

**RULES
FOR RESOLUTION
OF .PL DOMAIN
NAME DISPUTES**

**OF THE COURT OF ARBITRATION
AT THE POLISH CHAMBER
OF COMMERCE**



Sąd Arbitrażowy

przy Krajowej Izbie Gospodarczej w Warszawie

Chapter I

Introductory provisions

§ 1 Application of Rules

1. Disputes over infringement of rights resulting from registration of a “.pl” Internet domain name shall be resolved under these Rules for Resolution of “.pl” Domain Name Disputes (the “Domain Rules”).
2. The Arbitration Rules of the Court of Arbitration at the Polish Chamber of Commerce (the “Arbitration Rules”) or the Mediation Rules of the Court of Arbitration at the Polish Chamber of Commerce (the “Mediation Rules”), respectively, shall apply to matters not addressed in the Domain Rules.
3. In a proceeding referred to in par. 1, it is impermissible to pursue other claims against the holder of a “.pl” Internet domain name, but this does not preclude pursuit of such claims in a separate proceeding.
4. The Domain Rules shall apply if at least one of the parties has its registered office or place of residence in the territory of the Republic of Poland.
5. If the parties to the dispute are exclusively natural or legal persons or organizational units without legal personality with their place of residence or registered office outside the territory of the Republic of Poland, the relevant provisions of the WIPO Expedited Arbitration Rules for Domain Name Dispute Resolution under .pl of the World Intellectual Property Organization with its registered office in Geneva, Switzerland, shall apply.

§ 2 Jurisdiction of the Arbitral Tribunal and grounds for resolution of dispute

1. If the parties have agreed that a dispute over infringement of rights resulting from registration of a “.pl” Internet domain name will be resolved in accordance with the Domain Rules, or have indicated the Court

of Arbitration, unless otherwise provided the Arbitral Tribunal appointed pursuant to the Domain Rules in a proceeding conducted under the Domain Rules shall be deemed to have jurisdiction to hear the dispute.

2. Disputes referred to in par. 1 shall be resolved in accordance with the law in force in the Republic of Poland.

§ 3 Language of proceeding

1. Unless the Arbitral Tribunal orders otherwise upon the mutual application of the parties, the language of the proceeding shall be Polish.
2. Unless the Arbitral Tribunal orders otherwise upon the mutual application of the parties, any documents made in languages other than Polish shall be accompanied by a Polish translation.
3. Awards and orders shall be issued in Polish.

§ 4 Service

1. Written communications and notices in proceedings conducted under the Domain Rules shall be served on the addressee by email unless the Domain Rules provide for service in another form.
2. An application for mediation, pre-arbitration application, statement of claim or statement of defence shall be served in writing.
3. Where written communications and notices may be served by email, service in another form is effective if:
 - 1) the parties agreed to service in that form,
 - 2) the Arbitral Tribunal or mediator so ordered, or
 - 3) the party acknowledged service as effective.
4. Written communications and notices sent by email or fax are deemed served upon transmission if the transmission does not indicate errors.
5. In an application for mediation, pre-arbitration application, statement of claim or statement of defence, and in

legal submissions during the course of the proceeding, the email address, fax number or other address details of the parties and the parties' representatives necessary for service, and any change in these details, shall be provided.

6. If the Court of Arbitration is not informed of a change in the foregoing addresses or numbers, written communications or notices sent to the previous address or fax number are deemed served.
7. Regardless of the form of service, a party is required to serve written communications and notices on the Court of Arbitration and directly on the other party, and, after receipt of notice of appointment of an arbitrator, on the arbitrator.
8. Unless otherwise provided by the Domain Rules, neither party or its representative may contact an arbitrator on matters concerning the proceeding without including the other party.

§ 5 Periods of time

1. Periods specified in the Domain Rules may be extended only in exceptional instances.
2. In consultation with the Arbitral Tribunal, the parties may agree to shorten or extend the periods specified in the Domain Rules.
3. Upon application of a party or at its own initiative, the Arbitral Tribunal may order the extension of periods specified in the Domain Rules.

§ 6 Representatives

In proceedings conducted under the Domain Rules, any natural person with full legal capacity may serve as the representative of a party.

