



# Dispute resolution in the ccTLD .it

**Regulations**

**Version 2.1**

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## 1 Foreword

The “Rules for dispute resolution in the Top Level Domain .it country code”, hereinafter “Dispute Rules”, contain rules for settling disputes that could arise in the assignment and use of domain names in Internet, under the Top Level Domain .it country code which are alternative to court litigation.

The “Dispute Rules” comprise the following parts:

- Arbitration;
- Procedure for re-assignment of the domain name object of opposition, general principles;
- Technical procedure for domain name re-assignment.

Using the tools envisaged and regulated in the “Dispute Rules”, Internet users have available a service to rapidly and inexpensively resolve disputes in accordance with the principles of fairness and equal accessibility to the service.

Using arbitrators appointed by each party, voluntary arbitration can reach a decision regarding the assignment of the domain name.

The “Dispute Rules” also establish, within the context of the services rendered in the broader sense by the Registry, an administered domain name re-assignment procedure to which all the domain name owners registered under the ccTLD .it are subject; this procedure deals only with the reassignment of the domain name.

The regulation described has no legal value and can therefore be interrupted by the parties at any moment through recourse to the ordinary justice system.

### 1.1 Revisions of this document

Versions of this document following 2.0 are considered revisions.

#### **Changes from version 2.0 of June 19, 2009:**

- Elimination from the paragraph “Definitions of terms used in the document (glossary)” of some terms related to the asynchronous system and amending the definition of the term “days”;
- Updating in the paragraph “Control over Service Providers Dispute Resolution (PSRD)” the name “Rules Committee” in “Steering Committee of the Registry”;
- Elimination of the term “working” in the paragraph “Checking the complaint”;
- Revision of the paragraph “Notice of complaint to the assignee of the domain name object of opposition” as a result of the introduction, only to Registrants living abroad, sending the complaint of the courier service;
- Revision of the last line of the paragraph “Communications between the parties and the Board” in relation to the role of director of PSRD;
- Deletion of paragraph “PSRDS’ Procedure for sending electronic communications”.

## 1.2 Definition of terms used in the document (glossary)

Term	Abbreviation	Definition
<b>Voluntary arbitration</b>		Allows subjects who accept it, by signing a specific arbitration clause, to resolve a dispute regarding the assignment of the domain name on the basis of the principles and procedures described in this “Dispute Rules”.
<b>Arbitrator</b>		The subject chosen by the party to conduct the arbitration procedure from a List of Arbitrators kept by the Registry.
<b>Arbitration Board</b>		The Body tasked with resolving a dispute out-of-court and comprising arbitrators accredited by the Registry and chosen by the parties to the dispute according to the procedures indicated in the "Dispute Rules”.
<b>Uninominal Board</b>		Indicates the Board for the out-of-court resolution of a dispute designated by a PSRD to decide on a complaint regarding the registration of a domain name.
<b>Domain name re-assignment procedure start date</b>		Indicates the date on which the owner of the domain name subject to opposition (defendant) was informed or the PSRD demonstrates to have carried out all the necessary actions in order to give the assignee information about the existence of a re-assignment procedure.
<b>Database of Assigned Names</b>	<b>DBNA</b>	Database kept by the Registry of the ccTLD .it where all the data regarding the domain names assigned in the ccTLD .it are kept.
<b>Decision</b>		Indicates the outcome of the arbitration procedure or re-assignment procedure on the basis of which the Registry transfers the domain name to the petitioner or eliminates the flag “CHALLENGED” from the domain name.
<b>Registration document</b>		Document that the Registry can request from the Registrar proving the registrant's data, the declarations and the related assumption of responsibility.
<b>Expert</b>		The person to whom the Dispute Resolution Service Provider assigns responsibility for deciding on the re-assignment of the domain name.
<b>Days</b>		The terms set out in this document refer to working days. Saturday, Sunday and all the official public national holidays in the Italian Republic are not considered as working days.
<b>Legal guidelines</b>		Guidelines for dispute resolution in the ccTLD .it.
<b>Synchronous technical Guidelines</b>		Guidelines for managing synchronous operations with ccTLD .it domain names
<b>Domain name</b>		The association between a public IP address and a string of characters to guarantee consistency between IP address and domain name. The conversion from a domain name to an IP address and vice versa is guaranteed by the Domain Name System (DNS). A domain name is made up of several parts.

