



**QUEENSLAND UNIVERSITY OF TECHNOLOGY
FACULTY OF LAW**

**SUBMISSION TO THE ISSUES PAPER ON SECONDARY
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Written by:

Dr. Jenny Ng

Associate Lecturer

Faculty of Law

School of Law

Queensland University of Technology,

2 George Street,

Brisbane, Queensland 4000,

Australia.

The following are my comments on the six month prohibition on transfers.

The six month prohibition on transfers

The transfer rules under the Transfers (Change of Registrant) Policy (2008-08)¹ allows the registrant to transfer (or sell) their domain name licence to another eligible entity, by any means, and for any reason. The rules on transfer of domain names are useful as they allow registrants to sell their domain name licences when they no longer wish to use them.

However, the transfer rules are subject to the prohibition that the domain name licence cannot be transferred within the first six months of registration. Furthermore, the registrant may not register the domain name for the sole purpose of resale.² The only exception to this six month rule or prohibition is where the registrant applies to auDA for the transfer upon the order of an arbitrator, tribunal, court, or legislative body or where the registrant and the proposed new registrant are legal entities who belong to the same group of related entities (e.g. in a group of companies, etc.).

The purpose of the prohibition that the domain name licence cannot be transferred within the first six months of registration is to enforce the policy rule that the registrant may not register a domain name for the sole purpose of resale.³

¹ 2008-08 Transfers (Change of Registrant) Policy.

² see 2008-05 Domain Name Eligibility and Allocation Rules for the Open 2LDs and 2008-08 Transfers (Change of Registrant) Policy.

³ see 2008-05 Domain Name Eligibility and Allocation Rules for the Open 2LDs and 2008-08 Transfers (Change of Registrant) Policy.

auDA reserves the right to investigate any transfer of domain names under this policy and can reverse the transfer of the domain name if the registrant acts in bad faith or in breach of this transfer policy. However, these rules may be difficult to regulate.

For example, there is almost no way of knowing what the true intention of the registrant is when he registers his domain name. It may be difficult to ascertain if the registrant is registering the domain name solely for the purpose of resale unless the registrant keeps registering domain names and keeps selling them after six months as this may give rise to reasonable suspicion that the registrant's only intention is to resell the domain names.

If a registrant registers the domain name once and sells it after six months, it would be difficult to ascertain whether he intended to register the domain name solely for the purpose of resale. It may also be possible that the registrant registered the domain name solely for the purpose of resale, and was merely waiting for the six month period to end before he could resell the domain name.

Therefore, it is submitted that the six month prohibition on transfers does not fully assist in enforcing the policy rule above.⁴

⁴ see 2008-05 Domain Name Eligibility and Allocation Rules for the Open 2LDs and 2008-08 Transfers (Change of Registrant) Policy.