

Sunrise Dispute Resolution Policy

10 July 2015

Contact

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Classification

Public

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1 Definitions

In this policy:

Allocation means the method by which a domain name is created and assigned to an Applicant, **Allocated** shall have a corresponding meaning.

Applicant means a natural person, company or organisation in whose name an Application is submitted.

Application means the complete and technically correct request for a domain name, which complies with the Launch Policy and any other policy issued by us, or ICANN.

Challenge means a dispute related to an Application submitted during the Sunrise Period or a Sunrise Registration, brought about on the grounds for dispute described in this policy, **Challenged** shall have a corresponding meaning.

Complainant means a third party seeking to challenge an Application submitted during the Sunrise Period or a Sunrise Registration on the grounds described in this policy.

ICANN means the Internet Corporation for Assigned Names and Numbers, its successors and assigns.

Launch Policy means the policy issued by us describing, amongst other things the requirements of a Sunrise Registration and any associated Allocation mechanisms.

Registrant means a natural person, company or organisation in whose name a domain name is Allocated in the TLD.

Registrar means an entity that is authorised to offer domain name registration services in relation to the TLD.

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

Respondent means the Registrant of a Sunrise Registration against which a Challenge is initiated.

Service means the services that we provide in relation to the TLD.

SMD File means the Signed Mark Data file provided by the TMCH Sunrise and Claims Operator to a holder of a Validated Mark which is encoded with information such as the Labels that may be Allocated during a Sunrise Period.

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 General Registration.

Sunrise Registration means a domain name Allocated to a Sunrise-Eligible Rights Holder and applied for during the Sunrise Period.

Sunrise-Eligible Rights Holders means Trademark Holders who have been issued with a SMD File from the TMCH Sunrise and Claims Operator and meet the Sunrise Eligibility Requirements specified in our Launch Policy.

TLD means Top Level Domain and for the purpose of this policy shall mean .KRD .

We, us and our means the KRG Department of Information Technology.

You and your means the person or entity receiving or accessing the Service.

2 About this document

This document describes our policy regarding acceptable use of the Service.

Document Identifier: KRD – Sunrise Dispute Resolution Policy – 1.0

Publication Date: 10 July 2015

Status: CURRENT

3 Purpose

The purpose of this document is to describe our policy on Sunrise registration dispute resolution, to provide a method by which Challenges may be resolved.

4 Policy statement

Application of this policy

This policy applies to Sunrise Registrations, and comes into effect upon the domain name being registered. This policy continues to apply until such time that the Sunrise Registration:

1. is not renewed by the Registrant; or
2. is transferred to another Registrant; or
3. is cancelled by some other process, which may include an alternative dispute resolution process; or
4. exceeds a 1 year period from the Sunrise Registration.

Grounds for Challenge

This policy covers Challenge regarding a Sunrise Registration the following grounds:

- Ground 1** A Sunrise Registration was accepted which is not an Identical Match to a Verified Mark on which the registration was based.
- Ground 2** The policy for Sunrise Registrations was not correctly applied in rejecting or allowing a Sunrise Registration.
- Ground 3** The trademark registration on which the Sunrise Registration is based was not:
- a. issued on or before the ICANN Registry Agreement Date; and
 - b. applied for before the TLD Date.

A challenge brought on these grounds will be subject to this policy, each of which are described further in this document.

Challenges relating to a Sunrise Registration which relate to a marks inclusion in or rejection from, the Trademark Clearinghouse or its underlying validity will be directly referred to the TMCH Sunrise and Claims Operator. The TMCH Sunrise and Claims Operator has published its Trademark Clearinghouse Dispute Resolution Procedures on their website at the following link:
<http://www.trademark-clearinghouse.com/dispute>

Multiple Challenges

Where more than one challenge is received in relation to the same domain name, each Challenge will be addressed in the order in which it was received.

A Challenge may not relate to more than one domain name.

Language

The language of all submissions and proceedings under this policy will be English.

