



.BIO SUNRISE DISPUTE RESOLUTION POLICY

v1.0 - June 3, 2014

Starting Dot Ltd.

BACKGROUND

Starting Dot Limited (the “Registry”) is the Registry Operator of the .BIO top-level domain (the “TLD”). This SUNRISE DISPUTE RESOLUTION POLICY (the “SDRP”) is incorporated by reference to the agreement entered into by a registrant at the time of registration of a domain name registered in the TLD.

This SDRP describes the process and standards that will be applied to resolve challenges to domain names improperly registered during the Sunrise Registration period of the TLD.

This SDRP shall become effective as of June 3, 2014.

1. SDRP OVERVIEW

A complaint under this SDRP shall be submitted to the National Arbitration Forum (the “Forum”) by submitting the complaint directly to the Forum.

The Forum will administer the proceeding and select a qualified and eligible Panelist (the “Panelist”). The Forum has established Rules for National Arbitration Forum’s Sunrise Dispute Resolution Policy (the “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.

An SDRP Complaint may be filed against a domain name registered during the TLD Sunrise Phase until ninety (90) days after the close of the TLD Sunrise end date.

A Complaint under this SDRP shall be submitted to the Forum by submitting the complaint directly to the Forum

2. APPLICABLE DISPUTES

a. Improper Sunrise Registration-Trademarks

Subject to full compliance with section 1 of this SDRP, a .BIO registered domain name will be subject to an administrative proceeding upon submission of a complaint that the Sunrise Registration-Trademark was improper.

A complaint under section 2.a of the SDRP shall be required to show by reasonable evidence that a registered domain name in the TLD does not comply with the provisions of .BIO Launch Plan. The complaint must prove one or more of the following elements:

- i. At the 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;
- ii. The domain name is not identical to the mark on which the registrant based its Sunrise registration in accordance with TMCH “identical match” rules; or
- iii. 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.

b. Improper Sunrise Registration-Eligibility and Allocation

The Registry's Sunrise criteria found in the .BIO Launch Plan (called "Sunrise Criteria") were not met by the Sunrise registrant at the time of the Sunrise registration. The Complainant shall submit a copy of .BIO Launch Plan with a Complaint based on this section of the SDRP. The Complainant may show by the submission of reasonable evidence:

- i. Trademark-related restrictions were not met, were falsified, or were in error at the time of the sunrise domain name registration (such as classes of goods or jurisdiction);
- ii. Additional Registry-specific restrictions were not met (such as nexus or local presence), were falsified, or were in error at the time of the sunrise domain name registration;
- iii. The information in the Signed Mark Data (SMD) file for the sunrise registration did or does not match the Whois record for the domain name; or
- iv. The date restriction for the registration, validation, or statutory protection of a mark relied upon for the sunrise domain name registration was not met, was falsified or was in error.

3. PROCEDURE

a. Parties

The registrant of a registered domain name in the TLD will 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 of any decision made by a Panelist.

b. Registry's or Registrar Involvement

Neither the Registry nor the registrar shall:

- i. Participate in the administration or conduct of any proceeding before a Panelist; and
- ii. In any event, be liable as a result of any decisions rendered by the Panelist.

Any sunrise-registered .BIO domain names 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 a .BIO domain name holder, 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 Panelist decision and make all appropriate changes to the status of the domain name registration(s) in their Whois databases.

c. Evidence

Panelists shall review the Registry's Sunrise Criteria, found in the .BIO Launch Plan, which are required to be submitted with the Complaint, as applicable, in making its decision.

d. 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.

e. Representations and warranties

Parties to a dispute under this SDRP shall:

- i. Warrant that all factual allegations made in the course thereof are true and correct to the best of their knowledge; and
- ii. Remain subject to all representations and warranties made in the course of registration of a disputed domain name.

f. Decision

The Panelist may:

- i. State the basis on which the decision is issued in summary format; and
- ii. Include such commentary or guidance as the Panelist deems appropriate.

The decision shall state whether a registered domain name in the TLD is to be cancelled or the status quo maintained.

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

g. Remedies

I. Improper Sunrise Registration

If the Panelist finds that the domain name was improperly registered during the Sunrise Phase, the sole remedy for a complaint filed under section 2 of this SDRP shall be the cancellation of the registration and the return of the cancelled domain name to the pool of available names available for registration in the TLD.

If the Complainant independently qualifies to register the domain name, such application may be made to the Registry, or registrar, as applicable.

II. Auction

If a domain name in the TLD was improperly allocated upon completion of an the auction and in accordance with section 5 of the .BIO Launch Plan, such domain name will be cancelled, and allocated in the other bidders to the auction in highest value bid in the auction. Such bidder will have five (5) calendar days to proceed with the acquisition of such domain name. If no bidders to the auction proceed with the acquisition of the domain name in the TLD, such domain name shall return to the pool of available names available for registration in the TLD.

If there is a complaint after the auction is concluded and the losing bidder prevails, then the auction price set for the losing bid will be the amount of the last bid made by the losing bidder.

h. Implementation of a lock and Decision

If a Panellist's decision requires a change to the status of domain name registered in the TLD, the Registry shall 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 Forum) during that ten (10) business 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.

4. MAINTAINING STATUS QUO

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

5. INDEMNIFICATION

The Parties shall:

- i. Hold the registrar, the Registry, the Forum, and the Panelist harmless from any claim arising from operation of the SDRP;
- ii. Not name the registrar, the Registry, the Forum, or the Panelist as a party or otherwise include the registrar, the Registry, the Forum, or the Panelist in any judicial proceeding relating to the dispute or the administration of the SDRP policy; and
- iii. Indemnify, defend and hold harmless the registrar, the Registry, 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, 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 registered domain name(s) in the TLD.

6. RELATION TO OTHER 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.

7. 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 in accordance with section 8 of this SDRP, the SDRP proceeding shall be terminated (in the sole discretion of the Panelist) in deference to the outcome of such other proceeding.

8. MODIFICATION

The Registry shall modify this document from time to time, in order to comply with applicable laws and terms, and/or any conditions set forth by ICANN. Any revisions or modifications to this SDRP shall be effective five (5) calendar days after the initial date of posting such revisions or modifications on the Registry's website and such amendments shall be binding upon the domain name registrant.

Such revised SDRP shall be posted on the Forum 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.