

Pursuant to Articles 2 and 6 of the Statute of the Fund Serbian National Register of Internet Domain Names, at a session held in Belgrade on 26<sup>th</sup> October 2007, the Assembly of the Serbian National Register of Internet Domain Names adopts:

## **RULEBOOK**

### **on Arbitrage Proceedings for Settling Disputes Arising out of the Registration of .rs Domains**

#### **Subject matter of the Rulebook**

##### **Article 1**

- (1) This Rulebook regulates the manner of initiation and conduct of arbitrage proceedings concerning disputes arising out of the registration of rs. domains, before the permanent Arbitrage formed with the Serbian National Register of Internet Domain Names (hereafter: RNIDS), in accordance with the Law on Arbitrage.

#### **Arbitrage and Litigants**

##### **Article 2**

- (1) Arbitrage for settling disputes arising out of the registration of .rs domains takes decisions independently in accordance with the law and other regulations.
- (2) The applying legislation is the legislation of the Republic of Serbia.
- (3) Arbitrage is headquartered in Belgrade.
- (4) The parties in the arbitrage proceedings are: registrant and prosecutor.
- (5) The registrant is a person who registers and uses an .rs domain within rsTLD register, in accordance with the General Conditions for the Registration of .rs Domains.
- (6) The registrant can be a domestic or a foreign person, a physical person or a legal entity.
- (7) The prosecutor is a legal entity or a physical person disputing the registrant's right to use a registered .rs domain.
- (8) The registrar competent for disputed .rs domains, unless listed as a registrant or the Administrative contact for these domains, is not a party in the dispute and is not obliged to represent the registrant in arbitrage proceedings.

## **Other Parties in the Proceedings**

### **Article 3**

- (1) A litigant can authorise a representative who will act on behalf of a party in the arbitration proceedings.
- (2) A representative can be any physical person with business capacity, a citizen and a resident of the Republic of Serbia.

## **Arbitration agreement**

### **Article 4**

- (1) The registrant agrees to arbitration as a means of settling disputes arising out of the .rs domain by the act of registering .rs domains within rsTLD registry, that is by accepting the General Conditions for the Registration of .rs Domains.
- (2) The prosecutor accepts arbitration as a means of settling disputes arising out of .rs domains by initiating the proceedings before the arbitration with RNIDS.

## **Arbitration Board**

### **Article 5**

- (1) The arbitration board examines the case and determines whether the registrant is in breach of any intellectual property right or any other subjective rights of the prosecutor, through registration and use of the .rs domain, in accordance with the provisions of this Rulebook.
- (2) Arbitration board consists of three members, arbitrators from a list of arbitrators of RNIDS.
- (3) The list of arbitrators is established by the Managing Board of RNIDS and made available to the public on the site of RNIDS.
- (4) The first member of the arbitration board is appointed by the prosecutor, who submits a list with three names from the list of arbitrators of RNIDS together with their claim. RNIDS appoints to the prosecutor the first arbitrator available from the list.
- (5) The second member of the arbitration board is appointed by the registrant, who submits a list with three names from the list of arbitrators of RNIDS together with their response to the claim. RNIDS appoints to the registrant the first arbitrator available from the list.
- (6) If the prosecutor or the registrant do not propose arbitrators or if, for any reason, all proposed arbitrators are prevented from participating in the arbitration

proceedings within time periods specified by this Rulebook, the RNIDS will appoint an arbitrator for each litigant from the list of arbitrators of RNIDS.

- (7) The third member of the arbitration board is selected by mutual consent of appointed arbitrators, from the list of arbitrators of RNIDS.
- (8) By mutual consent the members of the arbitration board elect the chairperson to directly manage the arbitration proceedings.
- (9) The arbitration body shall be formed and the chairperson appointed within five days of the submission of the response to the claim by the registrant.

### **Powers and Obligations of Arbitrator**

#### **Article 6**

- (1) An arbitrator can be any physical person with business capacity, a citizen and a resident of the Republic of Serbia, who possesses relevant skills and competencies in the area of the Internet, the system of Internet domains, regulations concerning protection of intellectual property and settlement of disputes related to Internet domains.
- (2) An arbitrator accepts the duty by written statement.
- (3) An arbitrator must discharge their duties conscientiously and effectively and is obliged to convey to the parties without delay all relevant facts and circumstances that can justifiably raise doubts as to their objectivity or autonomy and therefore significantly influence their function.
- (4) An arbitrator can be excluded from the proceedings only if facts exist that can justifiably raise doubts as to their impartiality or autonomy, or if they lack suitable competencies requested by the parties, especially as specified in Paragraph 1 of this Article.
- (5) The decision on the exclusion of an arbitrator is taken by the Managing Board of RNIDS, on a justified request of a party in the dispute.
- (6) An arbitrator can withdraw by a written statement if they are no longer able to perform their duties.
- (7) No appeals against a decision of the Managing Board of RNIDS concerning the termination of the duty of an arbitrator are allowed.
- (8) If the term of office of an arbitrator ends, a new arbitrator is appointed in their place without delay.