<b>Supplementary Standards of the PSRD</b>		Any supplementary standards that a PSRD introduces and makes available on its site regarding the re-assignment procedure.
<b>Opposition</b>		Indicates the opposition procedure a domain name undergoes on request of a third party; this is an obligatory step in order to begin the re-assignment procedure and the arbitration procedure.
<b>Party</b>		Refers to the petitioner or defendant.
<b>Dispute Resolution Service Providers</b>	<i>PSRD</i>	Organizations accredited by the ccTLD .it Registry for the management of disputes concerning the re-assignment of domain names registered in the ccTLD .it in compliance with the document "Procedure for qualifying out-of-court dispute resolution Service Providers within the context of the ccTLD .it" consultable on the Registry's site.
<b>Procedure for domain name re-assignment.</b>		This is an out-of-court procedure for resolving disputes regarding the assignment and use of a domain name registered in the ccTLD .it which the petitioner can access in order to be re-assigned a domain name, subject to compliance with the standards set forth in this "Dispute Rules".
<b>Complaint</b>		The document with which the requesting subject starts the re-assignment procedure with a PSRD declaring the reasons and grounds of the action.
<b>Registrant</b>		The person or organization requesting the registration of a domain name or that has been assigned one.
<b>Registrar</b>		An organization which makes synchronous registrations of domain names on its own behalf or that of Registrants. For an organisation to become a Registrar it must pass an accreditation procedure established by the Registry.
<b>Registry</b>		Organism responsible for assigning domain names and managing the primary registers and nameservers for a TLD. Delegated for this duty by ICANN. The name .it Registry is the same as Registry of the ccTLD .it.
<b>Answer</b>		The defence document of the assignee for the re-assignment procedure in which the petitioner's assertions are contested also with the presentation of documents.
<b>Defendant</b>		Indicates the owner of a domain name, defined Registrant in the "Rules of assignment and maintenance of domain names in the ccTLD .it" against whom the domain name re-assignment procedure has been started.
<b>Petitioner</b>		Indicates the party that submits a complaint regarding the registration of a domain name to a PSRD for the purpose of re-assignment of a domain name.
<b>Peremptory Deadlines</b>		The times in which a given action must be carried out or specific communication sent; non-observance of these times results in the impossibility of making other communications or taking other actions barring exceptional circumstances.

## 2 Arbitration

### 2.1 Arbitration clause

The assignee of a domain name can decide to submit to voluntary arbitration any disputes related to the assignment of that domain name pursuant to this “Dispute Regulation”, acknowledging as valid and binding the decisions taken by the arbitration board. Recourse to the arbitration clause can be made at the moment of registration of a domain name, or subsequently, using the specific form included in the guidelines concerning the dispute resolution procedures available on the Registry’s website.

### 2.2 List of arbitrators

The Registry keeps a list of arbitrators comprising experts in the question of domain names. The nomination of applications by Internet experts is presented to the Registry and submitted to the Regulations' Committee.

The list of arbitrators appointed by the Registry and forming part of the list as of the first point is available on the Registry’s website.

### 2.3 Composition of the Arbitration Board

The Arbitration Board comprises three arbitrators of which two chosen by each of the parties and the third, who will act as Chairman of the Arbitration Board, chosen by the two arbitrators.

The party which intends to start the arbitration procedure must appoint its arbitrator in writing sent by registered mail with notification of receipt (reference templates can be found in the legal guidelines) addressed to the counterparty, to the arbitrator it intends to appoint and to the Registry, indicating the name of the arbitrator chosen from those on the list as of point 2.2, “List of arbitrators”, the object of the application to submit to the Arbitration Board, the de facto and legal grounds on which it is based, its conclusions, the domicile and e-mail address as well as the invitation to the other party to appoint its arbitrator from those on the list of arbitrators as of point 2.2 above.

The party to which the invitation to appoint an arbitrator is sent must, in turn, no later than 10 (ten) working days following receipt of the communication as of the above point, appoint its arbitrator in the ways indicated in paragraph two of this article. Failure to do so means that the party that sent the invitation may ask that the appointment be made by the Registry; in this case the Registry will appoint the arbitrator no later than 5 (five) working days following the request. The appointment is communicated to the parties by email.

The arbitrators appointed in this way will appoint the Chairman of the Arbitration Board no later than 5 (five) working days following the appointment of the second arbitrator. If the choice is not made within this time limit the most diligent party may ask that the Registry appoint the third Arbitrator; in this case the Registry will make the appointment no later than 5 (five) working days following the request, communicating the name of the chosen Chairman of the Arbitration Board to the parties by email.

The Arbitration Board will be considered formed from the day following acceptance of the assignment by the Chairman of said Board.

The arbitrators must pass down judgement no later than 90 (ninety) days following the establishment of the Arbitration Board.

### 2.4 Procedure before the Arbitration Board

The Chairman of the Arbitration Board can appoint a secretary to assist the Board during the procedure and draw up the minutes of the meetings during which the parties or their representatives will be heard.

