



Regulations for the resolution of disputes in the ccTLD “it”

**Version 1.0
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1 Preliminary

The “Regulations for the resolution of disputes in the country code Top Level Domain “it””, henceforth “Regulations disputes”, contain the discipline for the resolution of disputes which arise regarding the assignation and use of domain names on the Internet for the country code Top Level Domain “it”; alternative to a normal court procedure.

The “Regulations disputes” are comprised of the following:

- arbitration;
- procedure for the re-Assignment of domain names subject to challenge procedure, general principles;
- technical Procedure for the re-assignment of domain.

By means of the rules and instruments provided in the “Regulations disputes”, Internet users can make use of a rapid and economical resolution of disputes, in accordance with the principles of equity and equal accessibility to the service.

Informal arbitration by means of arbitrators nominated by each party, is entered into voluntarily and allows a decision to be reached regarding the assignation of a domain name.

The “Regulations disputes” establish, as far as the services broadly speaking supplied by the Registry are concerned, an administrative procedure for re-assigning domain names under which all holders of ccTLD “it” domain names are subject. This procedure aims at the re-assignment of the domain name. The discipline is not of a jurisdictional nature and can therefore be halted by the parties at any time by a petition to the ordinary courts.

1.1 Revisions of this document

Versions later than version 1.0 shall be considered revisions.

Updates to Version 1.0

Revision of 0.1 of 18 February 2008:

- Revision of article 4.3 in order to enable the PSRD to submit the complaint to the Registrant also in the absence of data in the DBNA;
- Revision of article 4.4 in order to enable the PSRD to submit the complaint to the Registrant also in the absence of data in the DBNA;
- Revision of article 4.5 in order to enable the PSRD to submit communications to the Registrant also in the absence of data in the DBNA.

1.2 Glossary of terms used in this document

<i>Term</i>	<i>Abbreviation</i>	<i>Definition</i>
<i>Domain name</i>		The association between a public IP address and a string of characters to guarantee the uniqueness of the association between IP address and domain name. A Domain Name Server (DNS) converts the domain name into its IP address. A domain name comprises two parts.

Registry		The body which is responsible for the assignation of domain names and for the management of registers and primary name servers of a TLD. Delegated for this duty directly by ICANN
Registrant		The person or group of people requesting the registration of a domain name or who has obtained the use of a domain name.
Maintainer	MNT	An organisation which makes asynchronous registrations of domain names on behalf of Registrants in accordance with the “Regulations for assignation and management of domain names under the ccTLD “it””.
Registrar		An organisation which makes synchronous registrations of domain names on behalf of Registrants in accordance with the “Regulations for assignation and management of domain names under the ccTLD “it””.
Database of assigned names	DBAN	Database maintained by the ccTLD “it” Registry where all data regarding domain names assigned under ccTLD “it” is kept
Dispute Resolving Services	DRS	Organisations accredited by the ccTLD “it” Registry for the handling of disputes regarding the re-assignation of domain names registered under ccTLD “it”, in accordance with the following document “Accreditation Methods for suppliers services for the extrajudicial resolution of disputes in the ccTLD “it”” available on the Registry’s website.
Letter of assumption of responsibility	LAR	The LAR is the document by means of which the Registrant assumes complete civil and penal responsibility for the domain name applied for.
Electronic form		An electronic form sent by the MNT to the Registry containing technical data and information for carrying out registration or maintenance of domain names and/or related functions in the DBAN.
Informal arbitration		This permits the parties, by means of the undersigning of a specific arbitration clause, to resolve the dispute about the assignation of a domain name on the basis of the principles and procedures described in these “Regulations disputes”.
Arbitration Board		Indicates a body for the extrajudicial solution to a controversy. It comprises arbitrators accredited by the Registry and chosen by the parties concerned, according to the procedures indicated in the “Regulations disputes”.
Arbitrator		This is the person selected by one party to conduct the arbitration procedure chosen from a List of Arbitrators held by the Registry.
Procedure for the re-assignation of domain name		This is an extrajudicial procedure for resolving controversies arising out the assignation and use of a domain name registered in the ccTLD “it” to which one party turns in order to be re-assigned a domain name, having observed these “Regulations disputes”.
Challenge		Indicates the procedure for challenging a domain name by third parties; this is a prerequisite for commencing a procedure for re-assignation.
Complaint		This is the document by means of which the petitioner commences the procedure for re-assignation at a DRS, declaring the reasons behind his action
Petitioner		Indicates the party making a complaint about the registration of