Supporting evidence may be provided in its original language, provided such information is accompanied by a certified English translation of all relevant text.

Remedies

The remedies available to a Complainant shall be limited to requiring the cancellation or creation of the domain name, or the transfer of the domain name registration from the Respondent to the Complainant in the circumstances described in this policy.

Maintaining the status quo

Except as may be required by other policies or legal requirements, we will not cancel, create, transfer, activate, deactivate, or otherwise change the status of any domain name subject to this policy, except as provided herein.

Transfers of Sunrise Registrations under this policy

Transfers to another Registrant during a Challenge

Upon being notified that a domain name is subject to a Challenge as described in this policy the domain name may not be transferred to another Registrant until notification has been provided to you by us that any outstanding Challenge has been assessed and resolved in favour of the Respondent.

Transfer of Registrar during a Challenge

A Sunrise Registration that is subject to a Challenge under this policy may not be transferred to another Registrar until all Challenges have been resolved.

Transfers as a result of an upheld Challenge

Where a Complainant requests that a domain name is transferred to them as a result of a Challenge found in favour of the Complainant, the Complainant must supply such information that we require to effect that transfer. Where such information is additional to that provided in lodging the Challenge, the Complainant will have five (5) Business Days to provide such information. Should the Complainant fail to provide such information within this timeframe the Challenge will be considered abandoned.

The Challenger must agree to make the same warrants and agreements, including to be bound by this and any other policy issued by us, when requesting the transfer of the domain name, and must enter into an agreement with a Registrar for that domain name.

Creation of Sunrise Registrations under this policy

Where a Complainant requests that a domain name is created as a result of a Challenge found in favour of the Complainant, the Complainant must supply such information that we require to effect that domain name being created. Where such information is additional to that provided in lodging the Challenge, the Complainant will have five (5) Business Days to provide such information. Should

the Complainant fail to provide such information within this timeframe the Challenge will be considered abandoned.

The Challenger must agree to make the same warrants and agreements, including to be bound by this and any other policy issued by us, when requesting the creation of the domain name and must enter into an agreement with a Registrar for that domain name.

Decisions made by the Sunrise Dispute Evaluation Panel

The Challenge will be assessed by the Sunrise Dispute Evaluation Panel on the facts provided by the Complainant and the Respondent. The Sunrise Dispute Evaluation Panel assessment is of an administrative nature and the Sunrise Dispute Evaluation Panel shall not be required to provide reasons for its assessment.

The Registrar of the Sunrise Registration, Respondent and the Complainant agree that the decision of the Sunrise Dispute Evaluation Panel is final and agree to abide by its decision.

The Registrar of the Sunrise Registration, Respondent and the Complainant will indemnify, defend and hold harmless us against any claim brought or filed by a third party against us in relation to the decision of the Sunrise Dispute Evaluation Panel.

Challenges related to Ground 1

General

Challenges related to Ground 1 may be introduced by a Complainant for asserting one of the three (3) categories described in this section. A Challenge on Ground 1 must assert that one of the following is true:

- Category 1** A Sunrise Registration was accepted, which at the time the domain name was registered, was not an Identical Match with a Verified Mark.
- Category 2** A Sunrise Registration, which at the time the domain name was registered, was an Identical Match to a Verified Mark; however as the result of another process the mark is no longer a Verified Mark.
- Category 3** A Sunrise Registration, which at the time the domain name was registered, was an Identical Match to a Verified Mark; however the Sunrise Registration was not registered to the holder of the Verified Mark.

Procedure

Challenges related to Ground 1 must be lodged by completing the form attached as Appendix A to this document.

Forms must be submitted electronically, to the email address specified on the form.

The Sunrise Dispute Evaluation Panel will perform a preliminary investigation to examine the information provided to ensure that all information required has been received.

Where the information received is incomplete or found to be deficient the Sunrise Dispute Evaluation Panel will notify the Complainant. The Complainant shall have ten (10) Business Days to provide any additional information that the Sunrise Dispute Evaluation Panel may request. Should the Complainant fail to provide such information within this timeframe the Challenge will be considered abandoned.

