

Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Dispute Cases Involving Computer Network Domain Names (2020 Amendment)

Article 1. For civil disputes involving the registration and use of computer network domain names, the parties file a lawsuit in the people's court. After review, the people's court shall accept the lawsuit if it complies with the provisions of Article 119 of the Civil Procedure Law.

Article 2 "Infringement disputes involving domain names shall be under the jurisdiction of the intermediate people's court at the place of infringement or where the defendant is domiciled. If it is difficult to determine the place of infringement and the domicile of the defendant, the location of the computer terminal and other equipment where the plaintiff discovers the domain name can be regarded as the place of infringement.

Foreign-related domain name disputes include domain name disputes in which one or both of the parties are foreigners, stateless persons, foreign enterprises or organizations, international organizations, or where the domain name is registered in a foreign country. Jurisdiction for foreign-related domain name disputes in the territory of the People's Republic of China shall be determined in accordance with the provisions of the fourth part of the Civil Procedure Law.

Article 3 "The cause of a domain name dispute case shall be determined according to the nature of the disputed legal relationship between the parties, and the computer network domain name shall be preceded by it; if the nature of the disputed legal relationship is difficult to determine, it can be generally referred to as a computer network domain name dispute case.

Article 4 The people's courts shall determine that the registration and use of domain names by the defendant constitute infringement or unfair competition if the following conditions are met:

- (1) The civil rights and interests requested by the plaintiff are legal and valid;
- (2) The defendant's domain name or its main part constituted the copying, imitation, translation or transliteration of the plaintiff's well-known trademark; or the same or similar to the plaintiff's registered trademark, domain name, etc., enough to cause misunderstanding by the relevant public;
- (3) The defendant has no rights to the domain name or its main part, nor does it have a legitimate reason to register or use the domain name;
- (4) The defendant had malicious intent in the registration and use of the domain

name.

Article 5: If the defendant's conduct is proved to have one of the following circumstances, the people's court shall determine that he has malicious intent:

(1) Registering a well-known trademark of another person as a domain name for commercial purposes;

(2) Registering or using domain names that are the same or similar to the plaintiff's registered trademarks and domain names for commercial purposes, deliberately causing confusion with the plaintiff's products, services, or plaintiff's website, and misleading Internet users to visit its website or other online sites;

(3) Have offered to sell, rent or transfer the domain name in other ways at a high price to obtain illegitimate benefits;

(4) After registering the domain name, he does not use or intends to use it, but intentionally prevents the right holder from registering the domain name;

(5) Other malicious situations.

If the defendant provides evidence to prove that the domain name held by it has gained a certain degree of popularity before the dispute, and can be distinguished from the plaintiff's registered trademark, domain name, etc., or has other circumstances sufficient to prove that it is not malicious, the people's court may not recognize the defendant Malicious.

Article 6: People's courts hearing domain name disputes, based on the request of the parties and the specific circumstances of the case, may determine whether the registered trademarks involved are well-known in accordance with the law.

Article 7: Where the people's court finds that domain name registration and use constitute infringement or unfair competition, it may order the defendant to stop the infringement, cancel the domain name, or, at the request of the plaintiff, order the plaintiff to register and use the domain name; causing actual damage to the right holder Yes, the defendant can be ordered to compensate for the losses.

The infringer deliberately infringed and the circumstances were serious, the plaintiff has the right to request punitive damages from the people's court.