

## RULES OF PROCEDURE

*determined by the Complaints Board for Domain Names pursuant to Article 3 in Rules for the Danish Complaints Board for Domain Names, cf. the Danish Act no. 164 of 26 February 2014 (the Domain Names Act)*

### Submission of complaints

**Article 1.** In disputes between registrants and third parties about registration and use of domain names, cf. the Danish Domain Names Act, Section 28(1), the complaint is filed against the person who, according to DK Hostmaster's Whois database, is stated as registrant of the domain name(s) that the complaint concerns (the defendant). If this registrant is anonymous in the Whois database, it must be stated in the complaint.

(2) Complaints about decisions made by DIFO and/or DK Hostmaster, cf. the Domain Names Act, Section 28(2) and (5), are filed against DIFO and/or DK Hostmaster (the defendant).

**Article 2.** Complaints must be forwarded to the Complaints Board's secretariat on paper or electronically according to the rules indicated on the Complaints Board's website [www.domaeneklager.dk](http://www.domaeneklager.dk). The Complaints Board can decide that complaints and defences are to be submitted through the use of special forms prepared by the Complaints Board.

(2) The complaint must comprise

- 1) the complainant's name and address;
- 2) the defendant's name and address, cf. Article 1;
- 3) the complainant's claim, cf. the Domain Names Act, Section 28(4);
- 4) a full statement of the circumstances on which the claim is based; and
- 5) the documents and other evidence which the complainant wishes to invoke.

(3) Any legal proceedings before the Complaints Board shall be conducted in Danish. Documents prepared in other languages must be accompanied by a translation that must be certified by a state-authorised translator if required by the chairman of the Complaints Board or the opposing party. However, the chairman of the Complaints Board may allow either party to submit evidence that is prepared in other languages than Danish if the contents hereof can be assumed to be immediately understandable for the other party as well as the Complaints Board. The chairman's decision can be brought before the Board.

**Article 3.** If a case between the parties on the right to the domain name in question is pending before the courts or if either party has brought such an action before a court of law, the Complaints Board can reject or defer the case. The Board shall reject the case if it concerns a dispute covered by a valid arbitration agreement. However, this does not apply if the defendant responds in the case without invoking the arbitration agreement.

## Case administration

**Article 4.** The secretariat will review the complaint on its receipt. If the complaint does not fulfil the requirements mentioned in Article 2, and if it is therefore not suitable to form the basis of a hearing of the case, the secretariat will inform the complainant and determine a time limit for remedying the defects. The secretariat may prolong this time limit if supported by the circumstances. If, after the expiry of the time limit, an adequate complaint has still not been submitted, the secretariat will reject the complaint and inform the complainant of this together with its reasons for the decision.

(2) If, in accordance with the Domain Names Act, Section 28, there appears to be no doubt that the complaint cannot be heard by the Complaints Board, the secretariat will inform the complainant of this together with its reasons for the decision. The attention of the complainant will also be drawn to the fact that the decision can be brought before the Complaints Board if the complainant so wishes. The decision will then be brought before the Board by the secretariat.

(3) If the complainant has paid a complaint fee for handling of a complaint which is rejected in accordance with (1) or (2), the fee shall be repaid to the complainant.

**Article 5.** If an adequate complaint is submitted that the Complaints Board is competent to hear, or if nothing can be advanced to show that the Board is not competent to hear the complaint, the secretariat will prepare the hearing of the case. However, a complaint will only be heard once the necessary complaint fee has been paid, cf. Article 1 in Rules for the Complaints Board for Domain Names.

(2) The secretariat shall ensure that the master data on the disputed domain name(s) are locked such that only address information can be maintained and that the registrant is informed of this, cf. item 8.2.1 in DK Hostmaster's General conditions for assignment, registration and administration of .dk domain names, Version 08, 31 January 2016 ("General Conditions").