		a domain name to a DRS in order to have a domain name re-assigned.
<i>Repleader</i>		This is the document by means of which the assignee defends himself in the procedure for re-assignment, contesting the affirmations made by the petitioner by means of the production of any documentary evidence.
<i>Resistant</i>		Indicates the assignee of a domain name, defined Registrant in the “Regulations for the assignation and management of domain names in the ccTLD “it””, against whom the procedure for the re-assignment of the domain name has been commenced.
<i>Party</i>		Either the Petitioner or the Resistant
<i>Start date for a procedure for the re-assignment of a domain name</i>		Indicates the date on which the Registrant of the challenged domain name (Resistant) becomes aware of the complaint or when the DRS demonstrates that it has completed all the actions necessary for informing the assignee of the existence of a procedure for re-assignment against him.
<i>Uninominal Board</i>		Indicates the Board for the extrajudicial resolution of a controversy, designated by a DRS for deciding about a complaint regarding the registration of a domain name
<i>DRS Supplementary regulations</i>		Indicates any additional regulations for re-assignment procedures available to a DRS, as available from the service’s web site
<i>Expert</i>		The person to whom the supplier of the Dispute Resolution Service remits the decision on the re-assignment of the domain name
<i>Final date</i>		Indicates the date by which a particular action must be completed or by which a specific communication must be sent. Failure to conform to the terms prohibits the presentation of further communication or the exercise of any further action, except in special circumstances.
<i>Decision</i>		Indicates the outcome of the arbitration procedure or the procedure for the re-assignment on the basis of which the Registry transfers the domain name to the petitioner or the removal of the “CHALLENGED” status from the domain name.

2 Arbitration

2.1 Arbitration clause

The assignee of a domain name registered with the Registry can submit any controversy arising from the assignation of the domain name to informal arbitration, in accordance with these “Regulations disputes”, on the understanding that the decisions reached by the arbitration Board are valid and binding. Recourse to the arbitration clause can be made clear at the time of registration of a domain name or at a later time by means of the appropriate form available on the Registry’s website.

2.2 List of Arbitrators

A list of arbitrators is kept by the Registry and comprises the names of experts on the subject of domain names. Application proposals by Internet experts are presented to the Registry and are submitted to the Rules Committee for evaluation.

The list of arbitrators nominated by the Registry and who are members of the list, as per paragraph 1, provided with respective CVs, is available on the Registry’s website.

2.3 Composition of the Board of Arbitrators

The Board of arbitrators is composed of three arbitrators, one being chosen by each of the two parties and the third, who acts as chairman of the Board of arbitrators, being chosen by the two arbitrators nominated by the parties.

The party wishing to commence the arbitration procedure must nominate its arbitrator by means of recorded delivery letter, addressed to the opposite party, to the arbitrator he intends to nominate and to the Registry, in which the arbitrator chosen from the list, as per art. 2.2 above, is indicated, as well as the matter to be put to the Board of arbitrators, the factual and legal reasons on which the matter is founded, the party’s conclusions, domicile and e-mail address along with the invitation to the other party to nominate an arbitrator from the members of the list of arbitrators mentioned in the above paragraph 2.2. The party to whom the invitation to nominate an arbitrator is addressed shall, within 10 (ten) working days from receipt of notice as described above, nominate its own arbitrator according to the methods indicated in the second paragraph of article 2.3. Should the party fail to do so, the inviting party can ask the Registry to nominate an arbitrator and the Registry will proceed with the nomination, within 5 (five) working days of the request. The nomination will be notified to the parties via e-mail.

The party arbitrators thus nominated shall choose a chairman of the arbitration Board within 5 working days of the nomination of the second arbitrator. Should such nomination not be made within this deadline the more diligent party may ask the Registry to nominate the third arbitrator. The nomination within 5 (five) working days, by the Registry, will be notified to the parties via e-mail.

The arbitration Board is deemed constituted from the day following the acceptance of the task on the part of the Chairman of the Board.

The arbitrators must pronounce their decision within 90 (ninety) days of the constitution of the arbitration Board.

2.4 Procedure before the arbitration Board

The chairman of the arbitration Board may nominate a secretary to assist during and take minutes of the sitting in which the parties or their representatives are heard.

The arbitration Board may regulate the judgement procedure at its own discretion, assuring complete respect for the debate by both parties. The Board is in any case bound to allow the parties a minimum of 10 (ten) working days to present their defence and documentation and a further

minimum of 10 (ten) working days for the replender and to convene and cross examine the parties if either or both request this. Before the Arbitration Board either party may be represented by another person, except when the arbitration Board retains it necessary to hear the parties in person. Communication to the parties by the arbitration Board, exchange of minutes and replenders may be made via e-mail, except where parties explicitly request hard copy documentation which cannot be transmitted by e-mail.

