

SUNRISE DISPUTE RESOLUTION POLICY

1.0 Title: Sunrise Dispute Resolution Policy
Version Control: 1.0
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2.0 Summary

This Sunrise Dispute Resolution Policy (the “Policy”) describes the process and standards that will be applied to resolve challenges alleging that a domain name has been registered or declined to be registered in <.TLD> in violation of the Registry Operator’s Sunrise Eligibility Requirements. This Policy will not be applied to Registry Operator-reserved names.

This Policy is incorporated by reference into the Registration Agreement. A complaint may be filed against a <.TLD> domain name registered or denied registration during the <.TLD> Sunrise period from May 14, 2015 to June 17, 2015 and until September 14, 2015.

This Policy is administered by the National Arbitration Forum (“Forum”) on behalf of Registry Operator. The Rules governing the Policy process may be found at <http://domains.adrforum.com>

3.0 Applicable Disputes

A <.TLD> domain name registered or denied registration in <.TLD> during the Sunrise Period will be subject to this Policy upon submission of a complaint alleging that the registration or denial of registration was improper under one or more of the following criteria.

3.1 Improper Sunrise Registration-Trademarks¹

A complaint under this section shall be required to show by reasonable evidence that a <.TLD> domain name registered in <.TLD> does not comply with the Registry’s Sunrise Eligibility Requirements. Specifically, the complaint must prove one or more of the following elements:

3.1.1 At time the challenged domain name was registered, the Registrant did not hold a trademark registration of national or regional (i.e., multi-nationally) effect or the trademark had not been court-validated or protected by statute or treaty;

¹ ICANN Applicant Guidebook 4 June 2012, Module 5, Page 8, Article 6.2.4. A dispute under this section also addresses the TLD Criteria from ICANN’s Trademark Clearinghouse Rights Protection Mechanism Requirements [published 30 September 2013], Article 2.3.6 and Article 2.3.1.4. The Forum’s Policy does not interact with (nor instruct) the Trademark Clearinghouse and is limited to adjudicating disputes over the Registry Operator’s registration and allocation of domain names during the Sunrise period.

- 3.1.2 The challenged domain name is not identical to the mark on which the Registrant based its Sunrise registration;²
- 3.1.3 The trademark registration on which the Registrant based its Sunrise registration is not of national or regional (i.e., multi-nationally) effect or the trademark had not been court-validated or protected by statute or treaty; or
- 3.1.4 The trademark registration on which the domain name Registrant based its Sunrise registration did not issue on or before the date specified by the Registry Operator in its Sunrise Eligibility, if one was specified.

3.2 Improper Denial of Sunrise Registration

- 3.2.1 A complaint under this section shall be required to show by reasonable evidence that the Registry Operator failed to register a <.TLD> domain name that was applied for in compliance with the Registry Operator's Sunrise Eligibility Requirements.
- 3.2.2 In addition, to pursue remedies set forth in Section 5.0, the complainant MUST notify the Registry Operator within ten (10) calendar days following the Registry Operator's decision to deny registration of the domain name of its intention to submit a complaint under this Policy. Such notice MUST be in writing.

3.3 Policy Effective Dates

Any claim brought under this Policy for <.TLD> domain names shall be submitted no later than one hundred and twenty (120) calendar days after the start of the Sunrise Period.

4.0 Evidence and Defenses

4.1 Evidence

Panelists will review the Registry Operator's Sunrise Eligibility Requirements which are required to be submitted with the complaint, as applicable, in making its decision.

4.2 Defenses

Harmless error. A complainant may produce evidence to show that, although the Sunrise registration was granted based on submission of the wrong documents, or documents containing an error, the true and correct evidence existed at the time the Sunrise registration was applied for and, thus, the registration would have been granted.

5.0 Remedies The remedies available to a complainant for a proceeding under this Policy shall be limited to:

5.1 Improper Sunrise Registration

If the Panelist finds that the domain name was improperly registered during the Sunrise period, the sole remedy for a complaint filed under Policy paragraph 3.1 shall be cancellation of the registration and return of the cancelled domain name to the pool of available names available for registration in <.TLD>.

² For the purposes of analysis of this element, neither the gTLD itself, nor the "dot," shall be considered.

If the complainant independently³ qualifies to register the domain name, either as a regular or defensive/blocking registrant, such application may be made to the Registry Operator, or Registrar, as applicable.

5.2 Improper Denial of Sunrise Allocation

The remedies for a complaint filed under Policy paragraph 3.2 shall be limited to setting aside the denial of the Sunrise registration, if the domain name has not already been registered by another trademark holder during the Sunrise period or a third party during a subsequent period. If the complainant wishes to re-apply to register the domain name, such application may be made through a Registrar.

6.0 Procedure

6.1 Dispute Resolution Provider / Selection of Procedure

A complaint under this Policy shall be submitted to the National Arbitration Forum (“Forum”) by submitting the complaint directly to the Forum. The Forum will administer the proceeding and select a qualified and eligible Panelist. The Forum has established Rules for National Arbitration Forum’s Sunrise Dispute Resolution Policy (“Rules”), setting forth a fee schedule and other technical and process requirements for handling a dispute under this Policy. The proceedings under this Policy will be conducted according to this Policy and the applicable Rules of the Forum.

