Sunrise Dispute Resolution Policy

Definitions

In this document:

Forum means the National Arbitration Forum, who are available at www.adrforum.com

Panellist is the neutral legal professional appointed by the Forum to decide a complaint brought under this Policy.

Registrant means the individual that holds the right to use a specific domain name.

Registry means the systems used to record, store and maintain details of domain names in the TLD.

Sunrise Period means the period during which Sunrise-Eligible Rights Holders have the opportunity to submit an Application for a domain name in the TLD prior to the Landrush Period.

TLD means Top Level Domain and for the purpose of this policy the TLD shall be .physio

We, **us** and **our** means Phys Biz Pty Ltd ACN 146454748 or our designated representatives.

About this document

This document describes our policy on dispute resolution during the Sunrise Period, which is explained in the Launch Policy. This policy is incorporated by reference into the Registration Agreement. A complaint may be filed against a domain name registered during the Sunrise Period until 15 December 2014 [45 days after the close of the Sunrise period]

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Purpose

Domain names in the TLD can be registered by third parties or reserved by the Registry. This policy 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 this policy. This policy will not be applied to names reserved by us in the TLD.

Applicable Disputes

A registered domain name in the TLD will be subject to an administrative proceeding upon submission of a complaint that the Sunrise registration [or denial of a Sunrise registration] was improper under one or more of the following criteria.

a. Improper Sunrise Registration Trademarks

A complaint under this section shall be required to show by reasonable evidence that a registered domain name in the TLD does not comply with the provisions of the TLD Launch Policy. 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;

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; or

iv. the trademark registration on which the domain name registrant based its Sunrise registration did not issue on or before the date specified by us in our Launch Policy.

b. Improper Denial of Sunrise Registration

A complaint under this section shall be required to show that the Registry failed to register a domain name that was applied for in compliance with our Launch Policy.

Evidence and Defences

a. Evidence

Panellists will review our Sunrise Criteria, allocation requirements, or community-based eligibility requirements which are required to be submitted with the Complaint, as applicable, in making its decision.

b. 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.

Remedies

The remedies available to a complainant for a proceeding under this Policy shall be limited to:

a. Improper Sunrise Registration

If the Panellist finds that the domain name was improperly registered during the Sunrise period, the sole remedy for a Complaint filed under sections 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 qualifies to register the domain name, either as a regular or defensive/blocking registrant, such application may be made to the Registry, or registrar, as applicable.

In the event a dispute is brought by an auction bidder for the same domain name, the auction will be suspended until the dispute is resolved.

b. Improper Denial of Sunrise Registration

The remedies for a Complaint filed under 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 to the Registry, or registrar, as applicable.

Procedure

a. Dispute Resolution Provider / Selection of Procedure

A Complaint under this Policy shall be submitted to the Forum by submitting the complaint directly to the Forum. The Forum will administer the proceeding and select a qualified and eligible Panellist. The Forum has established Rules for the Policy, setting forth a fee schedule and other technical and process requirements for handling a dispute under this Policy. The proceedings under this Policy will be conducted according to this Policy and the applicable Rules of the Forum.

b. Registry's or Registrar's Involvement

Neither the Registry nor registrar will participate in the administration or conduct of any proceeding before a Panellist. In any event, neither the Registry nor the registrar is or will be liable as a result of any decisions rendered by the Panellist. Any Sunrise-registered domain names in the TLD involved in a Policy proceeding will be locked against transfer to another domain name holder or another registrar during the course of a proceeding. In the case of a claim under 2(b), the Registry 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 and the applicable registrar will comply with any Panellist decision and make all appropriate changes to the status of the domain name registration(s) in their Whois databases.

c. Parties

The registrant of a registered domain name in the TLD shall be promptly notified by the Forum of the commencement of a dispute under this Policy, 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 Policy. 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 Panellist.

d. Decisions

(i) The Panellist may state the basis on which the decision is issued in summary format and may include such commentary or guidance as the Panellist 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 Policy will be publicly published by the Forum on its website.

e. Implementation of a Lock and the Decision

If a Panellist's decision requires a change to the status of a registered domain name, we 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 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 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.

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.

Maintaining the Status Quo

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

Indemnification / Hold Harmless

The parties shall hold the registrar, the Registry, the Forum, and the Panellist harmless from any claim arising from operation of this Policy. Neither party may name the registrar, the Registry, the Forum, or the Panellist as a party or otherwise include the registrar, the Registry, the Forum, or the Panellist in any judicial proceeding relating to the dispute or the administration of this Policy. The parties shall indemnify, defend and hold harmless the registrar, the Registry, the Forum, the Panellist and their respective employees, contractors, agents and service providers from any claim arising from the conduct or result of a proceeding under this Policy. Neither the registrar, the Registry, Forum, the Panellist 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 Policy 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.

Relation to Other Dispute Resolution Policies

This Policy is in addition to and complementary with the Uniform Domain Name Dispute Resolution Policy, the Uniform Rapid Suspension System and any charter, nexus, or eligibility dispute policies adopted by ICANN or the Registry.

Effect of Other Proceedings

The administrative proceeding under this Policy 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 administrative proceeding regarding this Policy or after such proceeding is concluded. Upon notice of such other proceeding, the Policy proceeding may be terminated (in the sole discretion of the Panellist) in deference to the outcome of such other proceeding.

Definition and review

This document has been prepared and published to represent our policy regarding disputes arising during the Sunrise Period.

We reserve the right to modify this Policy at any time subject to the terms of our Memorandum of Understanding with the Forum. Such revised Policy shall be posted on our Website at least thirty (30) calendar days before it becomes effective; unless this Policy has already been invoked by the submission of a complaint, in which event the version of the Policy 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 Policy, 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.