2.5 Pre-trial powers of the Arbitration Board

In the event of serious circumstances, the arbitration Board may, upon the request of one of the parties, take precautionary measures in connection with the assigned domain name being challenged. Such measures are carried out by the Registry.

Where a preliminary investigation is necessary, the arbitration Board can delegate the preliminary deeds to one single arbitrator. The Registry is bound to supply the arbitration Board with all information requested.

2.6 Decision of the Arbitration Board

The arbitrators will pass amicable judgement according to equity, on the basis of these “Regulations disputes” and according to Italian Law.

The chairman of the arbitration Board will notify the decision of the Board by means of recorded delivery letter to the parties and the Registry. The decisions of the Board will be kept at the Registry and made available to the members who are part of the list mentioned in article 2.2 above. The arbitration decision will be made public except at the contrary request by either of the parties.

The decision of the arbitration Board is final.

The decisions of the arbitration Board will be put into effect by the Registry within 5 (five) working days of receipt of notice of the decision.

2.7 Fees and expenses of the arbitration Board

When reaching their decision, the arbitrators can order their own and the secretary’s fees to be paid in full or in part by the losing party. The Board, at the request of one of the parties, can also award costs for the expenses sustained for the arbitration to the winning party according to fairness and as it sees fit.

3 Procedure for the re-Assignment of domain names subject to challenge procedure, general principles.

3.1 Enforceability

Registered domain names subject to a challenge procedure, in accordance with article 5.6 “Regulations for the assignation and management of domain names under the ccTLD “it”” may, at the request of the challenger, be subjected to the procedure for re-assignation. The procedure for re-Assignation is applicable to any domain name registered in the ccTLD “it”.

3.2 Nature

The aim of the procedure is to verify the title to use or legal disposability of the domain name and that the domain has not been registered or maintained in bad faith.

The only possible result of the procedure is the re-assignation of the domain name.

The procedure is not of a jurisdictional nature and as such does not prevent the parties from appealing, even at a later time, to a court of law or arbitration.

3.3 Procedure for the re-Assignment, arbitration and appeal to a court of law

The Procedure will be conducted by special organisations called Dispute Resolving Services (DRS) who, subject to the opinion of the Rules Committee, meet the requirements of the Registry.

The choice of DRS for carrying out the Procedure will be made by the party who initiates the challenge procedure, at whose sole expense the costs for the Procedure will be charged.

The Procedure cannot be activated if another judgement concerning the domain name being challenged is already pending before an ordinary judge or awarded in accordance with article 806 of the Italian c.p.c, or before an arbitration Board as per article 2 of these “Regulations disputes”. Should a judgement by an ordinary judge or arbitration in accordance with article 806 of the Italian c.p.c, or by an arbitration Board as per article 2 of these “Regulations disputes” be presented whilst the Procedure is still pending, the Procedure shall be extinguished.

3.4 Sources

The procedure for the re-Assignment is regulated by the regulations contained in the section “procedure for the re-Assignment of domain names subject to challenge procedure, general principles” and the “technical procedure for the re-assignment of a domain name” contained in these “Regulations disputes”.

3.5 Supervision of Dispute Resolving Services (DRS)

The Registry, in agreement with the Rules Committee, checks that the organisations who apply have the requisites necessary for conducting the Procedure and supervises their work, in accordance with the rules contained in the “Accreditation Methods for suppliers services for the extrajudicial resolution of disputes in the ccTLD “it””. In the case of repeated violation of the rules for the procedure or their merit by the service supplier, the Registry, following the opinion of the Rules Committee, may dismiss the service supplier from conducting procedures.

3.6 Transfer of a domain name subject to a challenge

The Procedure will be applied for domain names for which a third party (“Petitioner”) claims that:

- a) the domain name subject to a challenge is identical to, or is such as to be misleading, a trade mark or other distinctive company sign, to which the petitioner lays claim, or to the petitioner’s own name and surname; and that
- b) the current assignee (“Resistant”) has no right or title in relation to the domain name being challenged; and lastly that
- c) the domain name has been registered and is used in bad faith.

If the petitioner proves that the above conditions “a)” and “c)” exist and the resistant cannot in turn prove that he has right or title with respect to the domain name being challenged, the domain name will be transferred to the petitioner.

