

1. Sunrise Dispute Resolution Policy

Introduction

1.1 This Sunrise Dispute Resolution Policy (the “SDRP”) is incorporated by reference into the Registration Agreement. This SDRP is applicable to the Trademark Sunrise and is effective as of 1 January 2017. An SDRP Complaint may be filed against a domain name registered during the .icu TLD Sunrise Period, and until 14 days after the close of the Sunrise Period. This SDRP describes the process and the standards that will be applied to resolve disputes in relation to an allegation that a domain name has been registered by a third party in violation of the Registry’s Sunrise Policy.

1.2 The Registry may modify this Dispute Policy from time to time in its sole discretion. Such revised Policy shall be posted on the Registry’s website with least 14 calendar days before it becomes effective; 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, all such changes will be binding with respect to any dispute, whether the dispute arose before, on or after the effective date of the change.

Initiating a Dispute and Internal Review

1.3 Prior to initiating a dispute under this Policy, potential complainants must submit complaints first to the Registry at: sales@nic.icu

1.4 As a first step the Registry shall attempt to resolve the issue internally without charge. In particular, in the case that the matter is more appropriately dealt with by the Sunrise Registrar or the TMCH, it will advise the potential complainant accordingly. If the complaint relates to a Registry process error affecting the applicable domain(s), the Registry will investigate and if upheld seek to resolve such errors internally without charge. In the event the Registry is unable to resolve the dispute, it will notify the potential complainant to submit its complaint for resolution directly to arbitration at an appropriately located arbitration provider to accommodate the complainant as outlined in this Policy. The Dispute Resolution Provider to be appointed within suitable timeframe for each complainant may include the National Arbitration Forum (USA), WIPO (Switzerland or Singapore) or other Arbitration services provider.

1.5 Any claim or dispute not made to the Registry within ten (10) days of the end of Sunrise will be time barred from consideration by the Registry.

Frivolous Complaints

1.6 A complainant, complainant’s counsel, or complainant’s counsel’s firm, that is found to be responsible for filing three or more SDRP complaints (in any TLD, .icu or otherwise) deemed to be frivolous may be barred from further use of this policy at the Registry’s discretion. A frivolous complaint comes from a complainant that has habitually lodged vexatious complaints, persistently and without reasonable grounds. In denying use of this policy, the Registry or the Dispute Resolution Providers may consider the number of complaints lodged under this Policy or any similar third-party registry policies and paths of dispute resolution, which were resolved in favor of a respondent, or otherwise consider a pattern of abusing such policies.

Applicable Disputes

1.7 A registered domain name in the TLD will be subject to an administrative proceeding upon submission of a complaint that a third-party Sunrise Registration was improper under one or more of the following criteria.

Improper Sunrise Registration-Trademarks

1.8 A complaint under this section shall be required to show by reasonable evidence that a registered domain name in the .icu TLD does not comply with the provisions of the Registry's Sunrise Program. The complaint must prove one or more of the following elements:

- i. at the time the challenged domain name was registered, the registrant did not hold a trademark registration of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty;
- ii. the domain name is not identical to the mark on which the registrant based its Sunrise registration;¹
- iii. the trademark registration on which the registrant based its Sunrise registration is not of national effect (or regional effect) or the trademark had not been court-validated or protected by statute or treaty; or
- iv. the trademark registration on which the domain name registrant based its Sunrise registration was not issued on or before the date specified by the Registry in its Sunrise Criteria, if one was specified.

Evidence

1.9 Arbitrators will review the Registry's Sunrise Policy in making its decision.

Defences

1.10 Harmless error. A Respondent 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.

Remedies

1.11 If the Arbitrator finds that the domain name was improperly registered during the Sunrise period, the sole remedy for a Complaint filed under this SDRP shall be cancellation of the registration, and return of the cancelled domain name to the pool of available names available for registration.

1.12 In the event an SDRP dispute is brought by an auction bidder for the same domain name, the auction will be suspended until the dispute is resolved.

Procedure

Dispute Resolution Provider - Selection of Procedure

¹ For the purposes of analysis of this element, neither the gTLD itself, nor the "dot," shall be considered.