The Arbitration Board is entitled to regulate the works in the way it deems fitting providing that the principles of the adversarial system are respected. In any case it must grant the parties a time period of not less than 10 (ten) working days to present their defence and documents and a further period of not less than 10 (ten) working days for the replies and it will personally summon the parties to hear them *inter partes* if this is requested even by just one of the parties. The parties can be represented by another person before the Arbitration Board subject to the fact that the Arbitration Board may decide not to hear the parties personally. The communications of the Arbitration Board to the parties, the exchange of statements and replies can be made by email unless the parties expressly request hardcopy or if it is necessary to exchange or examine original documents that cannot be transmitted by email.

## 2.5 Inquiry powers of the Arbitration Board

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Should serious reasons exist, on request of one of the parties, the Arbitration Board is entitled to take protective measures regarding the domain name assigned and object of opposition. These measures are implemented by the Registry.

When an inquiry is necessary, the Arbitration Board can delegate same to just one of the arbitrators. The Registry must provide the Arbitration Board with all the information requested.

## 2.6 Decision of the Arbitration Board

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The arbitrators decide fairly, as amiable compositeurs, on the basis of these “Dispute Rules” and the standards of the Italian legal system.

The Chairman of the Arbitration Board communicates the final decision to the parties and to the Registry by registered mail with notification of receipt. The decisions of the Arbitration Board are filed with the registry available to the members forming part of the list as of point 2.2 above “List of arbitrators”. The arbitration decision is made public unless otherwise requested by either party.

The decision of the Arbitration Board is final.

The decisions of the Arbitration Board are enforced by the Registry no later than 5 (five) working days following receipt of the decision.

## 2.7 Fee of the Arbitration Board and expenses

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With the decision, the arbitrators also settle their fee and that of the secretary of the Board, charging same in full or in part to the losing party. On request even of just one of the parties, the Board can also order the losing party to refund in full or in part the costs borne for the proceedings by the winning party, determining them, if pertinent, at the discretion of the Board.

### 3 Procedure for domain name re-assignment subject to opposition procedure, general principles

#### 3.1 Applicability

The registered domains subject to opposition procedure in accordance with article 5.1 of the “Rules of assignment and management of domain names under the ccTLD .it” can be, on request of the challenger, subject to this re-assignment procedure in accordance with the provisions of article 4.1 of these Rules.

The re-assignment procedure applies to all domain names registered in the ccTLD .it.

#### 3.2 Nature

The aim of the procedure is to check the right of use or legal availability of the domain name and that the domain has not been registered and maintained in *mala fide*.

The outcome of the procedure can only be the re-assignment of a domain name.

The procedure has no legal validity and as such does not preclude the parties’ right to appeal, also subsequently, to the law court or arbitration.

#### 3.3 Re-assignment procedure, arbitration and recourse to law court

The Procedure is carried out by specific organizations, compliant with the requirements set by the Registry, subject to the opinion of the Rules Committee, called Out-of-court Dispute Resolution Service Providers (hereinafter PSRD).

The choice of PSRD that will perform the re-assignment procedure is taken by the party which started the opposition procedure. The costs of the procedure are borne in full by the party that started same.

The procedure cannot be activated if the domain name opposed is already pending decision before the court of law or an arbitration decision pursuant to article 806 of the Code of Civil Procedure; that is, the arbitration envisaged by article 2 “Arbitration”.

If the judgement by a court judge, compulsory arbitration in accordance with article 806 of the Code of Civil Procedure or the arbitration as of article 2 of these “Dispute Rules” are introduced while this procedure is ongoing, same will automatically be interrupted.

#### 3.4 Sources

The re-assignment procedure is regulated by the provisions of the “Procedure for domain name re-assignment subject to opposition procedure, general principles” and “Technical procedure for domain name re-assignment” contained in these “Dispute Rules”.

#### 3.5 Control of Dispute Resolution Service Providers (PSRD)

Verification of the existence of the requirements by the organizations that request the performance of the procedures and control of the work of these organizations is entrusted to the Registry along with the Steering Committee of the .it Registry or other similar body according to the standards contained in the "Procedure for qualifying out-of-court dispute resolution Service Providers within the context of the ccTLD .it". In the case of repeated breaches of the procedural standards by a dispute resolution service provider, the Registry can exonerate it from the performance of the procedures, subject to the opinion of the Steering Committee of the .it Registry or other similar body.

#### 3.6 Transfer of the domain name object of opposition

Domain names for which a third party (called “petitioner”) makes the following claims are subject to re-assignment:

- a) the domain name object of opposition is identical to or such as to cause confusion with a trademark or other distinctive business sign, for which same third party claims rights, or to his name and surname; and that
- b) the present assignee (called “defendant”) has no right to the domain name object of opposition and, finally, that
- c) the domain name has been registered and is used in mala fide.

