

Sunrise Dispute Resolution Policy (.sakura)

SAKURA Internet Inc., the Registry Operator for .SAKURA TLD (“Registry Operator”) is committed to ensuring that all rights holders have adequate protections for their intellectual property assets. This Sunrise Dispute Resolution Policy (the “SDRP”) sets forth a mechanism to allow challenges to Sunrise Registrations related to Registry Operator’s Sunrise Registration Policy on the grounds that the domain name that was registered does not match the Trademark Record on which the Sunrise-Eligible Rights Holder defined in Trademark Clearinghouse Rights Protection Mechanism Requirements based its Sunrise Registration and other challenges stipulated by ICANN Policy as may be developed from time to time. An SDRP Complaint may be filed against a domain name registered in the .SAKURA TLD during its Sunrise Period, until 90 days after the close of the Sunrise Period.

1. Purpose

Domain names in the .SAKURA TLD (“the TLD”) can be registered by the registrant who meets the qualification specified by the TLD Registration Policies or reserved by the Registry Operator. This SDRP describes the process and standards that will be applied to allow (i) challenges to Sunrise Registrations related to Registry Operator’s Sunrise Registration Policy on the grounds that the domain name that was registered does not match the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration and (ii) other challenges stipulated by ICANN Policy as may be developed from time to time..

2. Applicable Disputes A registered domain name in the TLD will be subject to an administrative proceeding upon submission of a complaint to Sunrise Registrations under the following criteria.

a. Challenges

A complaint under this section shall be required to show by reasonable evidence (a) challenge(s) to Sunrise Registrations related to Registry Operator’s Sunrise Registration Policy on the grounds that the domain name that was registered does not match the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration or (b) other challenge(s) stipulated by ICANN Policy as may be developed from time to time (“SDRP Claim”).

b. SDRP Effective Dates

Any SDRP Claim brought under this SDRP for domain names registered in the ..SAKURA TLD shall be brought within ninety (90) days after the close of the Sunrise Period.

3. Evidence and Defenses

a. Evidence

Panelists will review the Registry Operator's Sunrise Registration Policy (including the Sunrise Eligibility and other requirements) when examining the evidence submitted with the SDRP Claim, as applicable, for making its decision.

b. Defenses

Harmless error. A respondent against whom the SDRP Claim is made 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, such registration would have been granted.

4. Remedies

The remedies available to a complainant making the SDRP Claim (the "Complainant") under this SDRP shall be limited to:

a. Improper Sunrise Registration

If the Panelist finds that the domain name that was registered does not match the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration, the sole remedy for such SDRP Claim under SDRP 2(a) shall be cancellation of the registration and return of the cancelled domain name to the pool of available names available for registration in the TLD. If the Complainant independently meets the eligibility requirement of the TLD and qualifies to register the domain name, either as a regular or defensive/blocking registrant, such application will be made to the Registry Operator, or registrar, as applicable.

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.

5. Procedure

a. Dispute Resolution Procedure

Any SDRP Claim under this SDRP shall be submitted directly to the .SAKURA TLD Committee "Committee" by submitting the complaint directly to the Committee. The Committee will administer the proceeding and select a qualified and eligible panelist ("Panelist"). The Committee may establish rules for the Committee's Sunrise Dispute Resolution policy ("Rules"), setting forth a fee schedule and other technical and process requirements for handling a dispute under this SDRP. The proceedings under this SDRP

will be conducted according to this SDRP and the applicable Rules of the Committee.

b. The .SAKURA TLD Committee

The .SAKURA TLD Committee is composed of three to five members appointed by the Registry Operator. The Committee members will be appointed to represent the best interests of both the Registry Operator and the Internet users as a whole, and will conduct their demeanor in relation to any potential SDRP Claim in the best interest of the .SAKURA TLD's mission and scope.

c. 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 Registration involved in a SDRP proceeding will be locked against transfer to another domain name holder or another registrar during the course of a proceeding. The contact details of the holder of a registered domain name in the TLD, against which any SDRP Claim has been filed, will be as shown in the Registry Operator'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.

d. Parties

The registrant of a registered domain name in the TLD shall be promptly notified by the Committee of the commencement of a dispute under this SDRP, and may contest the SDRP Claim or show other cause why the remedy requested in the SDRP Claim 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 SDRP Claim. The Committee shall promptly notify all named and/or affected parties in the dispute, as well as the registrar and the Registry Operator of any decision made by the Panelist.

e. Decisions

- (i) 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;
- (ii) the decision shall state whether a registered domain name in the TLD is to be cancelled or the status quo maintained; and
- (iii) the decisions made under this SDRP will be publicly published by the Registry Operator on its website.

f. 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 for ten (10) business days after communication of the decision before implementing such decision, unless the registrant submits to the Registry Operator during such 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.

g. Representations and Warranties

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.

6. Maintaining the Status Quo

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

7. Indemnification / Hold Harmless

The parties shall hold the registrar, the Registry Operator, the Committee, and the Panelist harmless from any claim arising from operation of the SDRP. Neither party may name the registrar, the Registry Operator, the Committee, or the Panelist as a party or otherwise include the registrar, the Registry Operator, the Committee, or the Panelist 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 Operator, the Committee, 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 SDRP. Neither the registrar, the Registry, Committee, the Panelist and their respective employees, contractors, agents and service providers shall be liable to any 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 SDRP Claim is granted in circumstances where the registrant is lawfully entitled to registration and use of the registered domain name(s) in the TLD.

8. Relation to Other Dispute Resolution Policies

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 Operator.

9. Effect of Other Proceedings

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 Panelist) in deference to the outcome of such other proceeding.