Fee for filing a Challenge

The fee for filing a Challenge shall be USD 300. Fees in relation to Challenges for Category 1 shall be refunded within five (5) Business days to the Complainant in the case where the Sunrise Dispute Evaluation Panel determines that the Challenge is upheld. No other Categories will be eligible for a refund.

Fees shall be paid by depositing the fees into the following bank account and must be inclusive of any and all bank charges:

Bank : Kurdistan International Bank for Investment and Development
Beneficiary : Council of Ministers, Department of Information Technology
Swift code : KIBIIQBA
IBAN : IQ01KIB1009856

Examination of the Challenge

Upon receipt of full and complete information from the Complainant, including the payment of any fees, the Sunrise Dispute Evaluation Panel will:

- notify the Respondent of the Challenge; and
- allow the Respondent fifteen (15) Business Days in which to respond to the Challenge.

After the period of time to respond for the Respondent expires the Sunrise Dispute Evaluation Panel will examine the Challenge and make an assessment within fifteen (15) Business Days.

In making its assessment the Sunrise Dispute Evaluation Panel will use the information received:

- During the registration process for the Sunrise Registration;
- Any relevant information that is available to us and the Sunrise Dispute Evaluation Panel;
- Information that has been provided by the Complainant in lodging the Challenge; and/or
- Information that has been provided by the Respondent in responding to the Challenge.

Outcomes of the Challenge

A summary of the steps taken and the assessment made by the Sunrise Dispute Evaluation Panel will be communicated to the Complainant and the Respondent by e-mail.

Where the Sunrise Dispute Evaluation Panel assesses in favour of the Respondent; then no further action will be taken in relation to the Challenge.

Where the Sunrise Dispute Evaluation Panel makes the asses in favour of the Complainant the Sunrise Dispute Evaluation Panel will:

- 1 Notify the Respondent of the assessment and the consequences of that assessment;
- 2 Notify the TMCH Sunrise and Claims Operator of the assessment and the consequences of that assessment; and
- 3 After fifteen (15) Business Days of providing such notification to the Respondent:
 - a cause the domain name to be deleted, or
 - b where requested to do so by the Complainant, cause the domain name to be transferred.

Challenges Related To Ground 2

General

Challenges related to Ground 2 may be introduced by a Complainant for asserting one or both of the two (2) categories described in this section. A Challenge on Ground 2 must assert that one or both of the following is true:

- Category 1** A request for a domain name during a Sunrise Period was rejected despite the Complainant providing such information required to establish that the domain name requested was an Identical Match to a Verified Mark.
- Category 2** The policy and rules for Sunrise Registrations were not correctly applied in allocating a Sunrise Registration.

Procedure

Challenges related to Ground 2 must be lodged by completing the form attached as Appendix B to this document.

Forms must be submitted electronically, to the email address specified on the form.

The Sunrise Dispute Evaluation Panel will perform a preliminary investigation to examine the information provided to ensure that all information required has been received.

Where the information received is incomplete or found to be deficient the Sunrise Dispute Evaluation Panel will notify the Complainant. The Complainant shall have ten (10) Business Days to provide any additional information that the Sunrise Dispute Evaluation Panel may request. Should the Complainant fail to provide such information within this timeframe the Challenge will be considered abandoned.

Fee for filing a Challenge

The fee for filing a Challenge shall be USD 300. Fees in relation to Challenges for Ground 2 shall be refunded within five (5) Business days to the Complainant in the case where the Sunrise Dispute Evaluation Panel determines that the Challenge is upheld.

Fees shall be paid by depositing the fees into the following bank account and must be inclusive of any and all bank charges:

Bank : Kurdistan International Bank for Investment and Development
Beneficiary : Council of Ministers, Department of Information Technology
Swift code : KIBIIQBA
IBAN : IQ01KIB1009856

Examination of the Challenge

Upon receipt of full and complete information from the Complainant, including the payment of any fees, the Sunrise Dispute Evaluation Panel will, where the domain name which is the subject of a Challenge exists as a Sunrise Registration, notify the Respondent of the Challenge.