(3) If the complainant has filed a claim for a domain name to be transferred to a person other than the registrant, cf. the Domain Names Act, Section 28(4), no. 1, the secretariat will request DK Hostmaster to enter the person to which the domain name is claimed to be transferred on the waiting list for the domain name, cf. item 5.4.2 in the General Conditions.

(4) The secretary shall inform the defendant about the complaint and enclose all the material received regarding this, with the exception of material that the defendant is undoubtedly already familiar with, together with a request that the person in question makes a statement as soon as possible and no later than two weeks after receipt. The comments of the defendant shall then be presented to the complainant for comments with a similar time limit for response. The complainant's reply will then be similarly presented to the defendant. If it is evident that the response of the defendant and the reply of the complainant do not contain new information or evaluations and that the other party is undoubtedly familiar with the contents of this material, the secretariat need not present the response to the opposing party.

(5) The chairman of the Complaints Board or a person authorised by the chairman can, if supported by the circumstances, decide that the time limits mentioned in (4) can be prolonged, that further information must be obtained in order to make a decision in the case, or that the case shall be stayed pending the outcome of another case before a court of law or an administrative authority concerning a legal issue of significance to the outcome of the case.

(6) If a person other than the complainant or the defendant has a direct and significant legal interest in the outcome of the case, the secretariat shall take care that information is submitted to him/her or them about the case and that they are given the opportunity to make a statement within a suitable time limit before the case is submitted to the Complaints Board.

**Article 6.** The secretariat may try to settle the matter between the parties. The conciliation procedure may last no longer than 4 weeks. The efforts of the secretariat to obtain a compromise are confidential.

**Article 7.** The secretariat concludes the case if the complainant withdraws his/her complaint or if a compromise is achieved between the parties. Cases that have not been concluded this way, are then submitted to the Complaints Board for decision on the present basis when the secretariat's handling of the case has been concluded, cf. Articles 5 and 6.

### **The hearing of the case before the Complaints Board**

**Article 8.** The Complaints Board is legally competent to transact business when the chairman of the Board and the two members with expertise in law – or their substitutes – take part in the decision. In cases involving non-commercial use of domain names and in cases of fundamental importance, it is a further requirement that the Board has been joined by the two members who represent consumer and commercial interests, respectively, or their substitutes.

(2) If the Complaints Board has not been legally competent to transact business at a meeting due to absence of a board member, the Board shall be deemed legally competent to transact business if the absent board member subsequently agrees to the Board's decision, also even though this is done in writing.

**Article 9.** The decisions of the Complaints Board are made at meetings and on the basis provided by the secretariat. The case can be stayed pending the secretariat obtaining further information from the parties, if requested by at least two members or if decided by the chairman.

(2) The decisions of the Complaints Board are made on the basis of a simple majority.

(3) If one party's statements concerning the facts of the case are vague or incomplete, or if he/she has failed to comment on the other party's statements concerning these matters, or if he/she has failed to comply with the requests of the other party or of the Complaints Board, the Board can, on the assessment of evidence, add this to the weight in favour of the other party.

**Article 10.** The chairman of the Board can decide that a case is to be decided in writing without the holding of a meeting. If so, the case is submitted to the board members who are to take part in the decision of the Board with a recommendation prepared by the secretariat. The chairman shall decide the time limit for

submission of each member's vote as well as the order of the voting. If two members request that the case is to be discussed verbally or if the chairman makes a decision to this effect, the case shall be subject to a normal hearing at a meeting.

**Article 11.** In special cases and at the request of either party or by its own initiative, the Complaints Board can summon the parties to a verbal negotiation. If the complainant fails to appear without unavoidable absence at such a negotiation or if he/she fails to submit the information requested by the Board, the Board can reject the case or hear it on the present basis. If the defendant fails to appear or fails to submit the information requested by the Board, the Board can also hear the case on the present basis.

