

A. Background

1. Please indicate if there is any legislation dealing directly or indirectly with domain names (if possible please provide us with a copy of any relevant legislation in English, French or Spanish).

Aside from Law No. 2867/2000 which defines the jurisdiction of the National Telecommunications and Post Committee in Greece, as the supervising national administrative authority on domain names, there is also the Administrative Regulation No. 268/73 a copy of which is available in .pdf format at http://www.eett.gr/eng_pages/index3.htm, (by clicking on telecommunications and domain names). This Regulation provides a thorough description of the current domain names' administration process, which was formed after a public consultation with various interested parties and relevant groups took place.

2. Is there any case law in your jurisdiction dealing with domain names? (when you answer this questionnaire, bear in mind that it would be helpful to have copies of the most important questions that are relevant to any of the questions asked untranslated).

There is indeed substantial case-law dealing with domain names in Greece. Recently, our firm has been involved in a matter involving the internationally renown search engine google. A Greek entity engaged in advertizing activities had initially registered the .google.gr domain in its name, although it had nothing to do with google itself. The relevant petition for injunction filed by Google

was successful. Further to the above, after filing for an alternative dispute resolution procedure before the National Telecommunications and Post Committee, which was implemented subsequent to when the civil court action was initiated, the decision issued by the Committee was to cancel and delete the Greek entity's domain name registration, which was subsequently registered by Google itself.

Another matter involved the rolex.gr domain which was registered by a Greek entity unrelated to ROLEX itself and was considered by the Greek Civil Court of First Instance to be an infringement of ROLEX's company name and trademarks and a violation of Greek Unfair Competition and Trademark Law and thus cancellable.

3. Please describe the name of the national authority that assigns domain names in your jurisdiction.

Until 1st July 2004, the central national authority responsible for assigning domain names in Greece was the GR hostmaster, which was part of the Institute for Research and Technology, a state authority with quasi-supervisory role quasi-administrative role in the handling of domain names, in conjunction with the Committee. Based on a recent decision that came in force as of 1st July 2004, the assignment of domain names is not a responsibility of the GR hostmaster anymore. Instead, the interested party has access to an online list of accredited private registrars and the choice of whom to select is completely voluntary. The supervisory role of overseeing the process is solely with the Committee.

B. The Registration Process

1. Describe the procedure that must be followed in order to obtain a domain name and the right to use it. Please enclose a form of application to the national authority.

The interested party can access the list of accredited registrars by accessing either <https://grweb.ics.forth.gr/english/index.html> or http://www.eett.gr/eng_pages/index3.htm or on the alternative can directly access his preferred registrar's website for registration forms and info. The forms and the official fees to be paid may vary slightly, based on the registrar selected. Recently however, the Committee has rendered decision No. 310/15, which is available in Greek and English, through accessing its website, http://www.eett.gr/eng_pages/index3.htm based on which an application model is now available. In addition, pursuant to the Committee's Administrative Decision No. 309/48 the Committee has established ceiling fees to be paid for the assignment of domain names.

2. Describe the information that must be included in the application.

(a) In particular, state whether the following must be included in the application:

- Provision of full contact details
- Provision of certification on related IP rights (e.g. trademark registration certificate)

- Agreement to submit future dispute to the jurisdiction of particular courts
- Agreement to submit future disputes to alternative dispute resolution procedures.

The application form model as issued by the Committee, contains the listing of full contact details for the legal entity or its legal representative including tax i.d. no. It also contains a description of the content of the website intended for.

(b) Are there any additional documents that must be filed together with the application?

A solemn statement, which certifies the accuracy of the information contained in the application form the former being subject to criminal penalties for perjury.

(c) Please indicate whether there are any restrictions on who can apply (e.g. can only legal or natural persons apply or are there any restrictions based on nationality?)

None at present.

3. Are there any restrictions on the number of names that can be assigned to the same person?

None at present.

4. Please indicate whether there are any restrictions on the types of domains that can be assigned (e.g. –generic-descriptive names, similar domain names, trademarks, trade names of companies, personal names, etc.)

None at present.

5. Indicate whether in order to obtain a domain name the application must provide the results of trademark and/or other searches; if yes, please specify any conditions the searches must satisfy.

There is no such requirement.

6. Please indicate whether a registered trademark can be a domain name.

Yes.

7. Please indicate whether a domain name can be a registered trademark.

Yes.

8. Are applications for domain names made public in any way?

No.

9. Does the national authority conduct any searches as to the novelty of the name prior to assigning a domain name?

No. The private registrar does not conduct any such searches. There is only an availability search, which is conducted automatically with the online filing of the application.

10. Please list any other grounds for which registration of a domain name may be denied.

Based on Administrative Decision No. 268/73 the Committee may reject an application based on two grounds:

- a. either that the application is in conflict with the related rights owned by another party under Greek law,
- b. or that the application was filed in bad faith.