1.13 Following the internal review process set forth in Section 8.4, the Registry will appoint a dispute resolution provider such as the National Arbitration Forum (“Forum”), WIPO Arbitration and Mediation Centre (“WIPO”) or other appropriate provider (collectively referred to as the “Dispute Resolution Provider”) by submitting the complaint directly to such provider as directed by the Registry. Before submission to such provider the Registry will inform complainant and provide adequate time for the preparation of the complaint. The Dispute Resolution Provider will administer the proceeding and select a qualified and eligible Arbitrator(s) (“Arbitrator”). The Dispute will be handled according to the established rules for such providers, Sunrise Dispute Resolution Policy (“Rules”), setting forth a fee schedule and other technical and process requirements for handling a dispute under this SDRP. For example, if the Forum were to be selected as the most appropriate Dispute Resolution Provider the proceedings will be conducted according to this SDRP and the applicable Rules of the Forum. Any fees will be those set by the Dispute Resolution Provider.

Registry’s or Registrar’s Involvement

1.14 Neither the Registry nor Registrar will participate in the administration or conduct of any proceeding before a Dispute Resolution Provider. In any event, neither the Registry nor the registrar is or will be liable as a result of any decisions rendered by the Dispute Resolution Provider. Any sunrise-registered domain names in the TLD involved in a SDRP proceeding will be locked against transfer to another domain name holder or another registrar in the event of a dispute and during the course of a proceeding.² The contact details of the holder of a registered domain name in the 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 and the applicable registrar will comply with any Arbitration decision and make all appropriate changes to the status of the domain name registration(s) in their Whois databases.

Parties

1.15 The registrant of a registered domain name in the TLD shall be promptly notified by the Dispute Resolution Provider of the commencement of a dispute under this SDRP, 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 SDRP. 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 Dispute Resolution Provider shall promptly notify all named parties in the dispute, as well as the registrar and the Registry of any decision made by the Arbitration.

Decisions

1.16 The Arbitrator may state the basis on which the decision is issued in summary format and may include such commentary or guidance as the Arbitrator deems appropriate;

1.17 The decision shall state whether a registered domain name in the TLD is to be cancelled or if the status quo maintained; and

² A Registry may, though its agreement with registrars, instead require the registrar to perform the lock and/or implementation steps.

1.18 Decisions made under this SDRP may be publicly published by the Dispute Resolution Provider on its website.

Implementation of a Lock and the Decision

1.19 If an Arbitrator's decision requires a change to the status of a registered domain name, the Registry³ will wait ten (10) business days after communication of the decision before implementing that decision, unless the registrant submits to the Registry (with a copy to the Dispute Resolution Provider) 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 receives (i) evidence satisfactory to the Registry of an agreed resolution between the parties; (ii) evidence satisfactory to Registry 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.

Representations and Warranties

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

Maintaining the Status Quo

1.21 During a proceeding under the SDRP, the registered domain name shall be locked against transfers between registrants and/or registrars and against deletion by registrants.

Indemnification / Hold Harmless

1.22 The parties shall hold the registrar, the Registry, the Dispute Resolution Provider, and the Arbitrator harmless from any claim arising from operation of the SDRP. Neither party may name the registrar, the Registry, the Dispute Resolution Provider, or the Arbitrator as a party or otherwise include the registrar, the Registry, the Dispute Resolution Provider, or the Arbitrator in any judicial proceeding relating to the dispute or the administration of the SDRP policy. The parties shall indemnify, defend and hold harmless the registrar, the Registry, the Dispute Resolution Provider, the Arbitrator and their respective employees, contractors, agents and service providers from any claim arising from the conduct or result of a proceeding under this SDRP. Neither the registrar, the Registry, Dispute Resolution Provider, the Arbitrator nor their respective employees, contractors, agents and service providers shall be liable to a party for any act or omission in connection with any administrative proceeding under this SDRP 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

³ A Registry may, though its agreement with registrars, instead require the registrar to perform the lock and implementation steps.

registrant is lawfully entitled to registration and use of the registered domain name(s) in the TLD.

Relationship To Other Dispute Resolution Policies

1.23 This SDRP 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.

Effect of Other Proceedings

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

SDRP Modifications

1.25 the Registry reserves the right to modify this SDRP at any time. Such revised SDRP shall be posted on the Registry Website at least thirty (30) calendar days before it becomes effective; unless this SDRP has already been invoked by the submission of a complaint, in which event the version of the SDRP 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 SDRP, 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.

1.26 In addition to this Sunrise Dispute Resolution Policy, all Registrants agree to participate in and abide by any determinations made as part of the Registry’s dispute resolution procedures, including but not limited to:

Uniform Domain Name Dispute Policy (<http://www.icann.org/en/help/dndr/udrp>),

Uniform Rapid Suspension Policy (<http://newgtlds.icann.org/en/applicants/urs>),

Transfer Dispute Resolution Policy (<http://www.icann.org/en/help/dndr/tdrp>).