## **Length of Arbitration Procedure and Timeframes**

### **Article 7**

- (1) Arbitration proceedings are one-instance, and as a rule, last up to 60 days from the day of the submission of the claim.
- (2) Time limits set by this Rulebook can be extended in justified cases; the arbitration board shall ensure that the proceedings do not become unnecessarily protracted.

## **Equality of Parties in Arbitration Proceedings**

### **Article 8**

- (1) Parties are equal in the proceedings in front of the arbitration board.
- (2) The arbitration board is obliged to allow each party to present their position and evidence, and make a statement on the actions, evidence and propositions of the other party.

## **Language**

### **Article 9**

- (1) Arbitrage proceedings are conducted in Serbian language.
- (2) The language of the arbitrage applies to all written statements of the parties involved, oral discussion, arbitration decisions and other documents of the arbitration board.

## **Notification**

### **Article 10**

- (1) Summons and other notifications in arbitration proceedings are forwarded by electronic mail and registered post, with confirmation on receipt.

## **Costs of Arbitrage Proceedings**

### **Article 11**

- (1) Costs of the arbitrage proceedings are determined by the Managing Board of RNIDS on the basis of the Price-list of RNIDS.
- (2) Costs of the arbitration proceedings are paid by the prosecutor and payable on the submission of the claim.
- (3) The prosecutor shall not be refunded for the charges paid for the arbitration proceedings, regardless of the outcome.

**Initiation of the Arbitration Proceedings and Submitting the Claim**  
**Article 12**

- (1) Arbitration proceedings are initiated by lodging a complaint by the prosecutor, or their representative.
- (2) Arbitration proceedings cannot be initiated if the disputed .rs domain is already a subject of arbitration proceedings, until their termination.
- (3) Before lodging a complaint, the prosecutor can submit a request to RNIDS for obtaining information on contact for the disputed .rs domain, in the manner specified in the General Conditions for the Registration of rs. Domains.
- (4) The complaint is considered to be lodged on the day when RNIDS receives it in writing.
- (5) The complaint must include:
  - a. Name, surname or the business name of the prosecutor and the registrant;
  - b. The address of the residence or the headquarters of the prosecutor and the registrant;
  - c. Power of attorney, if the prosecutor decides to appoint a representative;
  - d. Name of one or several .rs domains which are subjects of the dispute;
  - e. The claim for transfer of registration of rs. domain from the registrant to the prosecutor or for the termination of the registration of .rs domain;
  - f. Relevant evidence that conditions specified in Articles 16 and 17 of this Rulebook have been met;
  - g. A list with names of three arbitrators from the list of arbitrators of RNIDS, from which RNIDS will appoint for the prosecutor the first arbitrator available;
  - h. Proof that costs of arbitration have been paid.
- (6) The complaint is submitted to RNIDS in electronic form and in a required number of printed copies.

**Notification of registrants and response to the complaint**  
**Article 13**

- (1) Upon the receipt of a duly filed complaint, RNIDS notifies the registrant that arbitration action has been brought against them and marks the disputed .rs domains in a manner which prevents their transfer and alteration of the registration data, until the completion of the arbitration proceedings.
- (2) RNIDS forwards the complaint and the appendices to the registrant in electronic and printed form, and informs them in what form the response is to be made.

- (3) The response shall be submitted within 30 days upon the receipt of the claim by the registrant.
- (4) The registrant, or their representative shall specify in their response:
  - Name, surname or the business name of the registrant;
  - The address of the residence or the headquarters of the registrant;
  - Power of attorney, if the registrant decides to appoint a representative;
  - Comment on the statements in the claim and relevant evidence concerning the fulfillment of requirements under Article 18 of this Rulebook;
  - A list with names of three arbitrators from the list of arbitrators of RNIDS, from which RNIDS will appoint for the registrant the first arbitrator available;
- (5) RNIDS submits a reply to the complaint to the arbitration board and the prosecutor in electronic and printed form.

### **Oral Argument Article 14**

- (1) Oral argument is appointed when the arbitration board considers that the conditions for it have been met, and when it is suitable.
- (2) The arbitration board notifies the parties in the dispute about the date and the place of oral argument.
- (3) If the arbitration board establishes that written statements and evidence are sufficient for reaching a decision, it can propose to the litigants that the award be given without oral argument.
- (4) By mutual consent, litigants can submit to the arbitration board the proposal that arbitration decision be taken without oral argument.
- (5) If one of the litigants does not consent that the decision be taken with no oral argument, the arbitration board is obliged to arrange an oral argument.

### **Conduct of Oral Argument Article 15**

- (1) As a rule, oral argument is conducted at the headquarters of the arbitrage.
- (2) The chairperson of the arbitrage can decide to hold the oral argument somewhere else, on a justified proposal of one of the litigants.
- (3) Oral argument is not open to the public, except by mutual consent of the litigants.