The Sunrise Dispute Evaluation Panel will examine the Challenge and make an assessment within fifteen (15) Business Days.

In making its assessment the Sunrise Dispute Evaluation Panel will use the information received:

- during the registration process for the Sunrise Registration;
- any relevant information that is available to us and the Sunrise Dispute Evaluation Panel; and/or
- information that has been provided by the Complainant in lodging the Challenge.

Outcomes of the Challenge

A summary of the steps taken and the assessment made by the Sunrise Dispute Evaluation Panel will be communicated to the Complainant by e-mail.

Where the Sunrise Dispute Evaluation Panel makes the asses in favour of the Complainant the Sunrise Dispute Evaluation Panel will:

Where the domain name which is the subject of the Challenge is available:

- 1 Notify the TMCH Sunrise and Claims Operator of the assessment and the consequences of that assessment; and
- 2 After providing such notification to the TMCH Sunrise and Claims Operator, cause the domain name to be created as a Sunrise Registration using the information provided by the Complainant.

Where the domain name which is the subject of the Challenge is not available:

- 1 Notify the Respondent of the assessment and the consequences of that assessment;
- 2 Notify the TMCH Sunrise and Claims Operator of the assessment and the consequences of that assessment; and
- 3 After fifteen (15) Business Days of providing such notification to the Respondent:
 - a cause the domain name to be deleted, or
 - b where requested to do so by the Complainant, cause the domain name to be transferred.

Challenges related to Ground 3

General

These Challenges may be introduced by a Complainant claiming that the trademark registration on which the Sunrise Registration is based was not, issued on or before the ICANN Registry Agreement Date and was not applied for before the TLD Date.

Procedure

Challenges related to Ground 3 must be lodged by completing the form attached as Appendix C to this document.

Forms must be submitted electronically, to the email address specified on the form.

The Sunrise Dispute Evaluation Panel will perform a preliminary investigation to examine the information provided to ensure that all information required has been received.

Where the information received is incomplete or found to be deficient the Sunrise Dispute Evaluation Panel will notify the Complainant. The Complainant shall have ten (10) Business Days to provide any additional information that the Sunrise Dispute Evaluation Panel may request. Should the Complainant fail to provide such information within this timeframe the Challenge will be considered abandoned.

Fee for filing a Challenge

The fee for filing a Challenge shall be USD 300. Fees in relation to Challenges for Ground 3 shall be refunded within five (5) Business days to the Complainant in the case where the Sunrise Dispute Evaluation Panel determines that the Challenge is upheld.

Fees shall be paid by depositing the fees into the following bank account and must be inclusive of any and all bank charges:

Bank : Kurdistan International Bank for Investment and Development
Beneficiary : Council of Ministers, Department of Information Technology
Swift code : KIBIIQBA
IBAN : IQ01KIB1009856

Examination of the Challenge

Upon receipt of full and complete information we will:

- notify the Respondent of the Challenge; and
- examine the Challenge and make an assessment within fifteen (15) Business Days.

The Sunrise Dispute Evaluation Panel will assess, if based on the supplied evidence, the trademark registration on which the Sunrise Registration is based, was not:

- 1 issued on or before the ICANN Registry Agreement Date; and
- 2 applied for before the TLD Date.

Only in cases where the information supplied satisfies both criteria will the Challenge be upheld.

A summary of the steps taken and the assessment made the Sunrise Dispute Evaluation Panel will be communicated to the Complainant by e-mail.

Outcomes of the Challenge

Where the Sunrise Dispute Evaluation Panel assesses that both elements of the grounds for Challenge have been met we will:

- 1 Notify the Respondent of our assessment and the consequences of that assessment;
- 2 Notify the TMCH Sunrise and Claims Operator of our assessment and the consequences of that assessment; and
- 3 After fifteen (15) Business Days of providing such notification to the Respondent, cause the domain name to be deleted.

