



Website Domain Names: Ownership, Transfer and Disputes



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Website Domain Names: Ownership, Transfer and Disputes

It is now rare to find a business that does not operate a website. A website is often a key part of a business, and sometimes it may actually be the business! It is therefore vitally important to determine who owns the rights to the relevant domain names. The website owner will also want to make certain that any rights in domain names that they have purchased are properly transferred to it.

It is relatively common to find that websites have been set up with the domain name left in the developer's name, with the rights never properly transferred. In some instances, domain names are registered in the names of individuals who go on to leave the company. In such instances, notifications of renewals will go to the wrong person and this can mean that the domain name, together with all the goodwill built up in it, is lost and can be purchased by someone else.

This fact sheet contains a few terms that you may be unfamiliar with. A glossary has been included towards the end of the fact sheet which you may find helpful.

Who owns a domain name?

The worldwide operation of domain names is through a not for profit organisation in the United States called ICANN (the Internet Corporation for Assigned Names and Numbers). ICANN administers the system through Registries, who control specific TLDs (Top Level Domains), who in turn authorise Registrars to licence specific domain names. Legal ownership of a domain name is retained by a Registrar and the domain name is exclusively licensed for a limited period. The person or organisation that has this exclusive licence is known as the Registrant. Many websites incorrectly refer to the Registrant as the owner of the domain name (as opposed to the ownership of the registration of the domain name).

So how do I find out if I am the Registrant?

Information in relation to the Registrants and Registrars of domain names is free, publicly available and easy to access. There are many 'WHOIS' sites available on the internet with one such site being www.internic.co.uk. You will need to go to such a site and enter the relevant domain name where instructed. It will return a report which can reveal some useful information.

The information available will vary according to the Registry, but the report will show the name of the Registrant and the Registrar in relation to the specific domain name, and it will often give contact web addresses and phone numbers. It will often display the date of renewal of the domain name. If no action is made on behalf of the Registrant, the rights to the domain name will become available for purchase on this date (if not renewed by the Registrant prior to such date). It may show the date the domain was registered, which can be useful for helping to determine the credibility of a website. Towards the end of the report there is usually some information on the relevant Registry.

Generally the information contained in such a report is accurate, but this may not always be the case and the reliance that can be placed on the report varies greatly from one Registry to another.

So how do I transfer a domain name?

Methods of transferring a domain name from one Registrant to another vary greatly according to the registry responsible. If the website ends in .co.uk, Nominet UK will be the Registry to contact in order to transfer a domain name. The relevant process for such domain names can be accessed from <http://www.nominet.org.uk/registrants/maintain/transfer/>.

Some Registries are based overseas and are very difficult to contact. In

many instances it will be simplest to contact the Registrar first who will often deal with the Registry and transfer process for you. They will normally require a letter setting out the details of the domain name to be transferred together with signatures of the current and proposed Registrants consenting to the transfer and a small payment. You will be able to check that the transfer is handled correctly by monitoring the WHOIS information for the domain name.

It is common for parties to set out their agreement to a transfer in a domain name transfer agreement as the transfer process can take some time to complete, especially if there are several domain names and Registries involved.

Disputes and costs

Registries invariably accept registrations on a 'first come, first served' basis, but it is possible in some cases to make a complaint to the Registry if a domain name has been registered illegally (e.g. using someone else's trade mark) or maliciously (e.g. by a disgruntled employee). It is worth contacting the Registry first in such instances as if the procedure is available it will generally be much quicker and cheaper than going through the court system.

In the case of the co.uk TLD, Nominet UK has a three stage process which goes through mediation, expert decision and appeal. Mediation is usually a two week stage after which, if the parties cannot agree settlement, an independent expert is appointed. If the complainant has proved their case, the expert will order that the domain name is transferred to the complainant. If they do not think that the complainant has proved their case they will order no action is taken. The expert can order that the domain name is suspended (i.e. prevented from working but it is not deleted) or cancelled (deleted), but this is unusual. It is possible to appeal such a decision through Nominet UK and/or the courts but this can be costly.

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GLOSSARY OF TERMS

Domain name: an alphabetical or alphanumeric sequence followed by a suffix (e.g. .com) indicating the TLD and used as an internet address to identify the location of a particular web page.

ICANN: means the Internet Corporation for Assigned Names and Numbers.

Registrant: means the person or body with an exclusive right of use over a certain domain for a limited period of time.

Registrar: means a company authorised to register domain names and who, usually, offer internet services in order to allow clients to activate them.

Such companies are regulated by ICANN. The registrar is who to contact in the first instance with regard to a domain name renewal. It is possible to change a registrar if a registrant is unhappy with the service that a particular registrar is providing.

Registry: means the organisation responsible for the actual administration and maintenance of the TLD database. The registry is where registrars can create new or modify existing domain names for registrants. For the .uk registry, the organisation responsible is Nominet UK.

TLD: stands for Top Level Domains. There are two types of TLD. The most common type is "generic", such as .Com, .Net, .Org. The other type of

TLD is known as the "country code" which is assigned to all countries and their dependencies (e.g., the United Kingdom is .uk). Every TLD Registry - generic or country code - has its own prices, policies, and procedures that registrants in that registry are subject to. It is important to know and be prepared to accept these terms before registering names in a particular registry.

WHOIS: means the free information publicly available regarding domain names, such as the registrants and registrars. The information is provided by the relevant registry.

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