registered internet keyword, what kind of actions can be taken?

Answer: Under the China Internet Network Information Centre Internet Keyword Dispute Resolution Policy, one should file a Complaint with an Internet Keyword dispute resolution provider appointed by the China Internet Network Information Centre (CNNIC), such as the Hong Kong International Arbitration Centre (HKIAC) in accordance with the CNNIC Internet Keyword Dispute Resolution Policy, its related Rules such as the Hong Kong International Arbitration Centre (HKIAC) Rules for CNNIC Internet Keyword Dispute Resolution Policy (the Rules).

#### **4. To which disputes does the CNNIC Internet Keyword Disputes Resolution Policy (CNNIC IKDRP) apply?**

Answer: The CNNIC Internet Keyword Disputes Resolution Policy (CNNIC IKDRP) applies to disputes stemming from registration or use of the Internet Keyword, which are subject to the management of the China Internet Network Information Centre ("CNNIC").

#### **5. On what grounds can an administrative proceeding regarding a registered Internet Keyword be based?**

Answer: Article 4 of CNNIC Internet Keyword Disputes Resolution Policy states that the registrant of Internet keyword shall accept the jurisdiction of the dispute resolution procedure when the complainant submits the following claims:

- (i) The complainant holds legal rights or interests protected by Chinese laws;
- (ii) The disputed keyword is identical with or similar to a name that the complainant holds the legal rights or interests;
- (iii) The disputed keyword registrant has no legal rights or interests in respect of the keyword or major part thereof;
- (iv) The disputed keyword registrant has registered or used the keyword in bad faith.

The complainant shall bear the burden of producing evidences for the claims in case proceedings.

It should be noted that in order to succeed in an administrative proceeding under the CNNIC Internet Keyword Disputes Resolution Policy, the Complainant must prove that all four (4) elements are present.

#### **6. What constitutes "bad faith" in the registration and use of a registered Internet Keyword?**

Answer: Article 5 of the CNNIC Internet Keyword Disputes Resolution Policy states that the Panel responsible for adjudicating the dispute has the right to affirm whether the complained registrant has bad faith in registration or use of the disputed keyword. The complained registrant proves to have malicious intentions under any of the following circumstances:

- (i) Registering or acquiring the keyword primarily for the purpose of selling, renting, or otherwise transferring the keyword for unjustifiable interests;
- (ii) Registering the keyword in order to prevent a third party from reflecting a name that the third party holds legal rights or interests in a corresponding keyword, provided that the registrant has engaged in a pattern of such conduct;
- (iii) Registering or acquiring the keyword primarily for the purpose of damaging the reputation of the complainant, disrupting the normal business of the complainant, or creating confusion with the complainant so as to mislead the public.
- (iv) Other circumstances which may prove bad faith.

## **7. What is the role of the Hong Kong International Arbitration in the Internet Keyword dispute resolution process?**

Answer: The Hong Kong International Arbitration Centre (HKIAC) has been appointed by the China Internet Network Information Centre (CNNIC) as a dispute resolution service provider for disputes involving Internet Keyword. As such, the HKIAC administers the proceedings brought under the CNNIC Internet Keyword Disputes Resolution Policy and its related HKIAC Rules for CNNIC Internet Keyword Dispute Resolution Policy.

## **8. What are the steps in an Internet Keyword administrative proceeding?**

Answer: Generally, the steps are as follows:

- i. The Complainant files a Complaint with the Hong Kong International Arbitration Centre;

- ii. HKIC notifies the registered holder of the Internet Keyword in question of the Complaint and sends a copy of the Complaint to the registered holder;
- iii. The registered holder of the Internet Keyword in question files a Response;
- iv. The HKIAC selects the Panel of one (1) or three (3) persons, as the case may be, who will make a determination regarding the dispute;
- v. The Panel conducting the proceeding renders its decision;
- vi. If the decision of the Panel conducting the proceedings requires that the Internet Keyword in question be cancelled or transferred, the decision is implemented.

For additional information, please refer to the [Flow Chart of Proceedings.](#)

## 9. How long should an Internet Keyword administrative proceeding take?

Answer: Under normal circumstances, after a Complaint is duly filed with the Hong Kong International Arbitration Centre, the Panel should notify the Parties and relevant Registrar of the decision within 60 days.

