

Dispute resolution under .CL: A case of LDRP based on Arbitration

Margarita Valdés
Legal and Business Manager
NIC Chile
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At the beginning...

- NIC Chile began in 1987, without formalities
- By 1997 there were about 1,000 domains under .CL
- At that time there was a working group involving the local IP community to draft a service agreement with the registrants.
- This had to be rushed in place because of a massive application for hundreds of domains involving many well known trademarks

Formalization of registration under .CL

- In September 1997, the service agreement was published, regulating registration, transfer, deletion and modification of domain names under .CL
- Fees for domain name registrations were introduced, and a Local Dispute Resolution Policy, based on arbitration.

• There was a requirement to re-validate prior registrations, until Dec 31, 1999.

Why arbitration?

- In Chile, there is legal recognition of arbitration, as a jurisdictional way to resolve a conflict between parties.
- The arbiter is recognized as a judge, who leads a legal procedure given and agreed by the parties and the arbiter.
- The result is a sentence, which has the same force as a one issued by a court (*imperium*).
- There is a legal recourse at the Appeals Court.

In 2000 we added mediation...

- Reason: faced with arbitration, parties in conflict often preferred to reach an agreement in the elevator hall, thus avoiding arbitration fees
- Mediation is offered as a free service
- Permits to put motivations on the table before the first audience.
- At the time, it turned out to have an important role in educating the parties about domain names

Experience with the .CL LDRP

- We have more than 13.000 disputes resolved since 1997.
- Protection is not only for trademarks, but also for personal names, pseudonyms, even generic expressions
- It's not expensive, it's in local language, is faster than regular courts
- The number of conflicts is around 3% of the total registrations in a month.

1.- The case of competing applications

- In this case, the domain is awarded to the party that can prove a better right to it.
- In general “first come first served” is an argument, but it may be trumped by other rights argued by other parties.
- In very few cases, there is more that 2 parties.

• The sentence rules who will be the final holder of the domain name.

2.-The case of revocation action

- In this case, the complainant has to prove that it is an abusive registration.
- The conducts are described in the LDRP text.
- The arbiter have to keep in mind arguments about good and bad faith.
- The sentence rules who will be the final holder of the domain, but in this case the holder could be changed or mantained.

Outcomes of the disputes

Relación porcentual de Asignaciones de Dominios en Conflicto



Forthcoming online arbitration system

- The online arbitration system is a platform designed to be used by the arbiters
- It is a web application, where only the parties and the arbiter have access by user and password
- NIC Chile's only role is as the provider of the platform.

- Will standardize cost, procedures and duration. All documents to be submitted electronically.

