

6 Sunrise Policies

6.1

Trademark Sunrise Overview

- 6.1.1 Sunrise allows the holder of a trademark that has previously been verified by the officially mandated ICANN Trademark Clearinghouse (“Trademark Holder”) to notify the Registry of its registered trademark, and apply to register the corresponding .fans domain name.
- 6.1.2 During Sunrise only Trademark Holders may apply for a domain name that constitutes an “exact match” of their mark, in accordance with the ICANN Trademark Clearinghouse (“TMCH”) policy. The Registry will charge a Sunrise domain name registration fee for registrations of domain names during Sunrise. (“Sunrise Price”).
- 6.1.3 The Trademark Holder is responsible for protecting any domain names which match its trademarks. If a Trademark Holder fails to reserve any domain name during Sunrise, any other party is free to register that domain name during General Availability, subject to Registry Policies, the TMCH Claims Service, and applicable laws and regulations.
- 6.1.4 Because some generic terms may be the subject of trademark registration, certain generic names may be withheld from Sunrise availability, in accordance with Registry policy.
- 6.1.5 The Sunrise Dispute Resolution Policy (“SDRP”) describes the process and standards that will be applied to resolve challenges alleging that a domain name has been registered, or has been declined to be registered, in violation of the Registry’s Sunrise Policy. This SDRP will not be applied to Registry-reserved names (including any Founders’ Program and Premium Names reserved) in the TLD.
- 6.1.6 Please note that the Registry may modify this Policy from time to time in its sole discretion. Any modifications or amendments to this Policy shall be effective upon posting on the .fans Registry website and giving 90 days prior written notice to all .fans Accredited Registrars.

6.2

End-Date Sunrise

- 6.2.1 The Registry will operate an “End-Date Sunrise” process. This means allocation of names occurs at the end of Sunrise. Sole Applicants meeting all Sunrise criteria for an available domain will be awarded their applied-for domain. In the event there are multiple eligible applications for the same domain name, all such Applicants will be notified of the competing Applications, and the process to resolve contentions as stipulated in 6.4 below. The .fans Sunrise shall have duration of at least sixty (60) days.

6.3

Fees

The Registry requires the payment of a minimum of one year (1) of non-refundable registration fee with a Sunrise Application. The renewal price for domain names registered during Sunrise and names registered as part of the Protected Names program will be the normal renewal fee (also used for the General Availability phase) then in effect.

6.4

Sunrise Auctions

- 6.4.1 In the event there are duplicate Applications for the same exact match trademark, the Registry reserves the right to give preference to certain trade and service mark classes in preference to others. In particular if relevant the Registry may give priority to SMD holders with goods and services in the following relevant NICE classes: no: 9, 35, and 41. If the Registry cannot resolve the competing Sunrise Applications by relevance of class to the purpose of the TLD, those Applicants may participate in a Sunrise Auction.
- 6.4.2 If there are multiple Trademark Holders with rights to the same term which all apply for a given, available domain, those Applicants may participate in a post-Sunrise auction at the end of Sunrise. The auction will be conducted by the Registry’s third party auction provider. However parties are not obligated to participate in an auction; they may choose to withdraw their Sunrise Application or privately resolve their conflicting Applications. The starting bid for an auction is the Sunrise Registration Fee plus \$1 USD with bid increments escalating during the auction. The auction winner will be awarded the domain provided that the auction winner pays the winning auction bid.
- 6.4.3 Auction Rules: full Auction rules will be distributed to eligible participants in reasonable time prior to any auction.
- 6.4.4 The results of any auction shall be deemed final and binding upon parties.

6.5

The TMCH & Trademark Validation

The Trademark Clearinghouse (“TMCH”) is responsible for maintaining Sunrise eligibility requirements, validating and authenticating marks (as applicable), and hearing challenges regarding validity of a mark or SMD

File. When processing Sunrise Applications, the Registry relies on the validity of mark holder information contained in SMD Files provided by the TMCH.

Disputes regarding the validity of an SMD File are subject to a separate TMCH dispute process and should be submitted to the TMCH using its dispute resolution procedures outlined at <http://trademark-clearinghouse.com/dispute> prior to initiation of a complaint under the SDRP. In the event the TMCH reports fraud in a SMD File or a Sunrise Application, the Registry may disqualify the Sunrise Application or, in the event that fraud is detected after the Sunrise period, suspend, transfer, reserve and/or delete the applicable domain(s). The Registry reserves the right to put on hold any domain name pending final dispute resolution.

12 Sunrise Dispute Resolution Policy

This Sunrise Dispute Resolution Policy (the “SDRP”) is incorporated by reference into the Registration Agreement. This SDRP is applicable to the Trademark Sunrise. This SDRP is effective as of 1 May 2015. An SDRP Complaint may be filed against a domain name registered during the .fans TLD during its Sunrise period, and until 10 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 SDRP criteria. Please note that the Registry may modify this Policy from time to time in its sole discretion. Any modifications or amendments to this Policy shall be effective upon posting on the .fans Registry Website and giving 90 days prior written notice to all .fans Accredited Registrars.

12.1

Initiating a Dispute and Internal Review

- 12.1.1 Prior to initiating a dispute under this Policy, potential complainants must submit complaints first to the Registry at: info@dotfans.net
- 12.1.2 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.
- 12.1.3 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.

12.2

Frivolous Complaints

- 12.2.1 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, .fans 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.

12.3

Applicable Disputes

- 12.3.1 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.
- 12.3.2 Improper Sunrise Registration-Trademarks. A complaint under this section shall be required to show by reasonable evidence that a registered domain name in the .fans TLD does not comply with the provisions of the Registry’s Sunrise Program. The complaint must prove one or more of the following elements:
 - 12.3.2.1 at 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;
 - 12.3.2.2 the domain name is not identical to the mark on which the Registrant based its Sunrise registration;¹
 - 12.3.2.3 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
 - 12.3.2.4 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 in its Sunrise Criteria, if one was specified.

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

12.4

Evidence and Defences

12.4.1 Evidence

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

12.4.2 Defences

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.

12.5

Remedies

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. 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.

12.6

Procedure

12.6.1 Dispute Resolution Provider – Selection of Procedure.

Following the internal review process set forth in Section 1, 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.

12.6.2 Registry's or Registrar's Involvement

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 Registration 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 proceeding². 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.

12.6.3 Parties

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.

12.6.4 Decisions

12.6.4.1 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;

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

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

12.6.4.3 decisions made under this SDRP may be published by the Dispute Resolution Provider on its website.

12.6.5 Implementation of a Lock and the Decision

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.

12.6.6 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, shall remain subject to all representations and warranties made in the course of registration of a disputed domain name.

12.7

Maintaining the Status Quo

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.

12.8

Indemnification / Hold Harmless

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

12.9

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.

12.10

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

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

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 or put on hold (in the sole discretion of the Arbitrator) in deference to the outcome of such other proceeding.

12.11

SDRP Modifications

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.