

auDA PUBLISHED POLICY

Policy Title: CLARIFICATION OF CLOSE AND SUBSTANTIAL CONNECTION RULE – DOMAIN MONETISATION

Policy No: 2006-03

Publication Date: 20/07/2006

Status: Replaced by Policy No 2008-10

1. BACKGROUND

- 1.1 This policy clarifies the “close and substantial connection rule” as it applies to domain names registered in com.au or net.au for the purpose of domain monetisation.
- 1.2 Under the Domain Name Eligibility and Allocation Rules for Open 2LDs (2005-01) it is possible to register a domain name that is “closely and substantially connected to the registrant” (known as the “close and substantial connection rule”). The Guidelines for Accredited Registrars on Interpretation of Policy Rules for Open 2LDs (2005-02) list six categories of close and substantial connection for com.au and net.au domain names. This policy clarifies that domain monetisation falls within the category “a service that the registrant provides”.

2. TERMINOLOGY

- 2.1 This policy uses the following terms:
 - a) “domain monetisation” means registering a domain name in order to earn revenue from a monetised website;
 - b) “monetised website” means a website or landing page that has been created for the purpose of earning revenue from advertising, including monetised domain parking pages;
 - c) “domainer” means a person who has registered a domain name under the close and substantial connection rule for the purpose of domain monetisation;
 - d) “entity name” means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC). It does not include a registered business name;
 - e) “personal name” means the given name(s) and/or last name of a person; and
 - f) “brand name” means the name of an identifiable and distinctive product or service.

3. POLICY PRINCIPLES

- 3.1 This policy aims to strike an appropriate balance between the right of domainers to pursue a legitimate business model, and the broader public interest in preserving the integrity of the .au domain space.
- 3.2 This policy is consistent with .au domain name licence conditions which prohibit the registration of misspellings of company or brand names (refer to Clarification of Domain Name Licence – Prohibition on Misspellings (2005-04)).

4. DOMAIN NAMES REGISTERED FOR PURPOSE OF DOMAIN MONETISATION

- 4.1 It is acceptable to register domain names under the close and substantial connection rule for the explicit purpose of domain monetisation within the category "a service that the registrant provides". The "service" being provided by a domainer is the service of providing users with information and advertising links about the subject matter of the domain name.
- 4.2 In addition to their obligations under auDA Published Policies and the Registrant Agreement (domain name licence), domainers must comply with the following conditions of use:
- a) the content on a monetised website must be related specifically and predominantly to the domain name; and
 - b) the domain name must not be an entity name, personal name or brand name in existence at the time the domain name was registered.
- 4.3 The condition in paragraph 4.2a) is intended to ensure that the close and substantial connection between the domainer and the domain name is visible and meaningful to users. If the content of a monetised website does not relate to the domain name in any discernible way, then the domainer is not providing the service described in paragraph 4.1 and the close and substantial connection rule is not satisfied.
- 4.4 A "reasonableness test" is used to determine whether the content on a monetised website satisfies paragraph 4.2a), ie. would a reasonable person regard the content as related specifically and predominantly to the domain name? For example, a monetised website at www.shoes.com.au would need to contain information and advertising links about shoes and/or shoe manufacturers and suppliers. If the website contained information and advertising links about clothing in general including shoes, then it would not be acceptable under the close and substantial connection rule.
- 4.5 The condition in paragraph 4.2b) is intended to ensure that domain monetisation is not used as a cover for cybersquatting or other misleading or fraudulent activity.

5. COMPLAINTS-HANDLING PROCESS

- 5.1 Where a person believes that a domainer is in breach of the conditions of use outlined in paragraph 4.2 of this policy, that person may lodge a formal complaint with auDA using the contact details on the auDA website at <http://www.auda.org.au>. auDA handles formal complaints in accordance with the Complaints Policy (2002-21).
- 5.2 auDA will investigate the complaint, having regard to the explanatory material in section 4 of this policy. If the complaint is upheld:
- a) where the complaint is about a breach of paragraph 4.2a), auDA will contact the registrant and give them 7 days to rectify the breach. If the registrant fails to rectify the breach within 7 days, auDA will instruct the registrar of record to delete the domain name; and
 - b) where the complaint is about a breach of paragraph 4.2b), auDA will instruct the registrar of record to delete the domain name.
- 5.3 The domain name will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to license the domain name, they must apply for it using the normal application process.