

## .eus Sunrise Dispute Resolution Policy (SDRP)

This Sunrise Dispute Resolution Policy (the “**SDRP**”) established by puntuEUS Fundazioa (the “**Registry Operator**”) is incorporated by reference into the .eus Registration Agreement. A SDRP challenge may be filed against a .eus domain name allocated or declined during the .eus Sunrise Period (the “**Sunrise Period**”).

### 1. Purpose

This SDRP describes the process and standards that will be applied to resolve complaints alleging that a .eus domain name has been allocated or declined in violation of the Registry Operator’s **Sunrise Eligibility Requirements**. This SDRP will not be applied to Registry-reserved names in the .eus TLD nor to domain names registered following a Limited Registration Period which is part of the Registry Operator’s Launch program, as the case may be.

### 2. Applicable Disputes

A .eus domain name allocated or denied in the Sunrise Period will be subject to this SDRP upon submission of a complaint alleging that the allocation or denial was improper under one or more of the following criteria:

#### 2.1 Improper Sunrise Allocation

A complaint under this section shall be required to show by reasonable evidence that a .eus domain name allocated in the .eus TLD does not comply with the Registry Operator’s Sunrise Eligibility Requirements.

##### **Names allocated with basis on a TMCH-validated trademark**

Specifically, when the disputed domain name has been allocated with basis on a TMCH-validated trademark, the complainant must prove one or more of the following elements:

- a. At time the disputed domain name was allocated, the registrant did not hold the trademark registration on which the registrant based its Sunrise application or such trademark was not in force; or the trademark had not been court-validated or protected by statute or treaty; or

- b. The disputed domain name is not identical to the trademark on which the registrant based its Sunrise application.

## 2.2 Improper denial of Sunrise Allocation

- a. A complaint under this section shall be required to show reasonable evidence that the Registry Operator failed to allocate a .eus domain name that was applied for in compliance with the Sunrise Eligibility Requirements.
- b. In addition, to pursue the remedies set forth in Section 3.2 (a) and (b) below, the complainant **MUST** notify the Registry Operator within the ten (10) calendar days following the Registry Operator's decision to deny allocation of the domain name of its intention to submit a complaint under this SDRP. Such notice must be in writing.

## 2.3 SDRP Effective Dates

Any complaint brought under this SDRP shall be brought no later than forty-five (45) calendar days after end of the Sunrise Period.

# 3. Remedies

The remedies available to a complainant for a complaint brought under this SDRP shall be limited to:

## 3.1 Improper Sunrise Allocation

If the complaint is filed under Section 2.1 of this SDRP, any ongoing auction process will be suspended until the dispute is resolved. If the Registry Operator finds that the domain name was improperly allocated during the Sunrise Period, the following remedies will apply:

- a. If the complainant had submitted a Sunrise-eligible application for the disputed domain name, the disputed domain name will be registered in favour of the complainant, provided that the complainant is the only existing Sunrise eligible application. If there is more than one eligible Sunrise application for that domain name, the auction process will continue for the remaining Sunrise eligible applications, including that of the complainant;

- b. If the complainant had applied for the disputed domain name with basis on a lower priority right (e.g. during the Limited Registration Period for those entities proving prior online communications in Basque) and the complainant's application had been rejected for being of lower priority in hierarchy than that improperly allocated, the disputed domain name will be allocated following the hierarchy criteria of the .eus Launch program;
- c. If no other eligible applications had been submitted for the disputed domain name during Sunrise or other lower-priority periods of the .eus Launch Phase, the disputed allocation will be cancelled and it will be returned to the pool of names available for General Registration in the .eus TLD.

### 3.2 Improper Denial of Sunrise Allocation

If a complaint is filed under Section 2.2 of this SDRP, any ongoing contention resolution process will be suspended until the dispute is resolved. If the Registry Operator finds that the application was improperly denied during the Sunrise Period, the following remedies will apply:

- a. If the disputed domain name has not been allocated yet:
  - 1. it will be registered in favor of the complainant, provided that the complainant is the only existing Sunrise eligible application; or
  - 2. if there is more than one Sunrise eligible application for that domain name, the contention resolution process will begin or continue for the remaining Sunrise eligible applications, including that of the complainant.
- b. If the disputed domain name has already been allocated in favor of a third party that fulfilled the Sunrise Eligibility Requirements, the domain name will go to contention, **provided that the complainant had notified the Registry Operator in due time of its intention to submit a complaint pursuant to Section 2.2 (b) of this SDRP.**
- c. If the disputed domain name has already been allocated in favor of a third party with an inferior right than that of the complainant, the domain name will be registered in favor of the complainant **provided that the complainant had notified the Registry Operator in due time of its intention to submit a complaint pursuant to Section 2.2 (b) of this SDRP.**

## 4. Procedure

- 4.1 Complaint.** A Complaint under this SDRP 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 (“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 SDRP. The proceedings under this SDRP will be conducted according to this SDRP and the applicable Rules of the Forum.
- 4.2 Statement of Defense.** The applicant or registrant of a disputed domain name shall be promptly notified by the Registry Operator 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 applicant or holder of the disputed domain name shall not constitute an admission to any allegation of the complaint.
- 4.3 Decisions.** The Forum will assess the challenge, its claims and supporting documentation. The Forum may ask for further information from the Sunrise applicant and/or the domain name holder in order to make an informed decision. Within ten (10) calendar days after gathering all the required information, The Forum will make a decision on whether the complaint should prevail and will notify the interested parties via email.
- 4.4 Change of Status:** If a Decision requires a change to the status of a registered domain name, the Registry Operator will implement it within the following ten (10) business days after communication of the decision to all the parties involved.
- 4.5 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.

## 5. Maintaining the Status Quo

During the course of a proceeding under this SDRP:



- 5.1 The registered domain name shall be locked against transfers between registrants and/or registrars and against deletion by registrants.
- 5.2 In the case of a claim under Section 2.2 of this SDRP, the Registry Operator will prevent other parties from registering the unregistered domain name at issue until a decision is reached, provided that the complainant had notified the Registry Operator in due time of its intention to submit a challenge, in accordance with Section 2.2(b) of this SDRP.
- 5.3 The contact details of the applicant or holder of the disputed domain name will be as shown in the registrar's publicly available Whois database record for the relevant registrant.

## 6. Indemnification

The parties of a proceeding under this SDRP shall indemnify, defend and hold harmless the Forum, the registrar, the Registry Operator and their respective agents, employees, contractors, and service providers from any claim arising from the conduct or result of a proceeding under this SDRP. Neither the Forum, the registrar or the Registry Operator and their respective agents, employees, contractors and service providers shall be liable to a party for any act or omission in connection with any proceeding under this SDRP. 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 the registration and use of the disputed .eus domain name.

## 7. 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 other ICANN and/or Registry Operator mandated policies.

## 8. Effect of Other Proceedings

The administrative proceeding under the SDRP shall not prevent either party from submitting a dispute concerning the disputed domain name to concurrent administrative proceedings or to a court of competent jurisdiction for independent resolution during a pending SDRP proceeding or after such proceeding is concluded.



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