

# **.AU Domain Name Eligibility and Complaints**



Domain Directors Pty Ltd is an Instra Corporation company, and Domain Directors Pty Ltd is also an auDA accredited domain name registrar for Australian domain names in the .AU name space.

The registrant of a .AU domain name has several key responsibilities, and understanding the .AU eligibility policy can sometimes be confusing. This page provides you with several case examples, which may help you gain a better understanding of the .AU domain name eligibility and complaints process.

auDA is the .AU name space governing body, that has prepared, and continues to maintain policies relating to the .AU name space. They have several policies and procedures relating to the complaints handling process for .AU domain names.

Below are some case examples of the more common complaints that may arise. Please keep in mind; all complaints are assessed on a case by case basis, therefore the process may be handled differently depending on how the complaint is lodged.

## **Trademark Holders/Company - Ownership claims to domain names**

For every .AU Domain Name application, domain name registrations are provided on first-come, first-served basis to available applicants. Prior to policy changes in 2002, a registered business name was required to be eligible to register a .com.au or .net.au domain name. This requirement is no longer necessary.

As long as the registrant can demonstrate a close and substantial connection to the domain name, or the domain name is an exact match of their business/trademark name, they are eligible to register their chosen .AU domain on the condition that they provide valid registrant details.

Please be advised, if you hold an Australian Trademark, or Registered Business Name, or an Australian Company with a similar name to a domain name, you are not automatically entitled to register a domain of the same name. If the domain name was registered by another organisation before your company existed, and the other organisation is still eligible to be the domain name license holder for that domain name, they are able to continue to maintain control of the domain license.

If you believe that the current registrant of a domain is not eligible to hold the registration, you will need to lodge an eligibility complaint. Please review the following case examples:

### Case Example 1

*Marcus owns a business name registration for "Metal Gear". He then attempts to register the domain name "metalgear.com.au", but he discovers that it is registered to "Jack Johnson", using a sole Trader ABN, but trading under the name "Metal Gear Unleashed". Marcus is not happy that he cannot register this domain name, as he feels that he should be the rightful owner of the domain rather than Jack.*

*In this situation, Jack is eligible to hold the registration license of the domain metalgear.com.au, as he has a close and substantial connection to the domain name. He was first in to register the domain, and as long as he continues to trade under the name "Metal Gear Unleashed", he will remain eligible to hold the registration license for this domain name.*

*Depending on the date Marcus registered the "Metal Gear" business name, he may or may not be able to lodge a complaint through the .au Dispute Resolution Process (auDRP). He would need to contact auDA to determine the domain name registration date, and he could then make a decision on whether to pursue the complaint further. This is typically what is referred to as a prior right complaint.*

### Case Example 2

*Francis noticed that the owner of myinsurance.com.au is using an expired business name as his eligibility ID to support the registration of the domain name. The domain is registered through Domain Directors, so Francis contacts Domain Directors to lodge an official complaint.*

*Domain Directors' legal team review Francis' complaint, and they have determined that the Registered Business Name that was recorded on the domain name record has indeed expired. They Contact the current registrant, and provide them with 14 days notice to update their eligibility details, or risk having the domain name deleted. The current registrant responds to Domain Directors' request, and provides Domain Directors with the updated eligibility details, and the domain name record is updated accordingly. If the registrant had failed to respond to Domain Directors with the required information in the given time frame, the domain name would have been deleted, however as the current registrant provided valid and up to date details, they are able to retain the ownership of the domain name license.*

### Case Example 3

*Rachel is interested in registering the domain name greenpaper.com.au, but the domain is already registered to someone else. She looks up the registrant information on the domain using a WHOIS search, and she notices that the domain registrant appears to be an individual with no connection to the name "green paper". She lodges an official complaint to Domain Directors, who are listed as the registrar of record for the domain name.*

*Domain Directos' Legal team review Rachel's complaint. The domain registrant is contacted, and is provided with 14 days notice to explain their connection to the domain name. The registrant of the domain name fails to respond within the 14 day notice period. As Domain Directors is unable to verify the close and substantial connection between the registrant and domain name, the domain name is placed in a 14 day "auDA Policy Delete" status, before made available for re-registration. If the registrant of the domain name had responded within the 14 day notice period by providing a valid explanation, the current registrant would be able to retain the license to continue using the domain.*

## **Lodging a Complaint**

For all eligibility complaints where Domain Directors is listed as the registrar of the record, please contact our Legal team for further advice. When lodging a complaint, please provide us with the following details:

The .AU Domain Name  
Your Full Name  
Address  
Telephone Contact Number  
Email

If your complaint relates to a prior right claim, and you are able to demonstrate this, please provide us with this evidence to support your claim. These details may include your registered business name, company name, trademark name, ARBN, ACN, ABN, or Trade Mark number. Providing these details will help us assess your complaint in a more timely manner.

To lodge a formal complaint by email, please email us at: [legal@instra.com](mailto:legal@instra.com)

To lodge a complaint by writing, please address all written complaints to:

Legal Team  
Domain Directors  
GPO BOX 988  
Melbourne, Victoria  
3001

## **More Information**

### **auDA – Australian Domain Policy and Regulation Authority**

For further information about auDA policies, you can contact auDA directly using the contact details provided below:

Telephone: 1300 732 929  
Facsimile: 03 8341 4112  
Email: [info@auda.org.au](mailto:info@auda.org.au)  
Post: 114 Cardigan Street, Carlton VIC 3053

auDA provide public access to all published policies and procedures relating to .AU domain names. We have provided the following web links for your convenience, and we recommend that you review the .au Domain FAQ, .au Domain Policies, and .au Dispute Resolution policy before lodging a complaint. These web links have been provided below:

**.au Domain FAQ**

<http://www.auda.org.au/help/faq-index/>

**.au Domain Policies**

<http://auda.org.au/policies/current-policies/>

**.au Dispute Resolution Policy (auDRP)**

<http://auda.org.au/audrp/audrp-overview/>