If the petitioner proves the existence of conditions "a)", and “c)” and the defendant does not prove in turn that he has the right to the domain name object of opposition, the latter is transferred to the petitioner.

As regards point “b)” of this article, the defendant will be considered to have the right to the domain name object of opposition if he can prove that:

- d) before receiving news of the opposition in good faith he used or objectively prepared to use the domain name or a corresponding name for the offer of goods and services to the public; or
- e) that he is known personally as an association or business enterprise with the same name as the registered domain name even if the relative trademark has not been registered or
- f) he is making a legitimate non-commercial use or commercial use of the domain name without the intention of misleading the petitioner’s clients or of breaching the registered trademark.

### 3.7 Proof of registration and maintenance of the domain in *mala fide*

The following circumstances, if demonstrated, will be considered proof of registration and use of the domain in *mala fide*:

- 1) circumstances that lead to the conclusion that the domain name has been registered with the primary aim of transferring, granting in use or in any other way transferring the domain name to the petitioner, owner of a name which is the object of an acknowledged right or one established by national or European law, or to a competitor of said for monetary or other compensation, which is higher than the costs reasonably borne by the defendant for the registration and maintenance of the domain name;
- 2) the circumstance that the domain name has been registered by the defendant to prevent the owner of the right to a name, trademark, denomination (also geographic) or other distinctive sign recognized by national or European law from using same name, denomination or other distinctive sign in a domain name corresponding to said and it is used for activities in competition with those of the petitioner or, for public organizations, judiciary or other state bodies, in such a way as to mislead the public searching for information regarding institutional activities;
- 3) the circumstance that the domain name has been registered by the defendant with the primary aim of damaging the business of a competitor or of usurping the petitioner’s name and surname;
- 4) the circumstance that, in using the domain name, it is intentionally used to attract, with the purpose of making profit, Internet users, creating the probability of confusion with a name covered by a recognized right or one established by national and/or European law or with the name of a public body;
- 5) the registered domain name is a proper name or the name of a public or private body for which no demonstrable connection between the owner of the domain name and the domain name registered exists.

The above list merely gives some examples and is not exhaustive. The Board of experts can therefore find elements of mala fide in the registration and use of the domain name also from circumstances other than those listed above.

### 3.8 Plurality of procedures

In the case of several procedures being started for a single domain name, those started after the first one are suspended pending the outcome of the first one. If the first procedure started ends with the transfer to the petitioner of the name object of opposition, the other procedures are

suspended.

### 3.9 Re-proposal of a procedure

A procedure can be re-proposed by the same parties for the same domain name when new facts emerge at the outcome of the decision which justify the commencement of a new procedure or such facts were not known during the first procedure.

### 3.10 Role of the Registry

The Registry does not go into the merit of the procedure and is not responsible for the work of the PSRDs that manage the procedures.

### 3.11 Publication of the decisions

The list of the procedures underway and the decisions on procedures are made public on the Registry's website and on that of the PSRD to which the Board that took the decision belongs except in cases where said Board, in exceptional cases (for example, when the Board considers that publication could seriously damage the image and reputation of both parties or one of them) and with justified grounds it decides not to publish it either in full or in part.

### 3.12 Implementation of the decision

Bearing in mind the provisions of article 4.16 below, "Notice of the decision to the parties and to the Registry", in the case where the Board decides to re-assign the domain name object of opposition its decision will be implemented by the Registry unless it receives, no later than 15 (fifteen) days following the date on which the Board's decision is received an appropriately documented communication from the defendant proving that a legal procedure has begun regarding the domain name object of opposition. If the assumptions exist and the party which began the above-stated legal procedure intends to exploit the deadline as of article three below, said party must state and justify this intention in the same communication.

The communication as of the above point must be supplemented, within the following 10 (ten) days, with a photocopy of the introductory deed of the regularly served judgement; failing this, the Registry re-assigns the domain name.

Solely in the case where the introductory deed of the judgement has to be served in or from a foreign country, the deadline for the presentation of the photocopy of the served deed (at the end of which without presentation the Registry will re-assign the domain name) is 30 (thirty) days, starting from the date on which the Registry received the communication as of paragraph one.

In the case where the legal procedure is suspended by the party in question, the Registry enforces the decision of the Board.

## 4 Technical procedure for domain name re-assignment

### 4.1 Introduction of the Procedure

All individuals or corporate bodies having the requirements for registration of a domain name under ccTLD .it can start a re-assignment procedure with an out-of-court disputes resolution service provider (PSRD) qualified by the Registry of domain names of the ccTLD .it (Registry) in the ways envisaged by article 9 of the "Procedure for qualifying out-of-court dispute resolution Service Providers within the context of the ccTLD .it" at its discretion.

