

Study on legislative harmonization concerning Indonesian Domain Name Dispute Resolution Procedure

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PANDI's Profile

- PANDI is a non-profit organization incorporated as a legal entity in 2006.
- Domain Name administered: .id, net.id, go.id, mil.id, co.id, my.id, sch.id, ac.id, web.id, ponpes.id, desa.id, biz.id.
- PANDI's model of Governance:



.id Domain Name Dispute Resolution

- Indonesian Domain Name Dispute Resolution (PPND) was established in 2013
- Type of Disputes:
 1. Domain Name related to Brand
 2. Other Domain Name Disputes
 1. Domain Name Related to Name
 2. Disputes on Actual Registrant
- The elements of procedure (45 +/- 22 Business Day)
 1. Pre-Complaint Procedure
 2. Complaint Submission
 3. Response Submission
 4. Mediation
 5. Panel examination
 6. Panel decision → to transfer or to not transfer
 7. Decision implementation → (1) Instruction to the Registrar, (2) Decision Registration, (3) Actual implementation
- Number of Resolved Disputes : 19
- Number of Panelist : 13

- Structure of Legal Basis

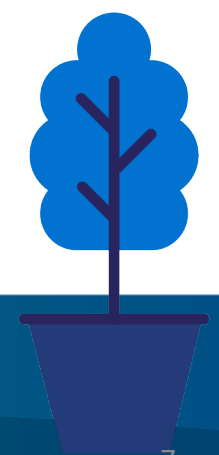
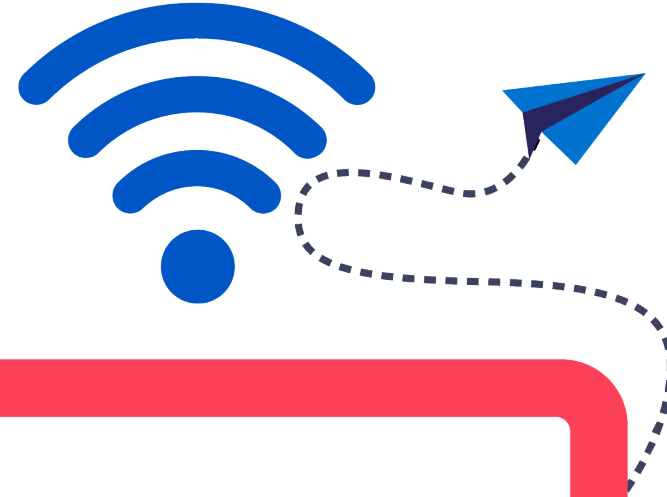
1. Law No 11 of 2008 concerning Electronic Information and Transactions – EIT Law
2. Law No 30 of 1999 concerning Arbitration and Alternative Dispute Resolution – Arbitration Law
3. Government Regulation No 71 of 2019 on Implementation of Electronic Systems and Transaction (before Government Regulation No 82 of 2012 on Implementation of Electronic Systems and Transaction) – The Government Regulation
4. Regulation of The Minister of Communication and Information Technology Number 23 of 2013 on Domain Name Management – The Ministerial Regulation
5. Decree of The Minister of Communication and Information Technology Number 806 of 2014 on PANDI as The Registry of Indonesia Country Code Top Level Domain Name – The Ministerial Decree
6. Indonesia Domain Name Policy on Domain Name Dispute Resolution issued by PANDI Version 7.0 – PANDI Policy

- Concerning Institutional Position
 - PPND was established referring to The Government Regulation, The Ministerial Regulation, and The Ministerial Decree
 - PPND is an online dispute resolution based on user agreement to comply with PANDI Policy
 - Arbitration Law only recognize arbitration procedure based on written agreement between two party in disputes
 - EIT Law only recognize civil action in domain name utilization infringement
 - Results in: PANDI being sued by a Party of PPND
- Concerning Decision Implementation
 - All of the prevailing regulation do not specifically stipulated about the PPND's binding power.
 - Results in: Uncertainty to the decision implementation

The Needs to Harmonization

1. PANDI has won the legal action
2. PPND have registered the Panel Decision to the Court despite of no legal basis to do so
3. As a country heavily count on legislation, the Court decision are not strong enough to fulfil the needs of legal basis
4. It is time to regulate Domain Name in a more comprehensive way
5. It is time to reform the law construction on alternative dispute resolution, especially when it comes to internet governance

DOES YOUR LEGISLATION CREATE
TROUBLE IN IMPLEMENTING
DOMAIN NAME DISPUTE
RESOLUTION?



TERIMA KASIH