6.2 Registry Operator’s or Registrar’s Involvement

Neither the Registry Operator nor Registrar will participate in the administration or conduct of any proceeding before a Panelist. In any event, neither the Registry Operator nor the Registrar is or will be liable as a result of any decisions rendered by the Panelist. Any Sunrise-registered domain names in <.TLD> involved in a Policy proceeding will be locked against transfer to another domain name holder or another Registrar during the course of a proceeding.⁴ In the case of a claim under Policy 2(c), the Registry Operator will prevent other parties from registering the unregistered domain name at issue until a decision is reached. The contact details of the holder of a registered domain name in <.TLD>, against which a complaint has been filed, will be as shown in the Registrar’s publicly available Whois database record for the relevant Registrant. The Registry Operator and the applicable Registrar will comply with any Panelist decision and make all appropriate changes to the status of the domain name registration(s) in their Whois databases.

6.3 Parties

The Applicant or Registrant of a registered domain name in <.TLD> shall be promptly notified by the Forum of the commencement of a dispute under this Policy, and may contest the allegations of the complaint or show other cause why the remedy requested in the complaint should not be granted in accordance with this Policy. In all cases, the burden of proof shall be on the complainant, and default or other failure of the holder of the registered domain name shall not constitute an admission to any allegation of the complaint. The Forum shall promptly notify all named parties in the dispute, as well as the Registrar and the Registry Operator of any decision made by a Panelist.

³ A prevailing trademark challenger is still required to meet the Registry Operator’s policies (e.g., Registrant Eligibility, Name Selection, Name Allocation) to be eligible to register the domain name.

⁴ Registry Operator may, though its agreement with Registrars, instead require the Registrar to perform the lock and/or implementation steps.

6.4 Decisions

- 6.4.1 The Panelist may state the basis on which the decision is issued in summary format and may include such commentary or guidance as the Panelist deems appropriate;
- 6.4.2 The decision shall state whether a registered domain name in <.TLD> is to be cancelled or the status quo maintained; and
- 6.4.3 Decisions made under this Policy will be publicly published by the Forum on its website.

6.5 Implementation of a Lock and the Decision

If a Panelist's decision requires a change to the status of a registered domain name, the Registry Operator⁵ will wait ten (10) business days after communication of the decision before implementing that decision, unless the registrant submits to the Registry Operator (with a copy to the Forum) during that ten (10) day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that the Registrant has commenced a lawsuit to preserve its claimed rights in a court of competent jurisdiction over the parties and the registered domain name. If such documentation is received no further action shall be taken until the Registry Operator receives (i) evidence satisfactory to the Registry Operator of an agreed resolution between the parties; (ii) evidence satisfactory to Registry Operator that registrant's lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing such lawsuit or otherwise directing disposition of the registered domain name.

6.6 Representations and Warranties

Parties to a dispute under this Policy shall warrant that all factual allegations made in the course thereof are true and correct to the best of their knowledge, shall remain subject to all representations and warranties made in the course of registration of a disputed domain name.

7.0 Maintaining the Status Quo

During a proceeding under this Policy, the registered domain name shall be locked against transfers between Registrants and/or Registrars and against deletion by Registrants.

8.0 Indemnification / Hold Harmless

The parties shall hold the Registrar, the Registry Operator, the Forum, and the Panelist harmless from any claim arising from operation of this Policy. Neither party may name the Registrar, the Registry Operator, the Forum, or the Panelist as a party or otherwise include the Registrar, the Registry Operator, the Forum, or the Panelist in any judicial proceeding relating to the dispute or the administration of this Policy. The parties shall indemnify, defend and hold harmless the registrar, the Registry Operator, the Forum, the Panelist and their respective employees, contractors, agents and service providers from any claim arising from the conduct or result of a proceeding under this Policy. Neither the Registrar, the Registry Operator, Forum, the Panelist and their respective employees, contractors, agents and service providers shall be liable to a party for any act or omission in connection with any administrative

⁵ Registry Operator may, though its agreement with Registrars, instead require the Registrar to perform the lock and implementation steps.

proceeding under this Policy or the corresponding Rules. The complainant shall be directly and solely liable to the Registrant in the event the complaint is granted in circumstances where the Registrant is lawfully entitled to Registration and use of the registered domain name(s) in <.TLD>.

9.0 Relation to Other Dispute Resolution Policies

This Policy is in addition to and complementary with the Uniform Domain Name Dispute Resolution Policy (“UDRP”), the Uniform Rapid Suspension System (“URS”) and any charter, nexus, or eligibility dispute policies adopted by ICANN or the Registry Operator.

10.0 Effect of Other Proceedings

The administrative proceeding under the Policy shall not prevent either party from submitting a dispute concerning the registered domain name in <.TLD> to concurrent administrative proceedings or to a court of competent jurisdiction for independent resolution during a pending Policy administrative proceeding or after such proceeding is concluded. Upon notice of such other proceeding, the Policy proceeding may be terminated (in the sole discretion of the Panelist) in deference to the outcome of such other proceeding.

11.0 Amendment

The Forum reserves the right to modify this Policy at any time subject to the terms of its Memorandum of Understanding with the Registry Operator. Such revised Policy shall be posted on the Forum Website at least 30-calendar days before it becomes effective;⁶ unless this Policy has already been invoked by the submission of a complaint, in which event the version of the Policy in effect at the time it was invoked will apply until the dispute is concluded. In the event that Registrant objects to a change in this Policy, the sole remedy is to cancel the Registration, provided that Registrant will not be entitled to a refund of any fees paid in connection with such Registration.

⁶ The Forum may correct typographical errors without notice.