As regards the above point “b)” of this article, the resistant shall be deemed to have right or title to the domain name being challenged if he/she can prove that:

- a) before having notice of the challenge, the resistant used or was objectively preparing to use the domain name or a name corresponding to the domain name for the public offer of goods or services; or
- b) that the resistant is known personally as an association or commercial organisation by the name corresponding to the registered domain name, even if he has not registered the related trade mark, or
- c) that he is making lawful use of the domain name for non-commercial purposes, or for commercial purposes without the intention of misleading the petitioner’s clients or of infringing the registered trade mark.

3.7 Proof of registration and maintenance of a domain name in bad faith

The following circumstances, if proved, shall be considered as proof of the registration and use of a domain in bad faith:

- a) circumstances which lead one to believe that the domain name has been registered with the primary aim of being sold, assigned for use or in any way transferred to the petitioner, or title holder of a name which is the subject of a right recognised or established by Italian or EU law, or to a competitor of the petitioner, for a consideration, money or otherwise, which exceeds the costs reasonably incurred by the resistant for the registration and maintenance of the domain name;
- b) the circumstance in which the domain name has been registered by the resistant in order to prevent the holder of the right to a name, trade mark, denomination, geographic denomination or other distinctive sign recognised by Italian or EU law, from using such name, denomination, trade mark or other distinctive sign in a domain name corresponding to the same for activities in competition with those of the petitioner or, for public bodies, judiciary or other organs of the State, in such a way as to mislead citizens looking for information regarding the activities of such institutions;
- c) the circumstance in which the domain name has been registered by the resistant with the primary aim of damaging a competitor's business or of usurping the name and surname of the petitioner;
- d) the circumstance in which the domain name has been used with the intention of attracting Internet users, for the purpose of obtaining profit, giving rise to possible confusion with a name which is the subject of a right recognised or established by Italian or EU law or with the name of a public body;
- e) the registered domain name is a proper noun or name of a public or private body for which there is no demonstrable connection between the Registrant of the domain name and the registered domain name.

The above list is for the purposes of illustration. The Board of experts may examine evidence of other examples of bad faith in the registration and use of a domain name arising in circumstances different from those listed.

3.8 Multiple Procedures

If more than one procedure regarding a single domain name is begun, those introduced after the first will be suspended until the outcome of the first is known. If the first procedure begun concludes with the transfer to the petitioner of the challenged name, the other procedures will be extinguished.

3.9 Re-proposal of a procedure

A procedure can be re-proposed between the same parties for the same domain name if new facts emerge from the decision and which give grounds for the establishment of a new procedure or if these facts were not known during the original procedure.

3.10 The Role of the Registry

The Registry is extraneous to the proceedings and is not responsible for the work of the DRS handling the procedure.

3.11 Publication of the decision

The list of procedures in course and the decisions on procedures are publicised on the Registry's web site and on the web site of the DRS to which the deciding Board belongs except when, in exceptional cases (including those where the Board maintains that publication might gravely damage the image of the parties of one of the parties) and taking justified measures, the Board decides not to make public, in whole or in part, its decision.

3.12 Fulfilment of the decision

In accordance with what established in the underneath article 4.16 Notification of the decision to the parties and to the Registry should the Board decide to re-assign a challenged domain name, its decision will be put into effect by the Registry (applying the rules as per articles 4.18 and 4.19 of the Guidelines for the resolution of disputes in the ccTLD “it”), unless the Registry receives, within 15 (fifteenth) days of the date of receipt of the Board’s decision, a suitably documented notification from the resistant stating that legal proceedings regarding the challenged domain name have been filed. Should the party which has filed the above stated legal proceedings intend to make use of the terms specified in the third clause below, the party must make an explicit and founded request in the same notification.

The above mentioned notification must be accompanied by photocopies of the regularly served legal notice within 10 (ten) days. In the absence of this, the Registry will proceed with the re-assignment of the domain name.

Only in the case where legal proceedings have been served from or to different countries, the deadline for the production of photocopies of service of the act (after which, if not received, the Registry will re-assign the domain name) is 30 (thirty) days from the date on which the Registry received notification as per the first clause.

Should such legal proceedings be extinguished, on the petition of the interested party, the Registry will execute the decision of the Board.

4 Technical Procedure for the re-assignment of domain names

4.1 Start of Procedure

Any natural person or juridical person having the requisites for registering a domain name under the ccTLD “it” can start a procedure for the re-assignment of a domain name with one of the Dispute Resolving Services (DRS), approved by the Registry for ccTLD “it” domain names (Registry), according to the methods described in article 9 of the “Accreditation Methods for suppliers services for the extrajudicial resolution of disputes in the ccTLD “it””, of his choice.