11. Please indicate the nature of the national authority's decision rejecting an application for a domain name? Does the applicant have a right to appeal? If yes, please describe the process.

Given the nature of the process, if a domain name application is denied due to non-availability then there is no right to appeal. The applicant would then need to ascertain the identity of the preceding domain name registration, which is not readily available, but can only be obtained through a Petition to the Public Prosecutor. As soon as the owner's identity is revealed, the interested party may file action.

12. Please indicate whether a decision of the national authority may be attacked by a third party. If yes, please describe the process and rights of appeal.

A decision issued by the National Authority, depending on its nature, may be appealed at the Administrative Courts.

13. Is there a waiting period for the activation of a new registration?

Yes, there is indeed a waiting period. As soon as the online application is submitted, the registrar is obligated to transmit it to the Committee within 3 days and the Committee is obligated to either register or reject the application within a maximum of 15 days from the date of receipt thereof, otherwise the application is deemed accepted.

14. Is there any condition that must be fulfilled prior to the activation of the registration? (e.g. payment of fees)?

Yes. In order for the application to be deemed valid, the party must submit along with it proof of bank account deposit or pay by credit card while filing the online application.

15. Indicate whether, once a domain name is registered, there is a process for cancellation. If yes, please indicate the grounds for cancellation and the process for cancellation.

Aside from filing an action with the Greek civil courts with subject-matter jurisdiction, there is an ADRP in place with the Committee. As

per the relevant Administrative Regulations currently in effect, the interested party may file a Petition with the Committee whereby it will request the cancellation of the domain name in the name of the other party. The Petition will be served via Court Bailiff to the Committee and adverse party. The Committee then sets a hearing date and formally notifies it to both sides.

The hearing is formal and it takes place before a Panel of three Committee members, one of them being an Attorney. Everything said during the hearing is recorded and subsequent to the hearing the transcripts are converted to written format and also notified to both parties. The two parties are at that time given a formal deadline by which additional arguments are filed. Following the above, the Committee issues its decision.

16. Please indicate the requirements that the domain name holder must satisfy, in order to maintain the validity of the registration.

Payment of renewal fees.

17. Are there any penalties against applicants that have provided false or misleading information together with their application for registration?

Since the applicant must sign a Solemn Statement certifying the accuracy of the information provided with his application, he is subject to criminal charges for perjury in the event false information is intentionally provided.

18. Are there any penalties against holders of domain names that in their dealings with the relevant national authorities have provided false or misleading information?

Same as above.

19. Please indicate the conditions imposed on the holder of a domain name in relation to the use of a domain name (e.g. conditions on content).

No such conditions are applicable at this time.

C. Conflicts and Conflict Resolution

1. Please describe how conflicts between an existing domain name and a domain name that is the subject of a subsequent application are resolved by the national authority (e.g. does the national authority act ex officio or only following the intervention of the owner of the existing domain name; are there any rules or practice on names that are identical or similar but not identical).

In the event the applicant attempts to file for a domain name which is identical to one that has been registered already, the application is automatically rejected by the private registrar. If recourse in the form of cancellation of the previously registered domain is pursued, either before the Committee or before the civil courts,

then it is only because of the interested party's intervention and never due to ex officio action.

2. Please describe how conflicts between an existing registered trademark and a domain name that is the subject of the subsequent application are resolved by the national authority (e.g. does the national authority act ex officio or only following the intervention of the owner of the existing registered trademark; are there any rules or practice on names that are identical or similar but not identical).

Same as above.

3. Please describe how conflicts between a name that is used in commerce but is not a registered trademark and a domain name that is the subject of a subsequent application are resolved by the national authority (e.g. does the national authority act ex officio or only following the intervention of the owner of the existing registered trademark; are there any rules or practice on names that are identical or similar but not identical).

Same as above.

4. Please describe how conflicts between a company name and a domain name that is the subject of a subsequent application are resolved by the national authority (e.g. does the national authority act ex officio or only following the intervention of the owner of the

existing registered trademark; are there any rules or practice on names that are identical or similar but not identical).

Same as above.

5. Please describe how conflicts between other types of names (e.g. personal names, name of organizations, etc.) and a domain name that is the subject of a subsequent application are resolved by the national authority.

Same as above.

6. Indicate whether there is additional protection for well-known marks vis-à-vis domain names.

Such additional protection is not available.

7. Indicate if there is additional protection for established domain names (e.g. domain names used for a given number of years or domain names that have become very well known).

Same as above.

8. List the cases of dispute where use of a domain name is suspended until resolution of the dispute? Describe how suspension is enforced (e.g. is suspension automatic)?

The Committee may indeed decide to suspend the use of a specific domain name which is the subject-matter of the dispute when it receives notification of this dispute.

9. Indicate whether there is an alternative dispute resolution system (e.g. has the Uniform Domain Name Dispute Resolution Policy been adopted or is there a national dispute resolution policy?) If yes, describe its nature (e.g. voluntary or obligatory) and the procedures incorporated in the system (e.g. rights of the parties – appeals, etc.). If these procedures are available online please provide the relevant URL).

