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NOW.cn or never: choose the right registrar in China

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Recently we have observed a trend for foreign companies to localize more internet presence in China. In particular if the past years were the years of Alibaba’s TMall and JD.com, now seems that more and more brands are upgrading their online operations by launching their own platforms often deeply integrated into the Wechat ecosystem.

Following the trend we wish to highlight the implications of choosing to host the Internet content in China mainland territory.

Domain name “.cn” vs. domain name “.com”

Sometimes most of foreign companies are already operating in China under a specific registered domestic domain name. Others, they are still in the position to discuss which domain they will use to host the company website or online store.

No matter on which side you find yourself, a careful assessment of the implications to decide whether using a domain name “.cn” or a Top Level Domain (TLD) such as “.com”, “.net”, “.org” is worthwhile, as the company will avoid future adverse consequences in the operation of the website hosted in the selected domain name.

In practice, while TLD domain names can be sold by foreign and Chinese domestic service providers, “.cn” domains can only be offered by Chinese registrars and are subject to specific Chinese regulations which can restrict its operation in certain aspects.

That does not mean that any TLD are out of the scope of Chinese laws, note at all. The registrants of these domains will have to comply with the applicable Chinese legislation as long as they offer their products or services in China, but it will definitely enjoy some more flexibility when it comes to particular technical details specially related to the transfer of the domain name as we will see later.

On the other hand, it may be that a “.cn” domain name can be at some point more attractive or closer to Chinese consumers from a marketing perspective. Or it may help foreign companies to identify itself with China.

Thus, the dichotomy about which domain name choose will have to make considering those implications.



Hosting in China: domain name “.cn”

It is usual that foreign companies operating in China to own a “.cn” domain name to sell/promote their products in this Country. However, sometimes they need to transfer the ownership of the domain name to the subsidiary they have just established in China or perhaps, due to the implementation of the new regulations in this regard they need to transfer the domain name management to a Chinese registrar. In those cases, there are specific restrictions and limitations to be considered. Thus, if your domain name:

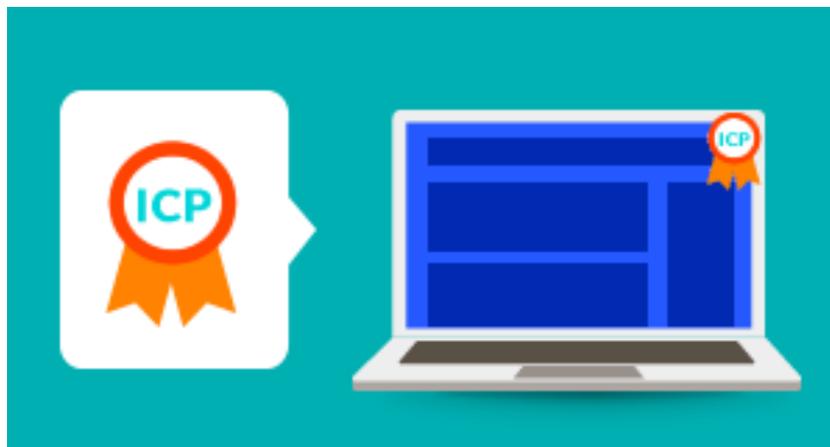
- end up with .cn; and
- is owned by a foreign entity or foreign individual,

whenever you intent to transfer your domain name to a Chinese registrar you will only be allowed to do through the registrar Guangzhou Shidaihulian (www.now.cn).

Even though at present there is no specific legal provision or regulation which states this obligation, according to China Internet Network Information Center (CNNIC) implemented practices Guangzhou Shidaihulian is the only choice for foreign entity or foreign individual who wants to transfer the registrar for his “.cn” domain name.

The reasoning behind this new practice implemented by CNNIC is that in order to comply with the Circular of the Ministry of Industry and Information Technology on Regulating the Use of Domain Names for Internet Information Services (effective from 1 January 2018) Guangzhou Shidaihulian has been appointed as the only domestic registrar qualified to review the business information of a foreign entity or foreign individual and approve the operation of the foreign company through that domain name.

In this regard, it is obvious that with the rapidly growing extension of Chinese online market, foreign companies shall be aware of the right registrar when they come across domain name issue.



ICP license

An ICP (Internet Content Provider) license is a permit issued by the Chinese Ministry of Industry and Information Technology (MIIT) to permit China-based websites to operate in China.

In fact, the license is a state-issued registration number that allows you to host your website on a mainland Chinese server. All sites hosted on a server in the Chinese mainland must, by law, apply for and receive one of the licenses before their site goes live, a rule enforced at the hosting level. The ICP simply means you've been approved to host your website on a mainland Chinese server.

Getting an ICP license implies therefore an additional step that is taken after you buy your hosting and domain, but before your site goes live.

Nevertheless, considering the new set of regulations implemented by the recent Chinese Cyber-Security Law and its more detail rules and standards already in force, hosting your website in a Mainland China server and therefore having to apply for an ICP license is becoming a hot topic. And a step highly recommended in some specific cases.

At the present moment, according to ICP recordation system, only online shopping platforms and financial services fall within the scope of the "commercial" classification that mandatorily requires ICP license in order to be able to operate the website. Otherwise, if the scope of business carried out in a domain name does not fall in that classification, the domain will be defined as "basic" and will not be required to obtain the ICP license.

On the other hand, in case the ICP license is required according to what just mentioned above, the China-based Internet service providers are required to block the site if the license is not acquired within a grace period.

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