The procedure can also be introduced for and on behalf of natural or juridical persons not belonging to the European Union provided that:

- a) The petitioner acts as licensee by virtue of a licence right explicitly recognised to him by the holder and of which mention and proof is given in the procedure for re-assignment itself; or
- b) The petitioner acts by virtue of a legitimate and explicit concession of another right whose violation is of account in the procedure for re-assignment and of which mention and proof is given in the procedure for re-assignment itself

If, for any reason or impediment, the complaint advanced cannot be examined by the DRS chosen, the DRS will advise the petitioner who will advance his complaint to another DRS of his choice.

If the procedure is presented by a person who is not eligible to register a domain name, the complaint shall be rejected for lack of legitimacy. For this reason, DRSs are bound to make this condition clear on their web sites.

4.2 Content of the complaint

A complaint must be forwarded to the DRS in duplicate hard copy and in electronic form and must:

- 1) Show the domain name (or domain names) subject of the complaint and their current assignee;
- 2) Contain the expressed request that the domain be submitted to the re-assignment procedure;
- 3) Indicate the name, postal and e-mail address, telephone number and fax number of the petitioner and any person authorised to represent the petitioner in the procedure.

- 4) Indicate if the petitioner requests the nomination of a Board of three experts or a single expert for deciding the proceedings and, in the case of the choice of a Board of three experts, indicate the name of three candidates from which to select one of the members of the Board (the names of the candidates must necessarily be included in the chosen DRS's list of accredited experts)
- 5) Specify the distinguishing sign, name and surname or trade mark on which the complaint is based and, for each distinguishing sign or trade mark, describe the goods or services, if existing distinguished by the sign or trade mark (the petitioner may also describe separately goods and services which he intends to distinguish in the future with their distinguishing sign or trade mark);
- 6) Specify the reasons for the complaint, including and in particular:
 - a) the reasons why the domain name (or domain names) is/are identical or might be confused for a distinguishing sign, name or trade mark to which the petitioner claims the exclusive rights;
 - b) if known, the reasons for which the resistant, Registrant of the challenged domain name, does not have rights to or legitimate interest for the domain name subject of the complaint; and
 - c) the circumstances from which it can be deduced that the domain name has been registered and is being used in bad faith in accordance with point 3.7 above "Proof of registration and maintenance of a domain name in bad faith"
- 7) indicate any other pending or concluded legal proceedings regarding the domain name subject of the complaint of which the petitioner is aware;
- 8) End with the following declaration signed by the petitioner or his proxy:

The petitioner declares that his claims and requested measures regarding the registration of the domain name, this controversy and the resolution of this controversy are aimed exclusively at the Registrant of the domain name and expressly renounces any claim against:

 - a) *the DRS of the administrative procedure and the persons nominated as members of the Board, except in the case of fraudulent behaviour;*
 - b) *the Registry and its administrators, employees and workers.*

The petitioner declares and stands guarantee that, as far as he knows, the information contained in this complaint are complete and true and that the complaint has not been proposed for illegal purposes.”;
- 9) enclose in duplicate any documents or other evidence to support the complaint, including, if opportune, proof of registration of the distinguishing sign or trade mark to which the complaint applies. A detailed list of enclosures must also be made.
- 10) Enclose a copy of the challenge sent by recorded delivery in accordance with article 5.6 of the "Accreditation Methods for suppliers services for the extrajudicial resolution of disputes in the ccTLD "it"" and proof of delivery;
- 11) Contain authorisation for the handling of the personal data indicated in the complaint.

4.3 Examination of the complaint

Once the DRS has received copy of the complaint via e-mail, the DRS will check that the complaint conforms to these regulations

If the DRS notes any lack or formal irregularity in the complaint, it will inform the petitioner immediately, indicating the flaw. If the petitioner does not make right the flaw within the 6 (six) days allowed, the complaint will be archived. The petitioner retains the faculty to commence another proceedings.

If the complaint is made correctly, the DRS will acknowledge Receipt to the Registry via e-mail. This acknowledgement must indicate the following: the name and residence or premises of the

petitioner, the domain name for which re-assignment has been requested, the name of the Registrant of the domain name subject to the challenge and, if indicated by the petitioner or visible to the public in the DBAN, the postal address of the Registrant and the e-mail address of the admin. If the petitioner has not indicated in the complaint the address of the Registrant or the e-mail address of the admin, if they are not visible to the public in the DBAN or else they are different from those indicated in the DBAN, the Registry within 4 working days communicates to the DRS the exact postal address of the Registrant and the e-mail address of the admin, if present in the DBAN.

