

ANNEX

The Internet Corporation for Assigned Names and Numbers (ICANN)
Resolutions Approved by the Board
Santiago Meeting, August 26, 1999

The following resolutions were approved by the ICANN Board at its meeting on August 26, 1999, in Santiago, Chile.

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Uniform Dispute Resolution Policy for gTLD Registrars

WHEREAS, on April 30, 1999, the World Intellectual Property Organization (WIPO) presented a report with its recommendations to ICANN on, among other things, a uniform dispute resolution policy for domain name disputes; and

WHEREAS, at its Berlin meeting the Board referred the dispute-resolution recommendations to the Domain Name Supporting Organization and encouraged the testbed registrars to develop a model dispute resolution policy for voluntary adoption;

WHEREAS, on August 3, 1999, the DNSO Names Council submitted to the Board five recommendations on a uniform dispute resolution policy as consensus positions;

WHEREAS, the testbed registrars, under the leadership of America Online and register.com, consulted among themselves and with post-testbed registrars and Network Solutions and proposed a Model Dispute Resolution Policy for Voluntary Adoption, which approximately twenty registrars have agreed to adopt; it is now

RESOLVED [99.____] that the Board accepts the DNSO's recommendation that ICANN adopt a uniform dispute resolution policy for accredited registrars in the .com, .net, and .org top-level domains;

FURTHER RESOLVED [99.____] that the President is directed, with the assistance of ICANN staff and counsel, to prepare implementation documents for approval by the Board after public notice and comment, on a schedule that allows the policy to be put into place within 45 days.

FURTHER RESOLVED [99.____] that the Board gives the following guidance as to the preparation of the implementation documents:

1. The registrars' Model Dispute Resolution Policy should be used as a starting point;

2. The President or his delegate should convene a small drafting committee including persons selected by him to express views and consider the interests of the registrar, non-commercial, individual, intellectual property, and business interests;

3. In addition to the factors mentioned in paragraph 171(2) of the WIPO report, the following should be considered in determining whether a domain name was registered in bad faith:

(a) Whether the domain name holder is making a legitimate noncommercial or fair use of the mark, without intent to misleadingly divert consumers for commercial gain or to tarnish the mark

(b) Whether the domain name holder (including individuals, businesses, and other organizations) is commonly known by the domain name, even if the holder has acquired no trademark or service mark rights; and

(c) Whether, in seeking payment for transfer of the domain name, the domain name holder has limited its request for payment to its out-of-pocket costs.

4. There should be a general parity between the appeal rights of complainants and domain name holders.

5. The dispute policy should seek to define and minimize reverse domain name hijacking;

FURTHER RESOLVED [99.___] that the President is authorized to provisionally approve dispute resolution providers under the uniform dispute resolution policy. From time to time, a list of provisionally approved providers should be compiled and provided to each accredited registrar to be incorporated into its policy. The DNSO is requested to recommend principles for a more formal dispute resolution provider accreditation program for consideration by the Board in 2000.

FURTHER RESOLVED [99.___] that the Board requests WIPO to provide recommendations on the topics set forth in a list to be transmitted to WIPO by the President.

[End of Annex and of document]