

## New regulations for registering domain names in China

Companies seeking to register .CN domain names should beware of the potential dangers.

China's Internet Network Information Center (CNNIC), authorised by the Ministry of Industry and Information Technology of the People's Republic of China (MIIT), has responsibility for operating and administering China's domain name registry: the .CN country code top level domain (ccTLD) and the Chinese Domain Name (CDN) system. A Chinese domain name contains Chinese characters.

On December 15, 2009, MIIT circulated a notice about a special campaign to handle online pornographic content, directing responsibility to different authorities and organisations in China, including CNNIC and accredited service registrars. Because some operators of pornographic websites had been evading supervision by frequently switching domain names and IP addresses, MIIT specially required CNNIC and the service registrars to take the following measures:

- Establishing a blacklist to include the holders of those domain names whose websites were shut down
- Requiring all applicants for domain name registrations to provide authentic, accurate and integral information about the registration
- Withholding DNS direction for those websites not recorded at MIIT, and
- Co-operating with the relevant authorities to stop DNS direction for those websites containing obscene or offensive content identified by the relevant authorities, reporting them and including the holders of the domain names on the blacklist.

### **New requirements**

As usual, an applicant must provide the domain name to be registered; number of years of registration, the applicant's name, address, telephone and fax numbers, and email address, a contact person's name and server (DNS) information.

In light of MIIT's policy, CNNIC announced new requirements for registering .CN domain names and Chinese domain names as follows:

- A copy of the Certificate of Business License of Legal Entity for the applicant company or a copy of the Certificate of National Organization Code of the applicant company, and
- A copy of the Chinese Resident Identity Card of the contact person of the applicant company.

When the new requirements were implemented on December 14, 2009, CNNIC also required a copy of the application form stamped by the applicant company's seal, but it no longer requires the form.

The Certificate of Business License is a proof of a registered company's legal right to operate its business in China. The certificate is issued by an Administration for Industry and Commerce at county, provincial or national level after it checks and approves the registration of the company according to the relevant laws of China.

A National Organization Code (NOC) is a unique and invariable legal identifier issued to an enterprise, a department, a society, an association or a non-profit organisation founded and existing under the relevant laws of China. The Certificate of National Organization Code is issued by the National Administration for Code Allocation to Organization under the General Administration of Quality Supervision, Inspection and Quarantine of China. Any company that has had a Certificate of Business License is eligible to apply for a Certificate of National Organization Code.

Because of the new requirements, individuals are no longer allowed to register .CN domain names and Chinese domain names as of December 14, 2009.

For .CN domain names or Chinese domain names registered prior to December 14, 2009, all registrants, whether individuals or legal entities, are required to submit documentation to their service registrars, which will then be transferred to CNNIC for verification. As a legal entity, it must also submit a copy of its Certificate of Business License or a copy of its Certificate of National Organization Code and a copy of its contact person's Chinese Resident Identity Card. CNNIC originally determined a deadline of January 31, 2010 for submission, but later agreed to extend the period (the new deadline has yet to be announced).

CNNIC does not distinguish Chinese individuals or entities from foreign individuals or entities that cannot provide Chinese Resident Identity Cards or Certificates of National Organization Code or Certificates of Business License. In practice, service registrars still accept copies of the identification cards or passports of foreign individuals and/or copies of the Certificates of Incorporation of foreign entities and transfer them to CNNIC. CNNIC is awaiting MIIT's further confirmation on whether those foreign documents are acceptable for verification purposes. Though MIIT has not issued a clear opinion about this, it is commonly thought that they will be acceptable, because a decision to the contrary would be unfair.

Under the new regulations, foreign companies are not allowed to register .CN domain names or Chinese domain names directly as of December 14, 2009. Therefore, it is recommended that a foreign company entrust its branch, subsidiary or representative office in mainland China, all of which are eligible to obtain a Certificate of Business License or a Certificate of National Organization Code, to register its .CN domain names or Chinese domain names. Because not every foreign company has a branch in China, if an eligible branch of a foreign company registers .CN domain names or Chinese domain names, this will possibly be in contradiction with the foreign company's wish for universal management of its domain names. However, this is the policy and we cannot foresee it changing in the future. Alternatively, if a foreign company does not have a branch in China but wants to immediately prevent those

types of domain names from being taken by others, it is possible to authorise a Chinese legal services agency to register them in the name of the Chinese agency and then have them assigned to a company branch in China as soon as a branch is established, or to the foreign company itself should the current policy change. Also, it is feasible for the Chinese legal services agency to arrange for the registered .CN domain names or Chinese domain names to redirect to the foreign company's website, commonly under a .COM domain name.

