

BRAZIL NIC.br Implements New Domain Name Dispute Resolution Process

On September 30, 2010, the Brazilian domain name registrar (NIC.br) published a regulation creating an administrative procedure for resolving domain name disputes. Previously, domain name disputes had been resolved in the courts—a long and expensive process.

Under the new rules, the complainant must demonstrate that the respondent's domain name is identical or confusingly similar to one of the following:

- A mark that is the subject of a prior registration or pending application in Brazil.
- An unregistered mark that is well known in Brazil.
- A business or company name, a personal name, a family name, a well-known pseud-

onym or nickname used by a performer or artist, a collective name used by a group of performers or artists or a prior domain name owned by the complainant.

Proceedings will be litigated before institutions previously accredited by NIC.br, including the Brazilian-Canadian Chamber of Commerce and WIPO. The arbitrator or panel of arbitrators must decide each case within 90 days after the complaint is filed, but the institution may extend this period at its discretion, up to a maximum of 12 months.

Either party may request clarification of the decision if it is unclear, contradictory or incomplete.

If the case is decided for the complainant, the registrar must wait 15 days before executing the decision. If one of the parties reports to the registrar within these 15 days that a lawsuit or arbitration claim has been filed, the decision is suspended until a final decision is rendered by the court or arbitral tribunal.

The new policy applies only to domain names registered or renewed after October 1, 2010.

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