## 10. What is the cost of an Internet Keyword administrative proceeding?

The applicable fees for documents-only administrative procedure in consultation with the China Internet Network Information Center (CNNIC) are specified as follows:

According to Article 49 of the HKIAC Rules for CNNIC IKDRP, the fees are as follows:

Panel	Number of Disputed Keywords	Total Fees (RMB)	Administration Fee (RMB)	Fee for Panelists (RMB)

Single Panelist	1	4,000	2,000	2,000
	2 to 5	6,000	3,000	3,000
	6 to 10	8,000	4,000	4,000
	10 or more	9,000	4,500	4,500
Three Panelists	1	7,000	3,000	Presiding Panelist: 2,000 4,000 Each Co-Panelist: 1,000
	2 to 5	10,000	4,000	Presiding Panelist: 3,000 6,000 Each Co-Panelist: 1,500
	6 to 10	12,000	4,500	Presiding Panelist: 3,500 7,500 Each Co-Panelist: 2,000
	10 or more	14,000	5,000	Presiding Panelist: 4,000 9,000 Each Co-Panelist: 2,500

Within three working days after submitting the Complaint to the Centre, the Complainant shall make the payment to the Centre in accordance with the above Fees Schedule and on the basis of the number of the Panelists designated and the keyword (s) that is the subject of the Complaint. If the Complainant fails to make the payment within the fixed time period, the Complaint shall be deemed withdrawn.

It should also be noted that, according to Article 53 of the Rules, in exceptional circumstances, in the event the Panel, at the request of a party, determines that an in-person hearing is to be held, the Center shall request the parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.

## **11. How are fees of an administrative proceeding paid?**

Answer: According to the Rules, Fees to be paid to the Centre in accordance with these Rules may be paid by cash, cheque, telegraphic transfer or any other means recognized by the Centre made payable to "Hong Kong International Arbitration Centre".

Telegraphic transfers are to be made as follows:

Account name: Hong Kong International Arbitration Centre

Account no.: 004-567-190897-001

Bank: The Hongkong and Shanghai Banking Corporation Limited

## **12. Must a Party be represented by a lawyer in an Internet Keyword dispute administrative proceeding?**

Answer: No, it is not required, but a Party might find it useful to engage the services of a legal advisor for such purpose. A Party may represent itself or be represented by any person such Party may choose.

## **13. Can a Complaint include more than one disputed Internet Keyword?**

Answer: Yes. Article 7 of CNNIC Internet Keyword Disputes Resolution Policy states that when the Complainant raises several Internet keyword disputes against the same Respondent, both the Complainant and the Respondent have the right to request to the Dispute Resolution Service Provider that all the disputes be consolidated into one case and solved by the same Panel. Also please note that Article 13 of the Rules for CNNIC IKDRP provides that the Complaint may relate to more than one keyword, provided that the keywords are registered by the same keyword holder. The Complainant may request the Centre to consolidate the cases under one Panel for examination.

## **14. Will CNNIC and the Registrar of the disputed Internet Keyword be involved in administrative proceeding involving an Internet Keyword?**

Answer: No. According to Article 9 of the CNNIC Internet Keyword Disputes Resolution Policy (CNNIC IKDRP), CNNIC and the registrars shall not participate in internet keyword dispute

resolution proceedings in any capacity or manner other than providing the information relevant to the registration and use of the Internet keyword upon the request of the Dispute Resolution Service Provider.

The relevant Registrar will implement the decision of a Panel for which an administrative proceeding calls for the cancellation or the transfer of a disputed keyword.

### **15. If a Complainant duly commences an Internet Keyword administrative proceeding, can the Complainant still go to court or an arbitration institution in connection with the disputed Internet Keyword?**

Answer: Article 11 of the CNNIC Internet Keyword Disputes Resolution Policy (CNNIC IKDRP) states that before a Complaint is filed pursuant to this Policy, or during the dispute resolution proceedings, or after the expert Panel has rendered its decision, either party may institute an action concerning the same dispute with an appropriate Chinese court or, subject to the agreement between the parties, submit the dispute to a Chinese arbitration institution for arbitration. According to Article 42 of the Rules for CNNIC IKDRP, where a party initiates any legal or arbitral proceedings during the pendency of the Internet keyword dispute resolution proceedings in respect of an internet keyword which is the subject of the complaint, it shall promptly notify the Panel and the Provider. Article 36 of the Rules for CNNIC IKDRP states that in the event of any legal or arbitral proceedings initiated prior to or during the internet keyword dispute resolution proceedings in respect of a Internet keyword which is the subject of the complaint, the Provider or the Panel shall have the discretion to decide whether to suspend or terminate the proceedings, or to proceed to a decision.

It should be noted that if a Panel decides that an internet keyword registration should be cancelled or transferred, the Registrar of the internet keyword in question will wait ten (10) working days calculated from the date on which the decision is published.

### **16. Where can I obtain information about the registered holder of an Internet Keyword?**

Answer: Information on registered Internet Keyword holders can be obtained by conducting "WHOIS" Search on the China Internet Network Information Center (CNNIC)'s website at [www.cnnic.net.cn](http://www.cnnic.net.cn).