**Article 12.** The chairman of the Complaints Board decides the time and place for the holding of meetings of the Board and chairs the negotiations at the meetings of the Board. The meetings of the Board are not public.

(2) Members/substitutes who are to take part in a meeting of the Board are normally to be convened with at least 2 weeks' notice. This time limit can be derogated from if necessary due to special conditions. If a member is prevented from attending, the Board's secretariat must be notified of this as soon as possible.

(3) The chairman of the Board can decide that cases, which are not deemed to give rise to any doubts, shall be settled by simple hearing at a meeting. If so, the case is submitted to the members with a draft for settlement and a discussion at the meeting can only be requested if the secretariat has been notified of this by one of the members, preferably within 3 business days before the meeting.

**Article 13.** The cases are discussed verbally at the board meeting on the basis of information submitted in advance. The members of the secretariat can take part in the deliberations without any voting rights.

(2) The Complaints Board can negotiate a settlement in the case.

**Article 14.** Minutes are kept of the meeting and the minutes are approved by the chairman of the Board. The minutes must contain information about date and registration of the participants of the meeting. In addition, the minutes must contain the necessary identification of the cases heard at the meeting and the decisions taken. Minority votes during voting are entered into the minutes.

(2) A transcript of the minutes is submitted to the board members after the meeting, but not to the parties to the case.

### **Preparation of the Complaints Board's decisions**

**Article 15.** The Complaints Board's decisions must be made in writing. Decisions must be accompanied by reasons and must be signed by the chairman. If a decision is based on a majority decision, this shall be stated in the decision if requested by the minority, and the minority can in the decision give reasons for its position. A period of 4 weeks, within which execution cannot be levied, from the date of the decision of the Board shall apply unless the Board decides otherwise in the decision.

(2) The parties to the case and DK Hostmaster will be informed about the decision as soon as possible. The

parties to the case must be informed about the rules for bringing the case before the courts. The Complaints Board can prepare a standard form for this.

(3) If the case has been brought before the Complaints Board by referral from a court or an arbitration tribunal, the Board's secretariat must send a copy of the decision to the court of law (the arbitration tribunal) immediately.

### **Reopening**

**Article 16.** The chairman can decide that a case in which the Complaints Board has made a decision shall be reopened if a request to this effect is made within 8 weeks after notice of the decision has been given to the person concerned. Reopening is only possible if justified by special reasons, particularly in the event of:

- 1) the unavoidable absence of a party who has not spoken in the case; or
- 2) new information which – had it been available during handling by the Complaints Board – would presumably have resulted in a different outcome of the case.

### **Legal force of the Complaints Board's decision**

**Article 17.** The Complaints Board's decision will not prevent either party from submitting a complaint to the Board concerning the same domain name but on a new basis.

### **Duty of confidentiality and legal capacity**

**Article 18.** With the exception of information that is publicly available, the Complaints Board's members and substitutes as well as the secretariat's employees shall be under professional secrecy concerning information provided during the handling by the Complaints Board.

**Article 19.** A person cannot participate in the hearing of a case if

- 1) the person in question has a special personal or financial interest in the outcome of the case or has previously acted as a representative for a person with such an interest in the same case;
- 2) the person's spouse, relative by blood or by marriage – in lineal ascent or in lineal descent or collaterally kindred as close as cousins or other next of kin – has a special personal or financial interest in the outcome of the case or acts as a representative for a person with such an interest; or
- 3) any other circumstances exist that may give rise to doubts about the complete impartiality of the person in question.

(2) A person who falls under the conditions stated in (1) must immediately inform the chairman of the Complaints Board of this.

(3) The chairman of the Complaints Board decides whether a person cannot participate in the hearing of a case as a result of the provisions in (1).

**Article 20.** These rules of procedure come into force on 1 March 2016 and will replace the Complaints Board's rules of procedure of 1 June 2014.

Copenhagen, 1 March 2016

On behalf of the Complaints Board for Domain Names

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