If the postal address of the Registrant is not indicated in the DBAN, the Registry consigns it to the DRS and the re-assignment procedure is suspended pending acquisition, by the Registry, of the above mentioned data.

Failing communication by the Registry within 4 (four) working days from the dispatch of the notification, the data communicated by the DRS are considered confirmed by the Registry and corresponding to the data present in the DBAN, even if not visible. Therefore the DRS, once payment by the petitioner for the due sum for the procedure and hard copy of the complaint and relative documentation have been received, will notify the complaint to the assignee of the challenged domain name in accordance with the following article 4.4.

4.4 Notification of a complaint to the assignee of a challenged domain name

The complaint will be notified by the DRS to the Registrant of the challenged domain name by the dispatch of the petitioner's complaint and accompanying documentation by recorded delivery mail to the address recorded in the Registry's database of assigned names (DBAN).

Notice of start of procedure is therefore sent by the DRS via e-mail to the current address in the Registry's DBAN of the admin of the domain name whose re-assignment has been requested, if available. The complaint will be considered acknowledged by the Registrant of the challenged domain name (Resistant) when:

- a) The resistant receives the recorded delivery letter containing the complaint and documentation; or
- b) Failing collection of the recorded delivery letter, at the end of the period of for claiming from the post office; or
- c) If the addressee is not found at the address indicated in the Registry's whois database of assigned names when the attempted delivery of the recorded delivery letter by the Post office was made.

The decision as per article 3.12 must contain a description of the action carried out by the DRS for notifying the resistant of the existence of a complaint against him.

4.5 Communication during the procedure

Once the procedure has begun, all communication to the parties will be carried out by the DRS via e-mail to the addresses indicated by the parties in their written defence documents or, if the resistant does not constitute himself, to the current e-mail address of the admin of the challenged domain recorded in the Registry's database of assigned names (DBAN). If the e-mail address of the admin of the domain name is not among the public data of the DBAN, notifications are sent to the resistant via ordinary post service.

Communication will be made in the language indicated in article 4.11 and sent in text format.

The parties may ask to receive all communication by other means, as well by e-mail, at an additional cost established by the DRS.

The parties are bound to advise in good time of any change of address to the DRS and the Registry. Otherwise, communication will be deemed validly sent to the last known address.

Unless otherwise provided for, all deadlines for the dispatch of communication by the DRS will commence from the first date on which the communication was made.

Any communication regarding the procedure must be sent to the DRS, who will then send it to the Board and to the parties.

4.6 Start of procedure and replication of the resistant

The procedure for re-assignment is deemed to have started when the Registrant of a challenged domain name has knowledge of the complaint in accordance with the previous article 4.5 the start date of the procedure is notified by the DRS to the petitioner.

The resistant can send his replader and documentation to the DRS within 25 (twenty five) days from the start of the procedure. The replader and documentation must be sent in duplicate hard copy. Moreover, the replader must be sent by e-mail to the DRS.

The replader must:

1. counter all the statements and allegations contained in the complaint and include all the reasons for which the resistant (Registrant of the domain name) retains he can maintain the registration and use of the challenged domain name;
2. indicate the name, postal and e-mail address, telephone and fax numbers of the resistant (Registrant of the domain name) and any person authorised to represent him during the re-assignment procedure;
3. supply, if the petitioner has requested that the controversy be decided by a Board of three experts, the name of the three candidates from whom one is to be selected to serve on the Board (the names of the candidates must be taken from the list of accredited experts of the chosen DRS);
4. indicate any other pending or concluded legal proceedings regarding the domain name subject of the complaint about which he has knowledge;
5. end with the following declaration signed by the resistant or his proxy: *“The resistant here undersigned declares and guarantees that, to the best of his knowledge, the information contained in this replader is complete and true.”*
6. enclose documents and any other evidence, complete with an index of enclosures, which the resistant wishes the Board to take into consideration.
7. contain authorisation for the handling of the personal data indicated in the complaint.

At the request of the resistant and in exceptional cases the DRS may prolong the deadline for the deposition of the replader. If the petitioner and resistant both agree and in writing, the DRS is bound to concede to the prolonging of the deadline

Once the replader has been received via e-mail, the DRS will communicate it to the petitioner.

If the resistant sends no replader, the Board will decide the controversy on the sole basis of the complaint, except in exceptional circumstances.

4.7 Nomination of the arbitration Board

Each DRS keeps and makes available to the public on Internet a list containing the names of accredited arbitrators and their qualifications.