### **17. Must a Party respond regarding an Internet Keyword Complaint that has been filed with the Hong Kong International Arbitration Centre?**

Answer: No. According to Article 31 of the Rules for CNNIC IKDRP, The Panel shall conduct the proceedings in such manner as it considers appropriate according to these Rules, and decide a complaint on the basis of the statements and documents submitted and in accordance with CNNIC IKDRP, as well as any rules and principles of law which it deems applicable. If a Respondent does not submit a response, the Panel shall, in absence of exceptional circumstances, decide the dispute based upon the complaint.

In all cases, the Panel shall ensure that the parties are treated with equality and that each party is given a fair opportunity to present its case.

### **18. What happens if a Response is not filed on time?**

Answer: According to Article 20 of the Rules for CNNIC IKDRP, at the request of the Respondent, the HKIAC may, under some special circumstances, extend the period of time appropriately for the filing of the response. The period may also be extended by the agreement between the parties, provided that the Centre approves the agreement.

### **19. How is a Panel for an Internet Keyword administrative proceeding established?**

Answer: The Panel that conducts Internet Keyword disputes is composed of one (1) or three (3) Panelists, as the case may be. The Hong Kong International Arbitration Centre maintains a [list of Panelists](#) considered to be independent, reputable, knowledgeable, experienced, impartial and suited to undertake the task of deciding disputes in respect of Internet Keywords.

If neither the Complainant nor the Respondent has elected a three-member Panel, the Centre shall appoint, within five (5) calendar days following receipt of the response by the Centre, or the lapse of the time period for the submission thereof, a single Panelist from its list of Panelists. Prior to the appointment of any proposed Panelist(s), and after the appointment, the Panelist(s) shall declare in writing to the Parties and the relevant Office of the Centre any circumstances which are likely to create an impression of bias or prevent a prompt resolution of the dispute between the Parties. Except by consent of the Parties, no person shall serve as a Panelist in any dispute in which that person has any interest, which, if known by a Party, might lead him/her to think that the Panelist might be biased.

Where either party thinks that any Panelist has material interests with the opposing party and that such circumstance may affect the fair ruling of the case, that party may request to the Provider for removing the Panelist before the Panel has rendered its decision. Removal of the Panelist shall be in the Provider's discretion.

## **20. How long does a Panel have to render a decision in an Internet Keyword administrative proceeding?**

Answer: According to Article 37 of the Rules for CNNIC Internet Keyword Disputes Resolution Policy, in the absence of exceptional circumstances, the Panel shall render its decision on the complaint and forward the decision to the Provider within fourteen (14) working days of its appointment.

Article 44 of the Rules for CNNIC Internet Keyword Disputes Resolution Policy states that the Provider shall communicate the full text of the decision to each party, the Registrar and CNNIC within three (3) working days after receiving the decision from the Panel.

## **21. What kind of decision can a Panel make in an Internet Keyword administrative proceeding?**

Answer: A decision by a Panel conducting an Internet Keyword dispute administrative proceeding must be in writing. The kind of decisions a Panel conducting an Internet Keyword

dispute may render is limited. That is, a Panel might decide in one of two ways: (a) that the Complaint is not justified, in which case the existing registered Internet Keyword holder shall be entitled to retain the Internet Keyword in question; or (b) the Panel may decide that the Complaint is justified in which case the Panel will order that the Internet Keyword in dispute should be cancelled or transferred to the Party which brought the Complaint.

It should be noted that if a Panel conducting an Internet Keyword dispute administrative proceeding finds that a Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding, the Panel is required to state in its decision that this was the case.

A Panel may not make monetary awards or awards relating to costs, including but not limited to lawyer's fees and costs.

## **22. Is it possible to challenge a Panel decision regarding an Internet Keyword?**

Answer: Article 11 of the CNNIC Internet Keyword Disputes Resolution Policy (CNNIC IKDRP) states that before a Complaint is filed pursuant to this Policy, or during the dispute resolution proceedings, or after the expert Panel has rendered its decision, either party may institute an action concerning the same dispute with the appropriate Chinese court or, subject to the agreement between the parties, submit the dispute to a Chinese arbitration institution for arbitration. Moreover, if a Panel decides that a keyword registration should be cancelled or transferred, the Registrar of the keyword in question will wait ten (10) working days calculated from the date on which the decision is published. If during this waiting period the Respondent submits valid proof attesting that a competent judicial authority or arbitration institution has accepted the relevant dispute, the registrar shall not enforce the decision of the Dispute Resolution Service Provider.

After the decision of the Dispute Resolution Service Provider is suspended, the Registrar shall take the further action as follows:

(i) if any proof attests that the parties have reached a settlement by themselves, the Registrar shall enforce such settlement.

(ii) if any proof attests that the party that instituted the judicial action or applied for arbitration has withdrawn the Complaint or the relevant action or Complaint has been rejected, the Registrar shall enforce the Dispute Resolution Service Provider's decision;

(iii) if the judicial authority or arbitration institution has rendered a judgment or an award that has become legally effective, the Registrar shall enforce such judgment or award.