Chapter II

Arbitrators and mediators

§ 7 List of Arbitrators and Mediators

1. The Court of Arbitration maintains a separate List of Arbitrators and Mediators recommended by the Court of Arbitration at the Polish Chamber of Commerce in disputes over infringement of rights resulting from registration of a “.pl” Internet domain name (the “List of Arbitrators and Mediators”).
2. Natural persons possessing qualifications useful for service as an arbitrator or mediator in disputes over infringement of rights resulting from registration of a “.pl” Internet domain name and who have earned a degree in law and practise the profession of advocate, legal adviser or patent attorney or hold the academic title of professor or a postdoctoral degree in legal studies may be entered on the List of Arbitrators and Mediators.

§ 8 Qualifications of arbitrator

1. By accepting office, the arbitrator undertakes to perform the office in accordance with the Domain Rules.
2. No later than 3 days after receipt of notice of appointment, the arbitrator shall accept the appointment by submitting a written statement to the Director General on acceptance of the appointment, the arbitrator's independence and impartiality, and availability of the time necessary to properly perform the duties of arbitrator. The arbitrator must also disclose any circumstances which may raise doubts as to his or her independence or impartiality.
3. If the arbitrator refuses to accept the appointment or does not meet the deadline referred to in par. 2, the Director General shall promptly notify the parties.
4. If the parties do not appoint a new arbitrator within 3 days after receipt of the notice, the arbitrator shall be

- appointed by the President of the Court of Arbitration.
5. Par. 4 shall apply respectively if the Arbitral Tribunal is composed of three arbitrators and the arbitrators have failed to appoint the third arbitrator (presiding arbitrator).
 6. A person consenting to serve as arbitrator is required to complete the arbitration proceeding within the time specified in the Domain Rules unless the circumstances of the given case require the proceeding to be conducted longer.

§ 9 Number of arbitrators

A dispute shall be resolved by one arbitrator unless the parties mutually provide for resolution of the dispute by three arbitrators. Provisions concerning the Arbitral Tribunal shall apply to both a single arbitrator and to three arbitrators hearing a dispute.

§ 10 Method of appointment of arbitrators

1. The claimant is required to indicate in the statement of claim an arbitrator from the List of Arbitrators and Mediators, and the respondent may consent in the statement of defence to appointment of the same arbitrator or indicate another arbitrator from the List of Arbitrators and Mediators. In that case, within 3 days after it is notified by the Director General of the indication of the arbitrator by the respondent, the claimant may consent to the appointment of the same arbitrator. Absent such consent, the parties may mutually renew their proposals for appointment of an arbitrator.
2. If an arbitrator is not appointed by the parties within 21 days after service of the statement of claim on the respondent or if the respondent or the claimant fails to take a position within that time on appointment of the arbitrator indicated by the other party, the arbitrator shall be appointed by the President of the Court of Arbitration pursuant to § 11.
3. The parties may mutually appoint as arbitrator a per-

son from outside the List of Arbitrators and Mediators. Appointment of an arbitrator from outside the list must be made in writing.

4. If the parties have agreed that the Arbitral Tribunal will be composed of three arbitrators and have not agreed on a different method for their appointment, each of the parties shall appoint in writing an arbitrator from the List of Arbitrators and Mediators, and then the arbitrators appointed by the parties shall appoint a third arbitrator from the List of Arbitrators and Mediators. If an arbitrator is not appointed by a party within 14 days after the parties notify the Court of Arbitration that the Arbitral Tribunal will be composed of three arbitrators, or if the arbitrators appointed by the parties do not appoint the presiding arbitrator within 14 days after their appointment, the arbitrator shall be appointed by the President of the Court of Arbitration pursuant to § 11.

§ 11 Default appointment of arbitrator

1. In instances specified in § 10 (2) and (4), or if a party waives in writing the right to appoint an arbitrator, the President of the Court of Arbitration shall appoint an arbitrator under the following procedure:
 - 1) The Director General shall provide the parties a list with the names of at least three arbitrators indicated by the President of the Court of Arbitration, or if the Arbitral Tribunal is composed of three arbitrators, the names of at least nine arbitrators, in alphabetical order, with a brief description of their qualifications.
 - 2) Each party may strike from the list the names of persons whose appointment they oppose, and next to the names of the persons not stricken place numbers, beginning with 1, indicating the party's order of preference for appointment of the person to serve as arbitrator.
 - 3) Promptly upon return of the list by the party, and also in the event of failure to return the list on

time, the President of the Court of Arbitration shall make a default appointment of the arbitrator, taking into account the objections and preferences submitted by the party, or if both parties object to all of the arbitrators on the list provided to them, then at the President's discretion from among the arbitrators included in the List of Arbitrators and Mediators.