- (4) Litigants are present at the oral argument, in person or through their authorised representatives.
- (5) If one or both parties, although duly notified, fail to appear at the oral argument, arbitrators, having verified that litigants have been duly summoned and that there are no justifiable reasons for their absence, can start the argument as if all parties were present.
- (6) Parties in dispute shall not be heard outside the oral argument (for example by conference calls, video conference, Web conference, etc.), except when the arbitration board deems it necessary for reaching the decision.

**Criteria for Reaching the Decision about the Termination or Transfer of  
Registration of .rs Domains  
Article 16**

- (1) The arbitration board can take the decision on the termination or the transfer of the registration of the domain in dispute from the registrant to the prosecutor if the following facts have been established:
  - That the .rs domain is identical or substantively similar to the trade mark, business or trade name of the prosecutor for the same or similar type of goods or services, or if the similarity can create confusion and mislead participants on the market;
  - That the registrant has no right or legitimate interest to use the disputed rs. domain;
  - That the registrant has registered and used the rs. domain in question contrary to the principles of good faith, honesty and good business practices.

**Use of .rs Domain Contrary to Good Business Practices  
Article 17**

- (1) It shall be considered that an .rs domain has been registered or used contrary to good business practices and the principles of good faith and honesty, especially in the following cases:
  - if it is proved that the registrant has registered the .rs domain predominantly for the purpose of selling it or renting it to the prosecutor, who is the owner of the same or substantially similar trade mark to that of the registered .rs domain or for sale or renting the .rs domain to the person who is the prosecutor's rival on the market, on the basis of the difference between the price of the rent of the .rs domain and the selling price to the above persons
  - if it is established that the registrant has registered the .rs domain in order to prevent the owner of the legally protected trade mark from registering their trade mark as the name of the .rs domain;

- if it is established that the registrant has registered the .rs domain in order to inflict damage to their business rival;
- if it is established that the registrant has been using the same, or substantially similar .rs domain to the prosecutor's trade mark to attract Internet users to their own Web site, or other Internet service for commercial gain, thus creating confusion as to the origin of merchandise sold or services provided on that site, or through that Internet service.

**Use of .rs Domains in Accordance with Good Business Practices  
Article 18**

- (1) It shall be considered that the registrant has a legitimate interest to use the .rs domain if they prove that:
- before they became aware that an action has been brought against them, they have been using the domain for commercial purposes, in accordance with good business practices and the principles of good faith and honesty; or
  - before the action, they have been known to the public as the owner of the domain in question, regardless of the fact that they have not requested the trade mark for the name of the .rs domain; or
  - they use the .rs domain solely for non-commercial purposes, without the intention to mislead consumers and other participants on the market as to the origin of marked goods or services, in terms of substantial similarity or sameness with the prosecutor's trademark.

**Decision-making, Content and Execution of Decision  
Article 19**

- (1) The arbitration board makes the final decision on the complaint.
- (2) The arbitration board presents the decision in a written form, after the consideration in which all arbitrators must take part.
- (3) The decision of the arbitration board is taken by majority vote.
- (4) The decision must comprise an introduction, the statement of the subject of the dispute, the justification of the decision, the names of arbitrators participating in the decision-making as well as the place and the date of decision-making.
- (5) The decision is forwarded to the parties in dispute and published on the RNIDS site.
- (6) The decision has the force of a final court decision and is executed in accordance with the provisions of the law governing the executive procedure.

- (7) The arbitration decision is final and cannot be appealed against.
- (8) If the arbitration board decides for the transfer of registration of the disputed .rs domain, the decision gives power to RNIDS to transfer the registration of the .rs domain from the registrant to the prosecutor, at a request of an interested party, whereby the registration of the .rs domain is terminated by the registrant, and the new registration of the .rs domain is established by the prosecutor.
- (9) If the arbitration board awards the registrant, the registration of the .rs domain is not transferred to the prosecutor. In this case, the prosecutor cannot submit another complaint on the same subject, except in case of substantial changes in circumstances, in terms of Article 16.

#### **Termination of Arbitration Proceedings before Decision-making Article 20**

- (1) Arbitrage can be terminated without decision if:
  - during arbitrage a regular court delivers a final judgment on the same subject as that of arbitrage;
  - parties in dispute reach mutual consent on the subject of the dispute;
  - the prosecutor withdraws their claim.
- (2) If the arbitrage procedure is terminated without a decision, under any of the conditions from Paragraph 1 of this Article, the prosecutor has no right to a refund of charges paid for costs of the arbitration proceedings, nor can file another application for arbitration on the same subject.

#### **Entry into Force and the Beginning of the Application of the Rulebook Article 21**

- (1) This Rulebook comes into force on the day it is adopted by the Assembly of RNIDS, and shall be applicable from the start of the registration of .rs domains within rsTLD register.

Chairman of the Assembly

Vojislav Rodić