

NIC.br Implements New Liberation Process for Domains “.BR”

By Isis Moret Souza Valaziane

The NIC.br (Center of Information and Coordination of .BR), the entity responsible for implementing projects and decisions of the Brazilian Internet Steering Committee (CGI.br) by means of registering and maintaining domain names with the country code “.br”, has recently approved resolution CGI.br/RES/2017/031, which implements changes in the liberation process of domain names.

The liberation process of NIC.br makes available for registration domain names “.br” that were previously registered, but are currently not in use for some of the reasons that give cause to cancellation, which are provided by resolution CGI.br/RES/2008/008/P. The most common possibility of cancellation is when the owner of the domain name fails to pay the renewal fee, which often occurs due to forgetfulness or lack of proper follow-up.

By the new procedure, which entered in force on September 13, 2017, liberation process is now happening in a monthly basis, instead of just three times a year, as provided in the previous regulation. During the 7 (seven) days of each month in which the liberation process will be open, interested parties may apply for the desired domain name.

The first liberation process under the new resolution is currently open and it is scheduled to expire at 3pm on September 20, 2017. Please be informed that the list of the participant domain names for such process was released by NIC.br. The next liberation process is foreseen to start on October 11, 2017.

Applications of interest in the participant domain names shall always be made within the timeframe set by NIC.br (seven days of each month).

In the act of the application for a domain name, or even until the deadline of the liberation process, the applicant might be informed that the domain has entered into a complementary phase, named “competitive process”.

The competitive process is basically an auction, and it is another novelty of the current procedure, when compared to the previous one. Such phase will happen in case there is a persistent standoff caused by the dispute between more than one interested party over the domain. In the previous procedure, when more than one person applied for the liberation process of a domain name and, resulted in the impossibility of registration of the domain disputed by both parties in case none of the parties owned trademarks in Brazil or a company name registered in Brazil composed by the root of the domain of interest.

Now, with the competitive procedure phase, it will no longer be evaluated the existence of any previous rights owned by any of the applicants to decide over the registration. Instead, the applicant winner of the domain will be the one who makes the highest bid amount for it. Therefore, the only tie-breaking criteria shall be the economic factor.

Please note, however, that only domains that have already gone through two or more previous liberation process and that have had competition (i.e. the ones that by taking part in previous liberation process have undergone application by more than one interested party) will be object of this new phase of competitive process.

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Anderson Ribeiro |
Cláudio Roberto Barbosa |
Eduardo Colonna Rosman |
Elisabeth Kasznar Fekete |
Fabiano de Bem da Rocha |
Fernanda Magalhães |
Filipe Leonardos | Gabriel Leonardos |
Gustavo Barbosa | João Luis Vianna |
Liz Starling | Nancy Caigawa |
Rafael Lacaz Amaral | Ricardo Boclin |
Ronaldo Varella Gomes | Tatiana Silveira |

In this phase, applicants will be informed if there is any competition and then they will be able to make bids to cover the offer already presented by third parties. Bids must be in accordance to amounts previously established by NIC.br – the lowest possible amount shall be of R\$ 50,00 (around USD 20.00), while the maximum shall be established according to the range provided by the NIC.br, depending on the offer already made by one of the parties.

As a way of trying to maintain fairness among participants, the competitive process may undergo an extension if there are new offers in the last 10 (ten) minutes of the end of the process. In this case the process will be automatically extended for other 10 (ten) minutes from the ending previously scheduled, and if the extension leads the process to later than 6pm, the process will continue until 3pm of the next business day.

By the end of each process, the following outcomes are possible:

- the domains that do not have any applicant will be available following the usual rules of NIC.br;
- the domains that have only one applicant will be granted to the sole applicant;
- the domains that have two or more applicants and have not gone through a competitive process, will not be liberated and will remain awaiting the next liberation process;
- the domains that have gone through a competitive process will be registered by the party who makes the highest amount offer.

In view of the information disclosed by NIC.br so far, it is certain that one of the goals of the new dynamic is the gradual liberation of the deadwood storage of more than 10 thousand domains currently reserved and managed by the NIC.br.

TRADEMARK PIRACY: it is important to highlight that this new procedure shall exist jointly with the domain name dispute resolution system adopted by NIC.br in 2010 (known as “SACI”), which is widely considered to be an improved enhancement of the ICANN UDRP applicable to “.com” (and others) domains. Thus, if a trademark pirate bids high in the auction and purchases a domain name he is risking to lose it soon afterwards (and the money he paid for it), under an expedite SACI dispute.

Kasznar Leonardos' Team is prepared to answer any questions regarding this new procedure. We remain at your entire disposal to assist you with the protection of domain names of your interest, as well as to provide you with any further clarification.

Please feel free to contact us, whether in written or by phone, directly to your usual contact or to mail isis.valaziane@kasznarleonardos.com.