

SUNRISE DISPUTE RESOLUTION POLICY (“SDRP”) Version 1.0

The outcome of any Sunrise Auction is final. However, if you have a complaint during or after the Sunrise Registration period or during or after the Sunrise Auction period which falls within one of the grounds set out in this section, the National Arbitration Forum (“NAF”) shall be the sole forum for Sunrise Dispute Resolution. All the [rules of procedure](#) relating to the SDRP are available from the NAF and the disputing parties are expressly subject to those rules.

The only grounds for a claim under SDRP are for Improper Sunrise Registration -of Trademarks¹ and are as follows:

- 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;
- the domain name is not identical to the mark on which the registrant based its Sunrise Registration² ;
- 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
- 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 in its Sunrise Criteria, if one was specified.

Parties participating in an auction may bring an SDRP claim prior to the auction if necessary. The Auction will be suspended pending the resolution of the SDRP. Once an auction is concluded, if an SDRP claim is brought and the losing bidder prevails, the auction price to the losing bidder will be the amount of the last bid by that bidder.

If a third party has a complaint about any trademark holder's ability to obtain or maintain the Sunrise Registration, based on the criteria set forth above, such claims shall be brought within 120 days after the close of the Sunrise Registration period.

Any other matters arising out of the Sunrise Auction must be settled in an appropriate international forum. The affected party must bring the relevant claim. The Registry Operator will act in accordance with appropriate notice of any binding court order or arbitration award.

Regardless of anything to the contrary stated in this policy, the Registry reserves the right to put a hold on any domain name pending final dispute resolution and/or to seek legal advice on the enforceability of any court order and has the right to require the serving party to take additional steps before the Registry will comply with any order or award.

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.

² For the purposes of analysis of this element, neither the gTLD itself, nor the “.dot,” shall be considered.

RULES OF PROCEDURE FOR REGISTRY OPERATOR SUNRISE DISPUTE RESOLUTION POLICY ("SDRP")

The Rules of Procedure for the SDRP comprise the National Arbitration Forum Policy ("Forum Policy") and Rules of the Forum. Where there is a conflict between the SDRP and the Forum Policy or Rules of the Forum, the provisions of the SDRP shall prevail. By initiating a complaint under the SDRP you agree to be bound by the Forum Policy and Rules of the Forum.

Forum Policy

This Forum Policy and [Rules of the Forum](#) are incorporated by reference into the [SDRP](#).

A complaint under the SDRP may be filed against a domain name registered during the Registry Operator's sunrise period for a particular TLD, until 120 days after that sunrise period ends. The provider for SDRP disputes is the National Arbitration Forum (<http://domains.adrforum.com>) ("Forum" or "Provider").

1. Purpose

Domain names can be registered by third parties or reserved by the Registry Operator. This Forum Policy describes the process and standards that will be applied to resolve challenges alleging that a domain name has been registered in violation of the Registry Operator's SDRP criteria. The SDRP will not be applied to Registry Operator reserved names in the TLD.

2. Applicable Disputes

A registered domain name in the TLD will be subject to an administrative proceeding upon submission of a complaint that a registration made during the Registry Operator's Sunrise period ("**Sunrise Registration**") was improper under one or more of the following criteria.

a. Improper Sunrise Registration Trademarks¹

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 SDRP. The complaint must prove one or more of the following elements:

- i. 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;
- ii. the domain name is not identical to the mark on which the registrant based its Sunrise Registration;²

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 30 September 2013, Article 2.3.6 and Article 2.3.1.4. The NAF does not interact with (nor instruct) the Trademark Clearinghouse and is limited to adjudicating disputes over the Registry Operator's registration and allocation of domain names during the sunrise period.

² For the purposes of analysis of this element, neither the gTLD itself, nor the ".dot," shall be considered.

- 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 the Registry Operator in its Sunrise Criteria, if one was specified.

3. Evidence and Defenses

a. Evidence

Panelists will review the Registry Operator 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. 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 the 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 the Forum Policy 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 Operator, or registrar, as applicable.

5. Procedure

a. Dispute Resolution Provider / Selection of Procedure

A complaint under the SDRP shall be submitted directly to the Provider. The Forum will administer the proceeding and select a qualified and eligible Panelist ("Panelist"). The Forum has established Rules of the Forum setting forth a fee schedule and other technical and process requirements for handling a dispute under the SDRP. The proceedings under the SDRP will be conducted according to the Forum Policy and the applicable Rules of the Forum.

b. Registry Operator'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.³ 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 registrant of a registered domain name in the TLD shall be promptly notified by the Forum of the commencement of a dispute under the 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 Forum 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 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;
- (iii) decisions made under these SDRP proceedings will be publicly published by the Forum on its website; and
- (iv) decisions made under the SDRP proceedings will be binding on the Registry Operator, subject to paragraph e. of this section apply.

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 Operator⁴ 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 the 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.

³ A Registry may, through its agreement with registrars, instead require the registrar to perform the lock and/or implementation steps.



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 the 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 the SDRP or the corresponding Forum Policy or Rules of the Forum. 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 The 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 ANY 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 the Forum Policy at any time subject to the terms of its MoU with the Registry Operator and relevant ICANN policies and procedures. Such revised Forum Policy shall be posted on the Forum's official website at least thirty (30) calendar days before it becomes effective;⁵ unless the Policy has already been invoked by the submission of a complaint, in which event the version of the Policy (and for the avoidance of doubt, the Rules of the Forum) in effect at the time it was invoked will apply until the dispute is concluded. In the event that a registrant objects to a change in the SDRP, the sole remedy is to cancel the registration, provided that the registrant will not be entitled to a refund of any fees paid in connection with such registration.

The Forum may correct typographical errors without notice.