There is an ADRP in place with the Committee. As per the relevant Administrative Regulations currently in effect, the interested party may file a Petition with the Committee whereby it will request the cancellation of the domain name in the name of the other party. The Petition will be served via Court Bailiff to the Committee and adverse party. The Committee then sets a hearing date and formally notifies it to both sides.

The hearing is formal and it takes place before a Panel of three Committee members, one of them being an Attorney. Everything said during the hearing is recorded and subsequent to the hearing the transcripts are converted to written format and also notified to both parties. The two parties are at that time given a formal deadline by which additional arguments are filed. Following the above, the Committee issues its decision.

10. Please indicate the remedies that are available in cases involving domain names both in alternative dispute resolution systems and court based systems (in particular indicate whether damages are available and rules or practice on the costs involved in challenging the registration).

No specific compensatory relief is provided for in such cases.

11. If alternative dispute resolution system is voluntary please indicate its advantages in comparison with your jurisdiction's court based dispute resolution system.

It is a much more cost-effective and time-efficient means of resolving the dispute before the competent authority, which is per se responsible for the administration of domain names and as such, it has access to all the relevant information and is more familiar with the process.

12. Please indicate the liability and responsibilities of your national authority (e.g. Possible liability in IP infringement cases and possible responsibilities for accepting and forwarding the service process).

The national authority must be named in any relevant action, in order to receive service of process and thus be formally notified of any domain name proceedings.

D. General Issues

1. Please describe the role that trademark law has played in your jurisdiction in case law involving the internet.

Trademark Law has played a tremendous role in deciding domain name disputes since there is no other civil law legislation in force for domain names and the same legal principles applicable in trademark disputes also apply in domain name disputes.

2. Please describe the role that copyright has played in case law involving the internet.

Copyright law has also played an important role in deciding domain name disputes as it has provided general guidelines for the courts to decide, by analogy, in domain name disputes.

3. Is there any provisions or practice in your jurisdiction against stockpiling of domain names?

No.

4. Please describe the role that laws dealing with defamation or libel have played in your jurisdiction in case law involving the Internet.

To the best of our knowledge there is no such precedent that we are aware of.

5. Please describe the role that laws with unfair competition have played in your jurisdiction in case law involving the Internet.

Unfair Competition Law has played a very significant part in disputes concerning domain names since in the absence of specific civil law legislation on the issue of domain names, Unfair Competition Law and Trademark Law provide the main guidelines for examining the merits of each such dispute.

6. Please describe the role that laws dealing with privacy have played in your jurisdiction in case law involving the Internet.

To the best of our knowledge there is no such precedent that we are aware of.

7. Please describe the impact of any other legislation in your jurisdiction in case law involving the Internet.

The Administrative decision No. 268/73 issued by the National Telecommunications and Post Committee has changed the administration of domain names in Greece.

8. Given the cross boarder nature of the Internet please describe briefly the choice of law rules that are enforced in your jurisdiction in case law involving the Internet.

(A) Would making goods available on the internet under a particular domain name subject the owner of a domain name

to the possibility of an infringement action (assuming a registered trademark was in full in your jurisdiction).

Indeed, in the case described above, the owner of the domain name would certainly be subject to a trademark infringement action, if there is a risk of confusion to the consuming public, based on the principles of Trademark Law.

9. Indicate whether in your jurisdiction there exists a comprehensive database of registered domain names. If yes, please describe how this database may be accessed by third parties.

The Committee does maintain a comprehensive database containing all registered domain names; however it's not accessible to the public. In Greek jurisdiction, WHOIS data on domain names is not available to the public. Instead, at least until the time this contribution is submitted, in order for an interested party to discover the identity of a domain name owner, a Petition with the Public Prosecutor must be filed, substantiating its locus standi for requesting an Order issued by the Public Prosecutor, ordering the Committee to disclose the relevant information to the Petitioner.

10. Indicate whether in your jurisdiction there exists (or whether there any plans for its creation) a system allowing identical domain names to co-exist.

No such system exists and there are no plans that we are aware of for its creation or implementation.

11. Please list any particularities that may exist in your jurisdiction in relation to the registration and maintenance of domain name registrations.

There is no WHOIS data available.

12. Finally, please comment on our questionnaire and on your experiences involving the registration of domain names and the relevance of industrial and intellectual property in Internet disputes adding any information that you consider relevant.

This is a very concise and thorough questionnaire. The current status of domain names' administration in Greece is that, while the process for registration has been simplified in many ways, e.g. there are very little requirements at the time of registration, there are still formalistic steps to be taken in order for example to obtain the details of a domain name owner. While there is an alternative dispute resolution procedure in place with the Committee, which has thus far proven to be quite effective the process for obtaining the WHOIS data should be equally simplified.