Sunrise Dispute Resolution Policy

This Sunrise Dispute Resolution Policy ("SDRP") is to be read together with the Registry-Registrar Agreement. The Parties agree that words and phrases used in the Sunrise Dispute Resolution Policy shall have the same meaning than attributed in the Registry-Registrar Agreement unless otherwise specified.

An SDRP Complaint may be filed against a domain name registered during the Sunrise period, no later than 90 days after Sunrise end date.

Preamble

This SDRP describes how challenges and disputes (i.e alleging that a domain name has been registered, or has been declined to be registered, in violation of the Sunrise Policy) which could arise regarding the Sunrise Period will be settled.

Article 1. Effective Dates

Any SDRP claim brought under this Policy for domain names registered in the TLD shall be brought no later than 90 days after the end of the Sunrise period.

Article 2. Applicable Disputes

2.1. Improper Sunrise Allocation

A complaint under this section shall be required to show by reasonable evidence that a .OVH TLD allocated does not comply with the Sunrise eligibility requirements.

Specifically, the complaint must prove one or more of the following elements:
   a) At time the challenged domain name was allocated, the registrant did not hold a trademark declared valid regarding the Trademark Clearinghouse rules;
   b) The domain name is not identical to the mark on which the registrant based its Sunrise registration;
   c) The trademark registration on which the registrant bases its Sunrise application is not of national effect or the trademark is not valid regarding the Trademark Clearinghouse rules; or
   d) The registrant does not hold a OVH nic-handle.

2.2. Improper denial of Sunrise Registration

A complaint under this section shall be required to show reasonable evidence that the Registry failed to register a .OVH TLD that was applied for in compliance with the Sunrise eligibility requirements. The complainant must notify the Registry within the ten (10) calendar days following the Registry's decision to deny the allocation of the required .OVH TLD to submit a complaint under the SDRP.

Article 3. Evidence and defense

The OVH Panelist will review the Sunrise eligibility requirements regarding the complaint and any evidence provided by the complainant in order to be as equitable as possible.

The Respondent may produce evidence to show that, although the Sunrise allocation 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 allocation was applied for and, thus, the allocation would have been granted.

Article 4. Remedies

4.1 In case of improper sunrise registration

If the Panelist finds that the domain name was improperly allocated during the Sunrise Period, the following remedies will apply:

- If the complainant had submitted a Sunrise eligible application for the disputed domain name, the disputed domain name will be registered in favor of the complainant, provided that the complainant is the only existing Sunrise eligible application.
- If no other eligible applications had been submitted for the disputed domain name during Sunrise Period, the disputed .OVH TLD will be cancelled and it will be returned to the pool of names available for .OVH General Availability

4.2 In case of improper denial of sunrise registration

If the Panelist finds that the domain name was improperly denied during the Sunrise Period, the following remedies will apply:

If the disputed domain name has not been allocated yet:
- it will be registered in favor of the complainant, provided that the complainant is the only existing Sunrise eligible application; or
- 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.

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 in the ten (10) calendar days of its intention to submit a complaint.

Article 5. Procedure

5.1 Complaint:

To challenge a registration allocated or rejected in the Sunrise Period, the applicant must:
- submit to the Registry a written challenge proving that the domain name allocation or denial of allocation during the Sunrise Period was improper under one or more of the criteria said before, along with supporting evidence. Challenges must be sent via email to legal@ovh.net ; and
- Pay a procedure fee of xx Euros to the Registry.

5.2 Statement of defense

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

5.3 Decisions

The Registry will assess the challenge, its claims and supporting documentation. The Registry may ask for further information from the applicant and/or the domain Name holder in order to make an informed decision. Within thirty (30) calendar days after gathering all the required information, the Registry will make a decision on whether the challenge should prevail and will notify the interested parties via email.

If a decision requires a change to the status of a registered domain name, the Registry will implement it within the following ten (10) business days after communication of the decision to all the parties involved.

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.

Article 6. Indemnification

The parties of a proceedings under this SDRP shall indemnify, defend and hold harmless the Registrar and the Registry 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 or the Registry 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 registration and use of the Registered domain name(s) in the .OVH TLD.

Article 7. Other Rights

Any SDRP procedure does not affect other legal protection mechanisms and/or other dispute resolution procedures such as Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Uniform Rapid Suspension System ("URS") and any other mandatory dispute policies adopted by ICANN and/or the Registry.

Article 8. Policy Review and update

The Registry may modify this Sunrise Dispute Resolution Policy 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 Sunrise Dispute Resolution Policy shall be effective thirty (30) 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. Registrar is invited to check the Sunrise Dispute Resolution Policy from time to time in order to implement any modification.