2. The President of the Court of Arbitration shall appoint an arbitrator from the List of Arbitrators and Mediators under the procedure set forth in par. 1 also in the instances referred to in § 8(4) and § 8(5), and if following challenge of an arbitrator pursuant to § 12 the party or arbitrators do not appoint a new arbitrator or presiding arbitrator within 2 weeks following removal of the arbitrator.

§ 12 Challenge of arbitrator

1. A party challenging an arbitrator shall address a written challenge to the Court of Arbitration and directly to the other party and the arbitrator. The challenge of an arbitrator may also be made orally for inclusion in the record of the hearing.
2. Within 2 days after service of the challenge or assertion of the challenge at the hearing, the arbitrator and the other party may present their positions in writing to the Court of Arbitration and directly to the other party and the arbitrator.
3. The challenge of an arbitrator shall be decided by the President of the Court of Arbitration within 5 days after receipt of the written challenge or assertion of the challenge at the hearing.

Chapter III

Mediation

§ 13 Commencement of mediation proceeding

Prior to commencement of an arbitration proceeding, a party demanding that a holder of a “.pl” Internet domain name cease infringing its rights may file an application for mediation with the Court of Arbitration.

§ 14 Application for mediation

1. An application for mediation shall meet the requirements specified in § 2 of the Mediation Rules and indicate the mediator as well as the “.pl” Internet domain name which the dispute involves.
2. If the application does not meet these requirements, the Director General shall issue the summonses referred to in § 2(3) and § 3(1) of the Mediation Rules, specifying periods of no more than 7 days.
3. If the holder of the Internet domain name does not consent to mediation or does not respond to the proposal to conduct mediation within 7 days, or if either of the parties fails to pay the fees due within 7 days after a summons to pay them, the application for mediation shall not be considered and the Director General shall notify the parties accordingly.

§ 15 Mediator

The provisions of § 10, § 11 and § 12 of the Domain Rules concerning arbitrators shall apply as relevant to mediators.

§ 16 Service during the course of mediation

During the course of the mediation, the Court of Arbitration and the mediator shall effect service upon and contact the parties in the form they deem proper under the circumstances of the case.

§ 17 Mediation proceeding

1. A mediation proceeding shall be completed within 30 days after the mediator accepts the appointment.
2. Time limits binding on the parties during the course of the mediation proceeding shall be specified by the mediator. The consequences of failure to comply with a specified time limit shall be borne by the party that failed to comply with the time limit.
3. If the parties do not consent to meet for a mediation session, the mediator may meet separately with each of the parties.

§ 18 Settlement during mediation proceeding

1. Depending on the results of the mediation, the mediator may propose to the parties that they reach a settlement concerning the “.pl” Internet domain name under specified terms, reflecting the justified interests of the parties.
2. A settlement concerning the Internet domain name reached by the parties in the mediation proceeding shall be signed by the parties and the mediator.

Chapter IV

Arbitration proceeding

§ 19 Commencement of arbitration Proceeding

1. Before commencement of an arbitration proceeding, the party intending to file a statement of claim shall pay the registration fee in accordance with the Tariff of Fees in force and file a pre-arbitration application containing information about the intention to file a statement of claim and designating the party it will be filed against (the holder of a “.pl” Internet domain name) and the Internet domain name which the arbi-

tration proceeding will concern.

2. Promptly after receipt of the application referred to in par. 1, the Director General shall request the parties to sign an arbitration agreement within a specified period of no more than 14 days and send them the List of Arbitrators and Mediators.
3. The Director General shall promptly notify the parties of receipt by the Court of Arbitration of the arbitration agreement signed by both parties.
4. If a party refuses to sign the arbitration agreement or the deadline referred to in par. 2 is not met, the Director General shall notify the other party and the proceeding shall end with the Director General’s submission to the file of a statement that the arbitration agreement was not signed by both parties.

§ 20 Statement of claim

1. The statement of claim shall be filed and paid for by the claimant within 14 days after its receipt of notice of filing with the Court of Arbitration of the arbitration agreement signed by the parties.
2. The statement of claim must meet the requirements specified in § 25(1) of the Arbitration Rules and must also include an indication of an arbitrator and the name of the “.pl” domain name which the dispute involves and a demand for a finding that the respondent has infringed the claimant’s rights as a result of registration of the domain name.