If the petitioner does not request the nomination of a Board of three experts, the DRS will nominate a single member Board comprising an expert chosen from their list of accredited experts within 5 (five) days of receipt of the replader. The costs of the single member Board are to be entirely born by the petitioner.

If the petitioner requests the nomination of a Board of three experts, the DRS will nominate the three members by the means indicated below. The costs of the Board of three experts are to be entirely born by the petitioner.

If the petitioner opts for the Board of three experts, the DRS will nominate one expert for each party, one chosen from the nominations indicated by the petitioner and the other chosen from those indicated by the resistant.

If one or more of the experts chosen by the DRS from those indicated by the parties does not accept the nomination within 5 (five) days from receiving notification, the DRS can nominate the Board by choosing one or both of the two experts directly from its own list.

The third expert is, in any case, chosen from a list of 5 candidates nominated by the DRS and submitted to the two parties. The final choice is made by the DRS who will reconcile the preferences of the parties, who can specify their choice within 5 (five) days of receipt of the list, as far as is reasonable possible.

The Board is deemed to be formed when the DRS receives the acceptance of the nomination by the expert, if a single member Board, or of the third expert for the Board of three experts. Once the Board has been constituted, the DRS will notify to the parties and to the Registry the names of the designated experts and the date by which, except in the case of exceptional circumstance, the Board will have reached its decision about the complaint.

4.8 Impartiality and independence

An expert is free to accept or decline the nomination in each re-assignment procedure.

The expert must be impartial and independent and before accepting the nomination must advise the DRS of any circumstances which might give cause for doubt about his independence and impartiality. If, at any time during the course of the procedure, circumstances arise which give cause for doubt about the independence and impartiality of an expert the DRS must be notified immediately. In this case, the DRS has the power to nominate another expert.

If this expert does not accept the appointment within 5 (five) days of nomination, the DRS will nominate a new expert.

4.9 Communication between the parties and the arbitration Board

None of the parties or their representatives may correspond unilaterally with the experts nominated for deciding the complaint. All communication between one party and the Board, experts and the DRS must be made to an administrator nominated by the DRS by the means described in the preceding article 4.5 .

4.10 Powers of the arbitration Board

The Board will establish the method of carrying out the proceedings in a manner compatible with the “Regulations for the assignation and management of domain names under the ccTLD “it”” and with the “Regulations for the resolution of disputes in the ccTLD “it””. In any case, the Board will ensure that the petitioner and resistant are treated in an impartial manner and that each is guaranteed equal right to defence.

The Board will ensure that the proceeding take place with due speed. In exceptional cases, the Board may, at the request of one of the parties or on official request, concede an extension of the time limit.

The time limits indicated are, except when explicitly indicated to the contrary, final. Failure to observe the peremptory time limits will lead to foreclosure.

The Board will determine the admissibility, relevance and pertinence of the evidence, which it will evaluate freely.

The Board may, at the request of one of the parties, arrange the union of several pending re-assignment proceedings before the same DRS between the same parties in relation to different domain names.

4.11 Language used for the proceedings

The administrative proceedings are conducted in Italian. The Board has the power to decide, on the basis of the circumstances of each proceeding and on the request of one of the parties, to conduct the proceedings in a different language.

The Board may order the documents produced in a language other than Italian to be accompanied by whole or partial translations in the language of the proceedings.

4.12 Clarification and further defence

In addition to the complaint and the replender, the Board may, at its discretion, ask either party for further clarification and documentation.

At the request of both parties, the Board shall concede more time, no less than 7 (seven) days, for the deposition of written defence or the production of documentation. In ordering the prolonging of the time limit, the Board will also decide the method of communication and deposition.

If the Board concedes more time for the parties to produce further evidence or documentation, the time limit for the decision will be postponed to the 15 (fifteenth) day after the time limit fixed for the deposition of the last written defence of the parties.

4.13 Form of the procedure

The re-assignment procedure is normally conducted in writing.

The Board may, however, at the request of the parties, and at its own discretion, decide to question the parties in person or hear witness evidence.

In this case, the Board will take all necessary measures for regulating the method of the hearing, establishing the additional costs for the preliminary investigation. These costs are to be borne by the party requesting the hearing or witness evidence and must be paid before the hearing to the DRS. Failure to make payment will cause the loss of the evidence or direct examination.

4.14 Lapse

If one of the parties fails to respect the time limit imposed by these regulations or fixed by the Board, the action will lapse and the Board, except in extraordinary circumstances, will make a decision on the complaint.

If one of the parties fails to comply to any obligation provided for under these regulations or to any request made by the Board, the Board may draw from such behaviour the deductions it deems most appropriate.