The procedure can also be started on one's own behalf and on behalf of individuals or corporate bodies not belonging to the European Union providing that:

- a) the petitioner is acting as licensee under a licence right explicitly recognised by the holder, and this is mentioned and proved during the re-assignment procedure; or
- b) the petitioner is acting under an explicit legitimate concession of another right the breach of which has a bearing on the re-assignment procedure, and this is mentioned and proved

in the re-assignment procedure.

If the chosen PSRD cannot, through impediment or other reasons, examine the complaint submitted to it, it will inform the petitioner who shall be able to submit the complaint to another PSRD of its choice.

If the procedure is submitted by an entity not having the requirements for registering the domain name in the ccTLD .it, the complaint must be rejected through incapacity to sue. To this end the PSRDs are bound to explain this condition on their websites.

## 4.2 Content of the complaint

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The complaint must be sent to the PSRD in two hard copies and electronic format and must:

- 1) indicate what the domain name (or domain names) subject of the complaint is (are) and its (their) current assignees;
- 2) contain the express request that the domain be subjected to the re-assignment procedure;
- 3) indicate the name, postal and email address, telephone and fax number of the petitioner and any person authorised to represent it in the administrative procedure;
- 4) indicate whether the petitioner requires the appointment of a Board of three members or a single expert to decide the proceedings and, in case of a Board of three experts, indicate the names of three candidates from whom to select one of the Board members (the candidate's names must of necessity be included in the list of experts accredited at the chosen PSRD);
- 5) specify the distinctive mark, the name and surname or the trademark on which the complaint is based and, for each distinctive mark, or trademark, describe the goods or services, if existing, that distinguish that distinctive mark or trademark (the petitioner can also describe separately the goods or services that it intends to distinguish with said distinctive mark or trademark in the future);
- 6) specify the reasons for the complaint included therein, in particular:
  - a) the reasons by which the domain name, or domain names, are identical to or can be confused with a distinctive mark, name or trademark which the petitioner enjoys exclusive rights for;
  - b) if known, the reasons by which the defending holder of the domain name object of opposition does not have legitimate rights or interest over the domain name object of complaint; and
  - c) the circumstances from which it can be deduced that the domain name was registered and is used in mala fide according to the provisions of Article 3.7 above "Proof of registration and maintenance of the domain in mala fide";
- 7) indicate any other pending or concluded legal proceedings that it knows of regarding the domain name object of complaint;
- 8) conclude with the following declaration signed by the petitioner or its representative: "*The petitioner declares that its claims and the provisions required concerning the domain name registration, this dispute and its resolution are exclusively addressed to the domain name holder and expressly waives any claim against:*
  - a) the PSRD for the administrative procedure and the persons appointed to the Board, with the exception of fraudulent behaviour;
  - b) the Registry, including its administrators, employees and appointees.
  - c) The petitioner declares and guarantees that, to the best of its knowledge, the information contained in this complaint is complete and truthful and that the complaint is not lodged for illicit purposes.";
- 9) attach, in duplicate, every document or other evidence supporting the complaint, including, if it be the case, proof of registration of the distinctive mark or trademark to which the complaint refers. An index of the attachments must be produced together with the attachments;
- 10) attach a copy of the registered letter of opposition drawn up pursuant to article 5.1 "Introduction of the opposition" of the Rules of assignment and maintenance of domain names in the ccTLD .it;

11) contain authorization to process the personal data shown in the complaint.

### 4.3 Checking the complaint

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Once the copy of the complaint has been received by e-mail, the PSRD checks it is formally in order on the basis of these regulations.

If the PSRD notes formal omissions or irregularities in the complaint, it immediately informs the petitioner, indicating the mistake found in the complaint. The petitioner has 6 (six) days to remedy the defects found. After this term and if the petitioner has not remedied the formal defects found, the complaint is filed, without prejudice to the petitioner's right to start other proceedings.

If the complaint is formally correct, the PSRD informs the Registry by e-mail that it has received it. This communication must show:

- a) the petitioner's name;
- b) its domicile or registered office;
- c) the domain name for which re-assignment is requested;
- d) the name of the Registrant of the domain name object of opposition and, if indicated by the petitioner or available to the public in the DBNA, the postal and email address of the Registrant.

If:

- 1) the petitioner has not indicated the address of the Registrant on the complaint or;
- 2) the address is other than that shown in the DBNA, or;
- 3) it is not visible by means of interrogation of the DBNA;

the Registry within 4 (four) working days will inform the PRSD of the Registrant's postal address and, if present in the DBNA, the email address.

The data contained in the procedure commencement communication, sent by the PSRD to the Registry, are considered confirmed in the absence of specific communication from the Registry within 4 (four) working days following said communication.

