



## SUNRISE DISPUTE RESOLUTION POLICY

### 1.0 Sunrise Dispute Resolution Policy

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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 the .MUSIC Top Level Domain (“MTLD”) in violation of the Registry Operator’s Sunrise Eligibility Requirements. This Policy will not be applied to the Registry Operator reserved names.

This Policy is incorporated by reference into the Registration Agreement. A complaint may be filed against a MTLD domain name registered or denied registration during the MTLD Sunrise period from 21-August-2023 to 21-October-2023 and until 21-December-2023.

This Policy is administered by the National Arbitration Forum (“Forum”) on behalf of Registry Operation. The full set of Rules governing the Policy and process may be found at the Fourm’s website.

### 2.1 Definitions

2.1.1 Complainant. A person (legal or natural) who makes a complaint under this Policy.

2.1.2 Panel or Panelist. The person or organization appointed by the Provider to provide a written decision in relation to a dispute arising under this Policy

2.1.3. Provider. The dispute resolution provider appointed by the Registry Operator to administer resolution of disputes arising under this Policy.

2.1.4. Respondent. The applicant or registrant of the domain name(s) subject to a complaint under this Policy.

2.1.5 Identical Match. The domain name label is an identical match to the trademark, meaning that the label consists of the complete and identical textual elements of the mark in accordance with section 4.2.1 of the Trademark Clearinghouse (TMCH)

Guidelines. In this regard:

- a) For a trademark exclusively consisting of letters, words, numerals and/or special characters: the recorded name of the mark is an identical match to the reported name as long as all characters are included in the trademark record provided to the TMCH and in the same order in which they appear on the trademark certificate.
- b) For marks that do not exclusively consist of letters, words, numerals, or special characters: the recorded name of the trademark is an identical match to the reported name as long as the name of the trademark includes letters, words, numerals, keyboard signs, and punctuation marks that are: (i) the predominant element, (ii) clearly separable or distinguishable from the device element, and (iii) all predominant characters are included in the trademark record submitted to the TMCH in the same order they appear in the mark.

2.1.6 SMD File. A signed mark data file issued by the TMCH signifying that the TMCH has verified that the trademark contained in the SMD File meets the requirements for inclusion in the TMCH in accordance with TMCH Guidelines in force at the time when a complaint under this Policy is filed.

2.1.7. TMCH. The Trademark Clearinghouse (<http://www.trademark-clearinghouse.com>)

2.1.8. TMCH Guidelines. Guidelines published by the TMCH for mark holders and agents to inform them about the eligibility requirements for inclusion of marks in the TMCH and participation in sunrise services (currently available at [https://trademark-clearinghouse.com/sites/default/files/files/downloads/TMCH%20guidelines%20v1.2 0.pdf](https://trademark-clearinghouse.com/sites/default/files/files/downloads/TMCH%20guidelines%20v1.2%200.pdf))

### 3.0 Applicable Disputes

An MTL domain name registered or denied registration in MTL 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---Trademarks<sup>1</sup>. A complaint under this section shall be required to show by reasonable evidence that a MTLT domain name registered in MTLT does not comply with the Registry's Sunrise Eligibility Requirements. Specifically, the Complainant 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;

3.1.2 The challenged domain name is not Identical Match to the mark on which the Registrant based its Sunrise registration<sup>2</sup>;

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 Complainant under this section shall be required to show by reasonable evidence that the Registry Operator failed to register a MTLT 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 MTLT domain names shall be submitted no later than one hundred and twenty (120) calendar days after the start of the Sunrise Period.

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<sup>1</sup> 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.

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

## 4.0 Evidence and Defenses

4.1 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 canceled domain name to the pool of available names available for registration in MTL. For the purposes of analysis of this element, neither the gTLD itself, nor the "dot," shall be considered. If the Complainant independently qualifies<sup>3</sup> 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 Complaint Requirements. A Complaint must include/comply with the following requirements to be processed:

6.1.1. The name of the individual or legal entity filing the complaint, along with the following contact details: email, phone number, address of the Complainant and of any representative authorized to act on behalf of the Complainant in the administrative proceeding;

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<sup>3</sup> 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.

6.1.2. The domain name(s) that are subject of the dispute;

6.1.3. Applicable trademark(s) as validated by the TMCH and the relevant SMD File;

6.1.4. Name of the Respondent, and the Respondent's contact information from the WHOIS entry associated with the disputed domain name(s);

6.1.5. Ground(s) relied upon for seeking to cancel the Sunrise registration;

6.1.6. Remedy requested;

6.1.7. Complaint and all annexes must be submitted electronically according to the instructions listed in this policy, with the Complaint not to exceed 1000 words and no more than five annexes, which annexes shall not exceed fifty (50) pages in total;

6.1.8. Identification of any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are subject to the dispute;

6.1.9. Complaint must conclude with the following statement for and on behalf of the Complainant: "Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the Respondent and waives all such claims and remedies against (a) the Provider and Panel except in the case of deliberate wrongdoing, (b) Registry Operator (c) the Registrar, and (d) ICANN; and the respective directors, officers, employees, representatives and agents of each of the foregoing." "Complainant certifies that the information contained in this complaint is, to the best of Complainant's knowledge, complete and accurate, that this complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this complaint are warranted under applicable law, as it now exists or as it may be extended by a good faith and reasonable argument."

6.2 Initial Review and Mediation. Upon receipt of a properly formatted Complaint, Registry Operator will attempt to resolve the issue internally without charge. If, in the opinion of the Registry Operator, the matter would be more appropriately dealt with by the TMCH, the Registry Operator will advise the Complainant accordingly. If the complaint relates to a registry process error, the Registry Operator will investigate and, if upheld, seek to resolve such errors internally without charge. In the event the Registry Operator, in its discretion, is unable to resolve the dispute, the Registry Operator will notify the Complainant to submit its complaint to a Provider. The Registry Operator will endeavor to conduct this Initial Review within ten (10) calendar days of receipt.

6.3 Submission to a Provider. If the Registry Operator is unable to resolve the dispute in accordance with the process outlined in 6.2, then Complainant may submit its complaint to a Provider(s) listed on the Registry Operator's Website in accordance with any supplemental instructions listed by that Provider.

6.4 Post Provider Submission. 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 MTLT involved in a Policy proceeding will be locked against transfer to another domain name holder or another Registrar during the course of a proceeding. In the case of a claim, 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 MTLT, 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.

6.5 Parties. The Applicant or Registrant of a registered domain name in MTLT shall be promptly notified 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 Provider 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.

#### 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 MTLT is to be canceled 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 Operator 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 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 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 Provider, and the Panelist harmless from any claim arising from operation of this Policy. Neither party may name the Registrar, the Registry Operator, the Provider, or the Panelist as a party or otherwise include the Registrar, the Registry Operator, the Provider, 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 Provider, 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, Provider, 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 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 MTL.

#### 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 MTLD 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 Amendments

Registry Operator reserves the right to modify this Policy at its sole discretion. Such revised Policy shall be posted on the Registry Operator's website at least fifteen (15) calendar days before its effective date. Therefore, it is important to check the effective date of the Policy posted here each time you use the Registry Operator's website. By continuing to use the Services after we make changes, you indicate your consent to those changes.

#### 12.0 Questions and Contact Information

Registry Operator wants to assure you that we are dedicated to protecting the rights of registrants. If you have questions or comments about this Policy, please contact [policy@my.music](mailto:policy@my.music)

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