4.15 Decision

The Board bases its decision on the complaint on the statements made by the parties and the documents produced and, in any case, in compliance with the “Regulations for the assignment and management of domain names under the ccTLD “it”” and with the “Regulations for the resolution of disputes in the ccTLD “it”” and in accordance with the principles of Italian law

Except in extraordinary circumstances, the Board will communicate its decision on the complaint to the DRS within 15 (fifteenth) days from the Board’s constitution or within the extended time period in accordance with article 4.12, last clause.

If the Board is composed of three arbitrators, the majority decision holds.

The Board’s decision is made in writing stating its reasons, shows the date of publication and the name (or names) of the experts.

If the Board maintains that the controversy does not fall into the competence fixed by the “Regulations for the assignment and management of domain names under the ccTLD “it”” it will be declared expressly in the decision.

If, after the preliminaries, the Board reaches the conclusion that the complaint had been promoted in bad faith or to discredit the Registrant of the domain name, the Board will assume a decision from

which the complaint will be seen to have been promoted in bad faith and that this constitutes infringement (reverse domain name hijacking).

4.16 Notification of the decision to the parties and to the Registry

Within 4 (four) days of receipt of the Board's decision, the DRS will communicate the complete text of the decision via e-mail to the petitioner, the resistant and the Registry. The decision will also be sent by ordinary post to the parties or their proxies.

If the Board disposes for the transfer of the challenged domain name, the Registry will communicate to the petitioner, the resistant and the DRS the date when it will carry out the decision.

Except by contrary decision of the Board, the DRS will publicise the complete decision and the date of its effect on a web site accessible to the public. In any case, a decision affirming that the complaint had been promoted in bad faith in accordance with ex art. 3.7 last clause will always be made public.

Before the decision, either party may ask the Board that in the publication of the decision the name and personal data be omitted. In this case, the DRS is bound to omit such data from the text of the decision made public on its web site.

4.17 Pending proceedings

The parties who undertake judicial or arbitrary proceedings regarding a challenged domain name or who are aware of the existence of such proceedings are bound to notify the DRS.

4.18 Extinction of the procedure

The extinction of a proceedings, except in the case as per article 3.3 above, last clause, can only be pronounced by the Board.

The Board will declare the extinction of the procedure:

- a) If the parties reach an agreement before the Board makes a decision.
- b) If one of the parties undertakes prior to the re-Assignment procedure judicial or arbitral proceedings regarding the ownership of a challenged domain name
- c) If reasons arise which render superfluous or impossible the continuation of the procedure, except if one of the parties raised founded reasons for continuing within the time limit fixed by the Board;
- d) If it emerges during the procedure for re-assignment that judicial or arbitral proceedings were already in progress between the same parties over the ownership of the challenged domain name.

If the above cases arise before the nomination of the Board, the DRS will, without delay, proceed to nominate the Board so that the Board can extinguish the procedure.

4.19 Dismissal of a complaint

The dismissal of a complaint can be done by the DRS directly only when:

- a) The petitioner fails to make good, within 6 (six) days, the defects notified to him in accordance with article 4. 3, clause II
- b) The DRS has not received payment from the petitioner within 6 (six) days of the receipt of the complaint.

Dismissed complaints can be re-proposed.

4.20 Expenses

The petitioner must pay a fixed sum determined by the DRS at the time of lodging the complaint. In any case, the petitioner will bear all the expenses of the DRS, except in the case provided for in clause V of this article.

The sums paid by the petitioner to the DRS are in any event due the DRS even in the case of extinction or suspension of the procedure, except when the Board retains, in extraordinary circumstances, that the petitioner shall be partially reimbursed.

The DRS cannot begin the administrative procedure before receiving payment from the petitioner of the initial expenses in accordance with the first clause of this article.

If the DRS does not receive payment within 6 (six) days from receipt of the complaint, the complaint shall be deemed abandoned and the procedure will be dismissed, the petitioner retaining the right to re-propose the complaint.

In exceptional cases, for example when a personal examination takes place, the DRS can ask the parties to pay any additional expenses as decided by the Board in accordance with article 4.13.

4.21 Responsibility of the DRS and experts

Except in the case of malice or gross negligence, neither the DRS nor the experts can be considered liable to the parties for any action or omission regarding the re-assignment procedure.

4.22 Procedural regulations

The “Regulations for the assignation and management of domain names in the ccTLD “it”” and the “Regulations for the resolution of disputes in the ccTLD “it”” in force at the time of presentation of the complaint to the DRS shall be applied to the procedure for re-assignment.