The PSRD, having checked that the petitioner has paid the amount due for the procedure and having received the hard copy of the complaint and related documents, communicates the complaint to the assignee of the domain name object of opposition in the ways established in Article 4.4 below.

### 4.4 Notice of complaint to the assignee of the domain name object of opposition

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Notice of the complaint is sent by the PSRD to the holder of the domain name object of opposition by registered post with notification of receipt with the complaint itself and the documents attached to it by the petitioner to the address held in the DBNA by the Registry.

In case that the complaint is to be served abroad and the communication of the complaint has been effected in the manner described above, if after two (2) months no proof of receipt by, or attempt of delivery to, the holder of the domain name is received, the PSRD can send again the complaint and the documents to the holder of the domain name by overnight courier.

The complaint is considered received by the holder of the domain name object of opposition (hereinafter, defendant) when:

- a) it receives the registered letter containing the complaint and documentation; or
- b) in the event of the registered letter not being collected, at the end of the period it is kept at the post office; or
- c) in the event of the addressee not being at the address shown in the Registry's DBNA, when the post office tried to deliver the registered letter.

The decision as of Article 3.12 "Implementation of the decision" must contain a description of all the actions carried out by the PSRD to make the defendant aware that a complaint exists against it.

#### 4.5 Notices during the course of the procedure

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Once the procedure has started, each notice to the parties is made by the PSRD by e-mail to the addresses shown by the parties in their written pleas or in the registry's DBNA. Notices are drawn up in the language indicated in Article 4.11 "Language of the proceedings" and sent in text format.

The parties have the right to request to receive notices from the PSRD through other means, as well as via e-mail, if they pay any extra cost set by the PSRD.

Every communication the PSRD makes by email to the parties must always be sent in carbon copy to the Registry at this address: [dispute-resolution@nic.it](mailto:dispute-resolution@nic.it).

The Parties are bound to promptly inform the PSRD and the Registry of any change of address. Otherwise, all notices are understood to have been sent validly to the previously known address.

Unless otherwise provided for, all terms starting from the sending of a notice by the PSRD shall start from the first data of the notice being sent.

All notices relating to the procedure must be sent to the PSRD which will send them to the Board and the parties.

#### 4.6 Start of the procedure and defendant's answer

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The re-assignment procedure is considered to have started when the holder of the domain name object of opposition is informed of the complaint in accordance with the provisions of Article 4.4 above "Notice of the complaint to the assignee of the domain name object of opposition". The PSRD will inform the petitioner and the Registry of the start of the procedure.

The defendant can send its reply and documents to the PSRD within 25 (twenty-five) days of the date of the start of the procedure. The reply and documents must be sent in duplicate hard copy. Moreover, the reply alone must be sent by e-mail to the PSRD.

The reply must:

- a) counter all allegations and affirmations contained in the complaint and include all the reasons for which the defendant (domain name holder) deems it can keep the registration and use the domain name object of opposition.
- b) indicate the name, postal and email address, telephone and fax number of the defendant (domain name holder) and any person authorised to represent it in the re-assignment procedure;
- c) if the petitioner has asked that the dispute be decided by a Board of three experts, provide the name of three candidates from whom to select one of the Board members (the candidate's names must of necessity be included in the list of experts accredited at the chosen PSRD);
- d) indicate any other pending or concluded legal proceedings that it knows of regarding the domain name object of complaint;
- e) conclude with the following declaration signed by the defendant or its representative:  
*The undersigned defendant declares and guarantees that, to the best of its knowledge, the information contained in this answer is complete and truthful";*
- f) attach the documents or other evidence that the defendant intends to submit to the Board complete with an index;
- g) contain authorization to process the personal data shown in the complaint.

In exceptional cases and on the defendant's motion, the PSRD can extend the term for depositing the reply. If the petitioner and the defendant agree in writing to an extension of the term, the PSRD is bound to allow it.

Once the reply has been received by e-mail, the PSRD will inform the petitioner.

If the defendant does not send any answer, the Board will decide the dispute on the basis of the complaint alone, unless exceptional circumstances occur.

#### 4.7 Appointment of the Board

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Each PSRD keeps and makes available to the public over the Internet a list of names of accredited experts and their qualifications.

If the petitioner does not request the appointment of a Board of three experts, the PSRD will appoint a one-man Board comprising one person chosen from the list of its accredited experts within 5 (five) days of receiving the answer. Costs for the one-man Board are entirely borne by the petitioner.

If the petitioner asks that the dispute be resolved by a Board of three experts, the PSRD will appoint the three experts in the manner shown in the following paragraphs of this article. Costs for the Board of three experts are entirely borne by the petitioner.

If the petitioner has opted for the Board of three experts, the PSRD will appoint one expert per party, one chosen from the names indicated by the petitioner, the other chosen from those indicated by the defendant.

