**Title**: ORGANIC Sunrise Dispute Resolution Policy
**Version** **Control**: 1.0
**Date of Implementation**: 18 June 2014

This Sunrise Dispute Resolution Policy (the “SDRP”) is incorporated by reference into the Registration Agreement. An SDRP Complaint may be filed against a .ORGANIC domain name registered or denied registration during the Sunrise period from 6 August 2014 to 5 September 2014 and until ninety (90) days following the conclusion of the Sunrise period.

**1. Purpose**

This SDRP 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 .ORGANIC TLD (the “TLD”) in violation of the Registry Operator’s Sunrise Eligibility Requirements. This SDRP will not be applied to Registry Operator-reserved names.

**2. Applicable Disputes**

A .ORGANIC domain name registered or denied registration in the TLD during the Sunrise Period will be subject to this SDRP upon submission of a complaint alleging that the registration or denial of registration was improper under one or more of the following criteria.

**a. Improper Sunrise Registration-Trademarks[[1]](#footnote-1)**

A complaint under this section shall be required to show by reasonable evidence that a .ORGANIC domain name registered in the TLD does not comply with the Registry’s Sunrise Eligibility Requirements. Specifically, the complaint must prove one or more of the following elements:

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;
2. the challenged domain name is not identical to the mark on which the registrant based its Sunrise registration;[[2]](#footnote-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
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.

**b. Improper Denial of Sunrise Registration**

1. A complaint under this section shall be required to show by reasonable evidence that the Registry Operator failed to register a .ORGANIC domain name that was applied for in compliance with the Registry Operator’s Sunrise Eligibility Requirements.
2. In addition, to pursue remedies set forth in Section 4b (ii), the compliant MUST notify the Registry Operator within ten (10) calendar days following the Registry’s decision to deny registration of the domain name of its intention to submit a complaint under this SDRP. Such notice MUST be in writing.

**c. SDRP Effective Dates.**

Any claim brought under this SDRP for .ORGANIC domain names shall be brought no later than ninety (90) calendar days after end of the Sunrise Period.

**3. Evidence and Defenses**

**a. Evidence**

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.

**b. Defenses**

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.

**4. Remedies** The remedies available to a complainant for a proceeding under this SDRP shall be limited to:

**a. 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 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[[3]](#footnote-3) qualifies 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.

**b. Improper Denial of Sunrise Allocation**

The remedies for a Complaint filed under SDRP 2(b) 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.

 **5. Procedure**

**a. Dispute Resolution Provider / Selection of Procedure**

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.

**b. Registry’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-registered domain names in the TLD involved in a SDRP proceeding will be locked against transfer to another domain name holder or another Registrar during the course of a proceeding.[[4]](#footnote-4) In the case of a claim under SDRP 2(c), 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 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 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.

**c. Parties**

The applicant or registrant of a registered domain name in the TLD shall be promptly notified by the Forum 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 Forum 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.

**d. 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. Decisions made under this SDRP will be publicly published by the Forum on its website.

**e. 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[[5]](#footnote-5) 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 Forum) 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.

**f. 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.

**6. 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.

**7. Indemnification / Hold Harmless** The parties shall hold the registrar, the Registry Operator, the Forum, and the Panelist harmless from any claim arising from operation of the SDRP. Neither party may name the registrar, the Registry Operator, the Forum, or the Panelist as a party or otherwise include the Registrar, the Registry Operator, the Forum, 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 Forum, 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 Operator, Forum, 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 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.

**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.

**10. SDRP Modifications** The Forum reserves the right to modify this SDRP at any time subject to the terms of its MoU with the Registry Operator. Such revised SDRP shall be posted on the Forum Website at least thirty (30) calendar days before it becomes effective;[[6]](#footnote-6) 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. 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 SDRP does not interact with (nor instruct) the Trademark Clearinghouse and is limited to adjudicating disputes over the Registry’s registration and allocation of domain names during the Sunrise period. [↑](#footnote-ref-1)
2. For the purposes of analysis of this element, neither the gTLD itself, nor the “dot,” shall be considered. [↑](#footnote-ref-2)
3. A prevailing trademark challenger is still required to meet the Registry Operator’s policies (e.g., Registration Policy, etc.) to be eligible to register the domain name. [↑](#footnote-ref-3)
4. A Registry may, though its agreement with registrars, instead require the registrar to perform the lock and/or implementation steps. [↑](#footnote-ref-4)
5. A Registry may, though its agreement with registrars, instead require the registrar to perform the lock and implementation steps. [↑](#footnote-ref-5)
6. The Forum may correct typographical errors without notice. [↑](#footnote-ref-6)