

Domain Name Law and Practice

30 June 2005	Denmark	Part I: Overview of the National System of the Protection of Marks and Other Industrial Property Rights in Signs Para DK.03
New law on administration etc. of the “.dk” top level domain		
1 General architecture <p>On 16 June 2005 the Danish Parliament passed a piece of legislation on the “.dk” domain name. The act is a framework legislation whose primary purpose is to bring the administration of the “.dk” domain within a statutory framework instead of the present framework that is based on self-regulation.</p> <p>The act will primarily set out the rules for the general administration of the “.dk” domain name, ie the framework within which the operation of the Registry shall be performed and within which the alternative dispute resolution shall take place.</p> <p>Until the registry service has been put up for tender and this process has been finalised things will continue as they are now as far as the Registry function and the Dispute Resolution Board are concerned (see www.difo.dk).</p> <p>The act does, however, contain some substantive provisions, namely a rule prohibiting acts that are against fair domain name practice, rules prohibiting warehousing, and a provision that makes it possible to introduce rules on use requirements for domain names.</p> 2 New substantial rules 2.1 Revoking domain names that are registered in breach of ‘good domain name practice’ <p>The new rule against unfair domain name practice will enter into force on 1 July 2005 and will apply to all existing and forthcoming registrations.</p> <p>This will offer new opportunities for rightholders and others who feel that registration and use of a “.dk” domain name infringes their rights or otherwise affects their interests negatively. The exact content of the provision will be laid down in the coming years through the practice of the courts and the dispute board. But the recitals of the legislation contain some indications of which types of cases the legislature intended the new provision to cover. These are the types of misuse that are not covered by the present legislation, such as those cases in which the courts and the dispute boards have applied “general principles of law” in order to solve</p>		

the conflicts. Examples include passive holding of a domain name without legitimate cause and misuse of a generic domain name such as “bank.dk”.

2.2. Warehousing will not be permitted from 2010

The prohibition against warehousing, ie the registration and holding of a domain name with the sole purpose of selling or leasing it, will enter into force on 1 July 2010, but will then apply to all domain names, ie also those already registered.

2.3 User requirement

The rule on use requirement will enter into force at a later date which is not yet set. Such rules are bound to be rather complicated, since they must reflect the special nature of domain names. Not all domain names are thus used as business identifiers on the world wide web but may be restricted to be used as e-mail addresses internally within a company or group of companies, which means that you cannot just transfer the user requirements from trade mark law to this area.