

FEBRUARY 2009 Vietnam: Vietnam issues regulations on domain name dispute resolution

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On December 24 2008, Vietnam issued long-awaited regulations on domain name dispute resolution under Circular no 10/2008/TT-BTTTT Providing Regulations on the Resolution of Disputes Involving the Vietnam National ".vn" Domain, which was issued by the Ministry of Information and Communication. Previously, very basic regulations on domain name disputes were set forth under Decision no 27/2005/QD-BBCVT.

Under Vietnam's Law on Informatics Technology dated June 29 2006, there are three means to resolve domain name disputes: informal negotiation, arbitration and court litigation. Circular 10 provides details on the grounds under which a complainant may take action under these three means of dispute resolution. Specifically, a party must meet all of the following conditions:

- The disputed domain name is identical or confusingly similar with the name of the complainant, or identical or confusingly similar to a trade mark or service mark in which the complainant has lawful rights or interests;
- The complainant has no lawful rights or interests in the domain name; and
- The domain name has been used by the complainant with bad faith.

Bad faith is found if the use of the domain name is for the purpose of:

- Leasing or transferring the domain name to the complainant; [or] leasing or transferring such to a competitor of the complainant to obtain illegitimate profits;
- appropriation or preventing the owner of the name, trade mark or service mark from registering a corresponding domain name;
- damaging the reputation of the complainant, obstructing its business operations or causing confusion or loss of trust by the public; or
- other circumstances showing bad faith.

Circular 10 also prescribes the evidence that the registrant may submit to prove lawful rights in the domain name, and sets forth very general rules on procedure. Complainants should also keep in mind that under Vietnam's Law on Intellectual Property, cyber-squatting may constitute an act of unfair competition.

Circular 10 is a good step forward. However, some of the provisions are very general and could be open to broad interpretations. It is hoped that further details will be fleshed out in later regulations.



Thomas J Treutler and Nguyen Thi Phi Nga