5 Definition and review

This document has been prepared and published to represent our policy regarding the administrative and technical management of the TLD.

We may discontinue or amend any part or the whole of this compliance statement from time to time at our absolute discretion.

Appendix A

Where an individual is completing the form the individuals details:

- Name of individual
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Where the individual is completing a form on behalf of a business entity:

- The name of entity
- Business registration number
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Sunrise Registration details:

- Domain name
- Trademark record identification number
- Name of the trademark record being challenged
- Name of the trademark holder associated with the trademark record being challenged

Reason for the Challenge:

Describe, in accordance with the policy, the grounds on which the challenge is made including, in particular, why the domain name that is the subject of the dispute should be considered to have been registered in violation of the Sunrise Policy, in that:

Category 1 *a Sunrise Registration at the time the domain name was registered was not an Identical Match with a Verified Mark; or*

Category 2 *a Sunrise Registration at the time the domain name was registered was an Identical Match to a Verified Mark, however as the result of another process the mark is no longer a Verified Mark; or*

Category 3 *was an Identical Match to a Verified Mark, however the Sunrise Registration was not registered to the holder of the Verified Mark.*

Attach supporting information to substantiate the claim.

Specify, in accordance with the Policy, the remedies sought, i.e. transfer or cancellation of the domain name registration.

Identify any other proceedings that have been commenced or terminated in connection with or relating to the domain name that is the subject of the Challenge.

Representation, Warranty and Acknowledgement:

By signing and submitting this Challenge Request Form, the Complainant declares, warrants and acknowledges that, to the best of the Complainant's knowledge, the above statements are true, correct and not fraudulent.

Name:

Signature:

Date:

Submitted via email to: abuse@dit.krg.org

Appendix B

Where an individual is completing the form the individuals details:

- Name of individual
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Where the individual is completing a form on behalf of a business entity

- The name of entity
- Business registration number
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Sunrise Registration details:

- Domain name
- Trademark record identification number

Reason for the Challenge:

Describe, in accordance with the policy, the grounds on which the challenge is made including, in particular, why:

Category 1 *a request for a domain name during a Sunrise Period was rejected despite the Complainant providing such information required to establish that the domain name requested was an Identical Match to a Verified Mark; or*

Category 2 *the policy and rules for Sunrise Registrations were not correctly applied in allocating a Sunrise Registration.*

Attach supporting information to substantiate the claim.

Specify, in accordance with the Policy, the remedies sought, i.e. transfer or cancellation of the domain name registration.

Identify any other proceedings that have been commenced or terminated in connection with or relating to the domain name that is the subject of the Challenge.

Representation, Warranty and Acknowledgement:

By signing and submitting this Challenge Request Form, the Complainant declares, warrants and acknowledges that, to the best of the Complainant's knowledge, the above statements are true, correct and not fraudulent.

Name:

Signature:

Date:

Submitted via email to: abuse@dit.krg.org

Appendix C

Where an individual is completing the form the individuals details:

- Name of individual
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Where the individual is completing a form on behalf of a business entity:

- The name of entity
- Business registration number
- Postal / Street Address
- City
- State / Province
- Postal / Zip Code
- Country
- Phone Number
- Fax Number
- Email address

Sunrise Registration details:

- Domain name(s)
- Name of the trademark record being challenged
- Trademark record identification number
- Trademark application date
- Trademark registration date
- Name of the trademark holder associated with the trademark record in challenge

Reason for the Challenge:

Describe, in accordance with the policy, the grounds on which the challenge is made. Attach evidence which must be notarised or certified by the relevant authority in that jurisdiction evidencing the dates on which the trademark was registered and the date on which it was issued.

Representation, Warranty and Acknowledgement:

By signing and submitting this Challenge Request Form, the complainant declares, warrants and acknowledges that, to the best of the complainant's knowledge, the above statements are true, correct and not fraudulent.

Name:

Signature:

Date:

Submitted via email to: abuse@dit.krg.org