§ 21 Statement of defence

1. The respondent is required to file a statement of defence within 7 days after service upon it of the statement of claim, addressing it to the Court of Arbitration and directly to the claimant. Upon justified application of the respondent, the Director General may extend the period for filing of a statement of defence for a specified period of no more than 21 days.

2. In the statement of defence, the respondent shall assert all objections raised together with the factual circumstances justifying them and reference to the evidence supporting them. The statement of defence shall also include a statement of the respondent's consent to resolution of the dispute by the arbitrator indicated by the claimant in the statement of claim or an indication of another arbitrator from the List of Arbitrators and Mediators.

§ 22 Evidence

1. The Arbitral Tribunal shall rule on the evidentiary applications of the parties in accordance with its own discretion, taking into consideration all of the circumstances of the case.
2. If justified under the circumstances of the case, the Arbitral Tribunal may also admit and consider evidence not applied for by the parties.

§ 23 Witnesses

If a witness fails to appear at the hearing, regardless of the reason for the witness's absence, the evidence from the testimony of the witness shall be disregarded, unless the Arbitral Tribunal orders submission of the witness's testimony in writing within a specified period. The testimony of the witness submitted in this form shall be promptly provided to the parties.

§ 24 Hearing

1. A hearing shall be held if necessary to take evidence from witnesses, the parties or an expert, and also upon demand of both parties.
2. The parties shall be notified of the scheduling of the hearing no later than 5 days in advance.
3. The Arbitral Tribunal shall consider issues of the jurisdiction of the Arbitral Tribunal, application of

the Domain Rules, and any formal objections before taking up consideration of the merits of the case. Such objections shall be asserted in the statement of claim or statement of defence, or at the latest at the opening of the hearing.

§ 25 Completion of arbitration proceeding

1. The Arbitral Tribunal shall make efforts to complete the proceeding no later than 30 days after appointment of the Arbitral Tribunal. The Arbitral Tribunal shall promptly notify the Court of Arbitration and the parties of completion of the proceeding.
2. If the proceeding is not completed within the period specified in par. 1, the Arbitral Tribunal shall submit an explanation to the President of the Court of Arbitration in writing, describing the status of the arbitration proceeding and stating the anticipated date of completion of the proceeding, with a copy for each party. The Arbitral Tribunal is required to present a further explanation every 14 days until the proceeding is completed.

§ 26 Issuance of ruling

The award or other ruling ending the proceeding shall be issued promptly, but no later than 10 days after completion of the proceeding.

§ 27 Settlement

At any stage of the arbitration proceeding, the parties may reach a settlement before the Arbitral Tribunal, which shall confirm conclusion of the settlement by signing the text thereof together with the parties. The settlement shall be submitted to the file and originals provided to the parties.

§ 28 Discontinuance of proceeding

The Arbitral Tribunal shall issue an order discontinuing the arbitration proceeding if:

- 1) the claimant withdraws the statement of claim, unless the respondent objects and the Arbitral Tribunal finds that the respondent has a legal interest in obtaining a resolution of the merits of the dispute;
- 2) the parties mutually apply for discontinuance of the proceeding;
- 3) the parties reach a settlement; or
- 4) continuation of the proceeding has become moot or impossible for other reasons.

Chapter V

Execution of awards and settlements

§ 29 Notices to NASK

The Court of Arbitration shall notify NASK (Naukowa i Akademicka Sieć Komputerowa—Research and Academic Computer Network, R&D unit with its registered office in Warsaw) of:

- 1) receipt of an application for mediation or pre-arbitration application,
- 2) failure to comply with the deadlines referred to in § 14(2) and § 19(2) of the Domain Rules,
- 3) stay of the proceeding, and
- 4) issuance of an order ending the proceeding in the case, in order for NASK to apply the relevant provisions of the rules governing registration and maintenance of “.pl” domain names.

§ 30 Transmission of awards and settlements to NASK for Execution

1. Awards and settlements are binding on the parties.
2. The Court of Arbitration shall promptly transmit an original of an award or settlement to NASK in order for NASK to apply to the “.pl” domain name covered by the award or settlement the relevant provisions of the rules governing registration and maintenance of “.pl” domain names.
3. The Court of Arbitration shall publish awards and settlements in proceedings involving infringement of rights resulting from registration of a “.pl” Internet domain name.

§ 31 Effective date of Domain Rules

1. These Domain Rules were adopted by resolution of the Arbitral Council on 16 December 2014.
2. The Domain Rules shall enter into force on 1 January 2015.