For an assignment, based on mutual agreement, of a .CN domain name or a Chinese domain name registered after December 14, 2009, the assignee must provide its identification documents as required for a new applicant, in addition to an application form of assignment duly executed by both the assignor and the assignee.

For an assignment, based on mutual agreement, of a .CN domain name or a Chinese domain name registered before December 14, 2009, if the current registrant has gone through the verification process and its submission has been accepted by CNNIC, the assignee must provide its identification documents as required for a new applicant, in addition to an application form of assignment duly executed by both the assignor and the assignee; however, if the current registrant has not submitted the required documents for verification or its submission has been rejected by CNNIC, it is still possible to assign the domain name without the new requirements applied.

Concerning a forcible transfer, based on a decision made by a domain name dispute resolution organisation, an arbitration organisation or a Chinese court, the registrar shall change the owner in accordance with the decision. However, after the change is made, CNNIC might still require the new owner to supplement its identification documents for verification.

It has been reported that unwanted operations of .CN domain names have declined tremendously since the policy was implemented.

### **Scam emails**

Perhaps you regularly receive emails similar to the following one our firm recently received:

Dear President,

We are the department of Asian Domain registration service in china. we have something need to confirm with you. we formally received an application on May 3, 2010. one company which called "Pone Group Inc." are applying to register "Peksung" as Network Brand and the following Domain Names:

peksung.asia

peksung.com.hk

peksung.com.tw

peksung.hk  
peksung.in  
peksung.net.cn  
peksung.org.cn  
peksung.tw

After our initial examination, we found that the Domain Names applied for registration are as same as your company's name and trademark. these days we are dealing with it, hope to get the affirmation from your company. if your company has not authorized the aforesaid company to register these, please contact us as soon as possible.

In addition, we hereby affirm that our time limit is 7 workdays. if your company files no reply within the time limit, we will unconditionally approve the application submitted by "Pone Group Inc.".

Best Regards,

Signatory

XYZ Company

The 'first come, first served' principle is commonly applied in domain name registration. A service registrar shall register domain names immediately according to an applicant's instruction and it has no obligation to withhold one party's applications and alert another party. XYZ Company may not be an accredited registrar, but perhaps an agent of a registrar behind the scenes. Fabricating an urgent situation in which the so-called Pone Group Inc. is going to register the domain names is a strategy to lure us to register them through XYZ Company or the registrar behind it on an 'urgent' basis.

As CNNIC has issued new requirements for registration of .CN domain names and Chinese domain names, such emails including those types of domain names should be considered even more untrustworthy.

Nowadays, it has become an increasingly complex challenge for a company to decide where, when and how to register domain names. Often, it is a consideration of balance between the current or potential value of the domain names in specific countries or regions and the necessary expense of registering and maintaining them. Our firm has registered eight domain names including peksung.com, peksung.cn, and peksung.com.cn. Currently we do not plan to register more though we know the listed domain names are available. So we definitely ignore the scam emails.

Our firm periodically received this type of email from several different senders. And our clients also have received this type of email and have referred to us for advice

many times. We usually suggest:

- Conducting a WHOIS search to identify the status and registration details of the domain names
- Registering those domain names that are still available and of interest to you through a trusted service registrar
- Deciding whether to reacquire some domain names by direct warning, anonymous acquisition through a third party, a dispute resolution process or even a lawsuit if they have been registered by unaffiliated individuals or entities.

It is better to consult a local agency for specialist advice according to the sender's location.

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Xiang Gao graduated from Peking University, Beijing, China with a Bachelor of Law in 1991, and he also obtained a Master of Intellectual Property and Diploma of Advanced Licensing Institute from Franklin Pierce Law Center, Concord, New Hampshire, in the US in 1997. He registered to practice before the Chinese Trademark Office in 1995. In 2004, Gao joined Peksung Intellectual Property Ltd. as a partner to handle trademark, copyright and domain name matters. He is a member of AIPPI China and INTA.