Should one or more experts chosen by the PSRD from those indicated by the parties not accept appointment within 5 (five) days of their being informed, the PSRD can appoint the Board by choosing one or both experts directly from its own list. In any case, the third expert is appointed by the PSRD choosing from the names shown in a list of five candidates submitted by the PRSD to the parties; selection from the five candidates is made by the PSRD trying to reconcile within reason the each party's preferences which they can specify within 5 (five) days of receiving the list as of above.

The Board is considered formed when the PSRD receives acceptance by the expert, if the only one, or the third expert, in the case of a Board of three experts. With the Board being formed, the PSRD informs the parties of the names of the designated experts and the date within which, barring exceptional circumstances, the Board will give its decision on the complaint.

#### 4.8 Impartiality and independence

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Each expert is free to accept or refuse appointment in individual re-assignment procedures.

The expert must be impartial and independent and, before accepting the appointment, must point out to the PSRD the existence of any circumstance that may cast doubts on his independence and impartiality. If, at any time during the procedure, there arise circumstances that may cast doubts on the expert's independence and impartiality, the latter is obliged to promptly inform the PRSD of this. In this case, the PRSD has the right to appoint another expert as a replacement.

If the expert does not accept the appointment within 5 (five) days of nomination, the PRSD shall appoint a new expert.

#### 4.9 Communications between the parties and the Board

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No party or its representative may correspond unilaterally with the experts appointed to decide on the complaint. All communications between one party and the Board, experts or PRSD must be transmitted to the administrator appointed by the PRSD in the manner as of Article 4.5 above "Notices during the course of the procedure".

#### 4.10 Board's Powers

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The Board establishes the procedure for carrying out the proceedings in a manner compatible with the "Rules of assignment and management of domain names in the ccTLD .it" and the "Rules for dispute resolution in the ccTLD .it". In any case, the Board ensures that the petitioner and defendant are treated impartially and that each of these is guaranteed equal right to plead.

The Board ensures that the proceedings take place with the due haste. In exceptional cases, the Board, at the request of one of the parties or the office, may permit extensions to the terms provided for.

The terms shown, unless explicitly indicated otherwise, are mandatory. Failure to observe the

terms leads to forfeiture.

The Board determines the admissibility, significance and pertinence of the evidence and evaluates it freely.

The Board may, at the request of one of the parties, arrange the hearing into several re-assignment procedures pending before the same PSRD between the same parties for different domain names.

#### 4.11 Language of the proceedings

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The re-assignment procedure is conducted in Italian. It is the Board's right to decide, taking into account the circumstances of the single procedure and on request from one of the parties, whether to conduct it in another language.

The Board can order that documents produced in any language other than Italian be accompanied by a full or partial translation into the language of the proceedings.

#### 4.12 Clarifications and further pleas

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In addition to the complaint and the answer, the Board can, at its discretion, request further clarification and documents from each of the parties.

If both parties so request, the Board is bound to concede further terms, no less than 7 (seven) days, for the deposit of written pleas or production of documents. In ordering these terms to be conceded, the Board also determines the method of communication and deposit.

In the event of the Board conceding the parties terms for further briefs or production of documents, the term for the decision is postponed to the fifteenth day after the term fixed for the deposit of the parties' last written plea.

#### 4.13 Form of the Procedure

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The re-assignment procedure is as a rule carried out entirely in writing.

Nevertheless the Board can decide, at the parties' request, and at its own discretion and in exceptional cases, to question the parties personally or to admit evidence from witnesses.

In this case, the Board takes suitable measures to govern the method for carrying out the hearing fixed for the interrogation, determining the additional costs for these proceedings. These costs are borne by the party that asked for the examination or evidence from witnesses, and must be paid to the PSRD before the hearing. If the amount is not paid within the term, the party forfeits the evidence or the examination.

#### 4.14 Forfeitures

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If a party does not observe a term provided for by these rules or fixed by the Board, it loses the right to complete the act, unless exceptional circumstances occur, and the Board shall decide on the complaint.

If a party does not comply with any duty provided for by these rules or any request from the Board, the latter can deduce whatever it deems most appropriate from that behaviour.

#### 4.15 Decision

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The Board makes its decision on the complaint on the basis of the affirmations made by the parties and the documents produced and, in any case, in compliance with the Rules of assignment and management of domain names in the ccTLD .it" as well as the "Rules for dispute resolution in the ccTLD .it" and the principles of the Italian legal system.

Unless exceptional circumstances occur, the Board informs the PSRD of its decision on the complaint within 15 (fifteen) days of it being formed or within the extended term in compliance with the last paragraph of Article 4.12 "Clarifications and further pleas".

If the Board comprises three experts, a majority decision is taken.

