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## India - FAQ's on Domain Names

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**1. What are the criteria for applying to register a domain name in the '.in' domain?**

No criteria are provided for registering a domain name in the following zones. In particular, it is not necessary for applicants to have a business presence in India, either directly or through a subsidiary:

- .in
- co.in
- net.in
- org.in
- firm.in
- gen.in (general)
- ind.in (individuals)

The following zones are, however, reserved for use by qualified bodies/ organisations operating in India:

- ac.in (academic)
- res.in (research institutes)
- edu.in (colleges and universities)
- gov.in (government)
- mil.in (military)

**2. Can I register domain names consisting of only one or two characters? What other conditions should be kept in mind when selecting a domain name?**

- A domain name must be between three and 63 characters long.
- It can be made up of letters or numbers. Domain Names are not case sensitive.
- The hyphen symbol (-) is permitted, but not at the beginning or end of a Domain Name.
- Spaces and special characters are not permitted.

**3. A third party has registered a domain name identical to my registered trade mark. What actions are available?**

The actions available are:

- (i) filing a Complaint under the .IN Dispute Resolution Policy ('INDRP') seeking:
  - a) cancellation of the domain name; or
  - b) transfer of the domain name; and
  - c) costs.

- (ii) instituting trade mark infringement proceedings seeking:
  - a) an injunction (preliminary and permanent) to prevent use of the domain name; and
  - b) costs and/or damages.

**4. In what circumstances can a Complaint be filed under the INDRP?**

Any person who considers that a registered domain name conflicts with his legitimate rights or interests may file a Complaint on the following premises:

- (i) the Registrant's domain name is identical with, or confusingly similar to, a name, trade mark or service mark in which the Complainant has rights;
- (ii) the Registrant has no rights or legitimate interests in the domain name; and
- (iii) the Registrant's domain name has been registered or is being used in bad faith.

**5. What procedure is adopted by the .IN Registry in respect of Complaints under the INDRP?**

Upon receipt of a Complaint, the .IN Registry appoints an arbitrator, selected from the list of arbitrators it maintains. Within three days of receipt of the Complaint, the arbitrator is required to issue a notice to the Respondent. The arbitration proceedings are conducted in accordance with the INDRP and the Arbitration & Conciliation Act, 1996. The arbitrator has 60 days from the date of commencement of the arbitration proceeding within which to make an award. In exceptional circumstances, this period may be extended for a further period of up to 30 days on the provision of written reasons by the arbitrator.

**6. What kind of evidence is required under the INDRP to demonstrate that a domain name has been registered and/or used in bad faith?**

Evidence of the following circumstances, if accepted by the arbitrator, shall constitute evidence of the registration and use of a domain name in bad faith:

- a. circumstances indicating that the Registrant registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the registration to the Complainant, who owns a similar or identical trade mark or service mark, or to a competitor of the Complainant, for valuable consideration in excess of the Registrant's documented out-of-pocket costs directly related to registration of the domain name;
- b. the Registrant has registered the domain name to prevent its registration by the owner of the trade mark or service mark, provided that the Registrant has engaged in a pattern of such conduct;
- c. the Registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; and
- d. by using the domain name, the Registrant has intentionally attempted, for commercial gain, to attract Internet users to its web site, or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark.

**7. Can a domain name be transferred while a Complaint filed under the INDRP is current?**

The INDRP prohibits either the Registrant or the Registrar transferring a disputed domain name pending resolution of a Complaint under the INDRP.

**8. Is there an appeal process under the INDRP?**

As proceedings under the INDRP are conducted in accordance with the Arbitration and Conciliation Act, 1996, the appeal provisions contained in that Act apply. An appeal can be filed on the limited grounds set out below:

- (i) a party was under some incapacity;
- (ii) the arbitration agreement is not valid under the law to which it is subject or, failing any indication as to the governing law, under the law for the time being in force ;
- (iii) the party making the application was not given proper notice of the appointment of an arbitrator, or of the existence of arbitral proceedings, or was otherwise unable to present his case; or
- (iv) the arbitral award is in respect of a dispute that was not contemplated by, or does not fall within the terms of, the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration.

**9. Can I file a suit for trade mark infringement instead of a Complaint under the INDRP? Are there any additional benefits in filing a law suit rather than a Complaint under the INDRP?**

A brand owner can always file a law suit for infringement of its registered trade mark. One benefit of doing so, is that the courts have the power to grant interim injunctions restraining the Defendant from using the mark either as a domain name or on a website. This remedy is particularly useful where the Defendant is using the mark both as a domain name and on products, or has threatened to do so, and immediate relief is needed.

On the other hand, arbitration proceedings under the INDRP are efficient and can lead to a speedy resolution, which includes transfer or cancellation of the domain name.

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