

Interpretation of the Supreme People's Court on the Application of Laws in the Trial of Civil Disputes over Domain Names of Computer Network 2006-04-05 15:18:20  
Passed in the Meeting 1182 of Judicial Committee of Supreme People's Court on June 26, 2001, and goes into effect on July 24, 2001.

To properly try the civil dispute cases over registration and use of domain names of computer network (hereinafter called domain name cases), based on the General Rules of the Civil Law of the People's Republic of China (hereinafter called the General Rules of the Civil Law), the Anti—unfair Competition Law of the People's Republic of China (hereinafter called the Anti—unfair Competition Law), and the Civil Procedure Law of the People's Republic of China (hereinafter called the Civil Procedure Law), the interpretation is made as follows:

1. A party brings a case of the civil disputes over the registration, use of domain names of computer network, in so far as it is tested to be in conformity with Article 108 of the Civil Procedure Law, the people's court must accept the case.
2. To the tort disputes over domain names, the intermediate courts in the places of tort or the residences of the accused have the jurisdiction. In case the places of tort or the residences of the accused are difficult to affirm, the places, where a terminal or other installations of the computers through which a prosecutor finds the domain names, may be the places of tort.

The foreign domain name cases involve in the domain name cases in which one party or the parties are foreigners, stateless persons, foreign enterprises or organizations, international organizations, or the domain names are registered in foreign countries. In case a foreign domain name case occurs in the realm of the People's Republic of China, the jurisdiction is affirmed according to the provisions of Part 4 of the Civil Procedure Law.

3. The subject matter of a domain name case is affirmed according to the nature of the legal relationship between the parties, and named after the domain names of the computer network; in case the nature of the relationship is difficult to affirm, the case can be just called domain name of computer network case.
4. A people's court that tries a domain name case must convict a defendant's action of registration or use of the domain names to be a tort or unfair competition, if
  - A. The civil rights and interests the prosecutor claimed are legal
  - B. The defendant's domain names or the main parts of the domain names are copies, imitations, translations, or transliterations of the prosecutor's; or are the same with or similar enough to the prosecutor's registered trademarks or domain names that concerned public would be misled
  - C. The defendant has neither rights or interests on the domain names or their main parts, nor the reasonable ground for registration or use

D. The defendant's registration or use has malice

5. A people's court must convict a defendant malicious if he is proved to

A. Register others' famous trademarks for commercial purposes

B. Register or use domain names which are the same with or similar to the prosecutor's registered trademarks or domain names for commercial purposes, and intentionally confuse with the prosecutor's products, services, or net sites, to mislead the network consumers to visit his own net sites or other net sites

C. Made efforts to sell, rent, or transfer the domain names in other ways with high prices to get unfair interests

D. Not use or prepare to use the domain names after registration and intentionally hinder the obligee's registration

E. Conditions that show the malice

If the defendant produces evidence to prove that the domain names he owned have gotten certain fame before the case, and can be distinguished to the prosecutor's registered trademarks or domain names, or other conditions prove that the defendant has no malice, the people's court may convict the defendant not malicious.

6. A people's court that tries a domain name case may convict whether the related registered trademarks are famous, based on the parties' request or conditions.

7. If the conditions of a domain name case, which are in conformity with Article 4 of this interpretation, compose a tort, the people's court must apply corresponding provisions of laws; if they compose unfair competition, the court must apply the provisions of Article 4 of the General Rules of the Civil Law, or/and 1 of Article 2 of the Anti—unfair Competition Law.

Foreign domain name case is disposed of according to Chapter 8 of the General Rules of the Civil Law.

8. In case a people's court convicts the registration or use of domain names to be a tort or unfair competition, the court may sentence the defendant to stop tort or cancel the domain names, or sentence the prosecutor to register and use the domain names on the prosecutor's request; if the obligee has suffered substantial damages, the court may sentence the defendant to compensate for the damages.