The Board's decision is in writing, with its reasons, the date of publication and the name (or names) of the expert(s).

If the Board deems that the dispute does not lie within the remit fixed by the “Rules for dispute resolution in the ccTLD .it”, it expressly states this in its decision.

If, at the end of the proceedings, the Board is convinced that the complaint was submitted in *mala fide* or to discredit the domain name holder, it decides that the complaint was submitted in *mala fide* and this constitutes an abuse (reverse domain name hijacking).

#### 4.16 Notice of the decision to the parties and the Registry

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Within 4 (four) days of receiving the Board’s decision, the PSRD emails the whole text of the decision to the petitioner, the defendant and the Registry. The decision is also sent by ordinary post to the parties or their representatives.

If the Board has ordered the transfer of the domain name object of opposition, the Registry immediately informs the petitioner, defendant and PSRD of the date when it intends to implement the decision.

Unless the Board determines otherwise, the PSRD publishes the decision in full and the date of its implementation on a website accessible to the public. In any case, the part of the decision stating that the complaint was made in *mala fide*, as of the last paragraph of Article 4.15 “Decision”, is always published.

Before the decision each party can ask the Board that its name and details be omitted in the publication of the decision. In this case the PSRD is bound to omit those details in the text of the decision made public on its website.

#### 4.17 Pendency

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Parties, which undertake judicial or arbitration proceedings with the domain name object of opposition as object or know of such proceedings, are bound to inform the PSRD of this.

#### 4.18 Closure of the Procedure

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The proceeding can only be declared closed by the Board.

The board declares the procedure closed:

- a) if the parties reach an agreement before the Board’s decision;
- b) if, whilst the re-assignment procedure is pending, one party undertakes judicial or arbitration proceedings concerning the ownership of the domain name object of opposition;
- c) if facts arise that make it superfluous or impossible to proceed with the procedure;
- d) if, during the re-assignment procedure, it emerges that there is already judicial or arbitration proceedings in progress between the parties concerning the ownership of the domain name object of opposition.

If the above-mentioned reasons for closure arise before the Board is appointed, the PSRD appoints the Board without delay so that it can close the procedure. In this case, the terms provided for by the following paragraph for the Board’s decisions cannot start before the Board is formed.

If the reason for closing the procedure was communicated or confirmed to the PSRD by both parties, or if it is documented in writing, the Board declares the proceedings closed within 10 days of it having documentary proof or confirmation by both parties of the existence of the reason for closure.

In other cases, the PSRD informs the parties without delay of the existence of the reason for closure and fixes a term of ten days for them to object to the closure.

Within 5 days after the deadline for objection being reached, the Board:

- if it deems the objection invalid or if no party has objected to the related term, declares the procedure closed;
- if it deems the objection valid, orders the proceedings to continue. In this case, the terms for the decision as of paragraph 2 of Article 4.15 “Decision” start from the date when the

objection was accepted.

#### 4.19 Dismissal of a complaint

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The PSRD can dismiss a complaint directly, only if:

- a) the petitioner has not put right the irregularities in the complaint within the 6 (six) days of which it was informed pursuant to paragraph 2 of Article 4.3 above “Checking of the complaint”;
- b) the PSRD has not received the payment due to it from the petitioner within 6 (six) days of receiving the complaint.

In the event of dismissal, the complaint can be resubmitted.

#### 4.20 Costs

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The petitioner must pay the PSRD a fixed initial fee, which is determined by each PSRD, on submitting the complaint and for the amount asked. In any case, the petitioner bears all the PSRD’S costs, unless otherwise provided for by the fifth paragraph of this article.

The amounts paid by the petitioner to the PSRD are acquired by it in any event, even in the case of the procedure’s closure or suspension, unless the Board deems, in exceptional cases, that the petitioner should be partially reimbursed.

The PSRD cannot start an administrative procedure before the petitioner has paid the initial costs pursuant to the first paragraph of this article.

If the PSRD does not receive the payment within 6 (six) days of receiving the complaint, the complaint shall be considered abandoned and the procedure shall be dismissed without prejudice to the petitioner’s right to resubmit it.

In exceptional cases, e.g. if there is a personal examination, the PSRD may ask the parties to pay the additional costs which are determined by the Board pursuant to Article 4.13 above “Form of the procedure”.

#### 4.21 PSRDS’ and experts’ liability

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Except in the case of fraud or gross negligence on contemplation of the event, neither the PSRD nor the experts can be held liable to a party for any action or omission relating to the re-assignment procedure.

#### 4.22 Procedure rules

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The “Rules of assignment and management of domain names in the ccTLD .it” and the “Rules for dispute resolution in the ccTLD .it” in force at the time the complaint is submitted to the PSRD are applied to the re-assignment procedure.