

SUNRISE DISPUTE RESOLUTION POLICY GTLD (GENERIC TOP LEVEL DOMAIN): .ERNI

Project: .ERNI gTLD
Customer: ERNI Group Holding AG

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1. .ERNI GTLD SUNRISE DISPUTE RESOLUTION POLICY

The .ERNI Sunrise Dispute Resolution Policy (the “SDRP”) is established by ERNI (the “Registry”) and incorporated by reference into the .ERNI Sunrise Registration Policies. This SDRP is effective as of the beginning of the Sunrise Period. A SDRP complaint may be filed against a domain name allocated during the .ERNI TLD sunrise period (the “Sunrise Period”) and will be handled by the .ERNI TLD Committee (as referred to in the .ERNI “Sunrise Registration Policies”).

2. PURPOSE

This SDRP describes the process and standards that will be applied to resolve challenges alleging that a domain name has been allocated in the .ERNI TLD, in violation of the Registry’s Sunrise Registration Policies. This SDRP will not be applied to Registry-reserved names in the TLD.

3. APPLICABLE DISPUTES

A domain name registered in the .ERNI TLD during the Sunrise Period will be subject to an administrative proceeding upon submission of a complaint that the Sunrise registration of a Sunrise registration was improper under the criteria described below:

Challenge criteria: Improper Sunrise registration

A complainant will be required to show by reasonable evidence that a Sunrise registered domain name in the TLD does not comply with the provisions of the Registry’s Sunrise Period of the Launch Phase Program.

The complainant must prove one or more of the following elements:

- i. at the time the challenged domain name was allocated, the registrant did not hold a trademark registration validated by the Trademark Clearinghouse; or
- ii. the domain name is not identical to the TMCH validated trademark on which the registrant based its Sunrise registration;

4. SDRP EFFECTIVE DATES.

Any SDRP claim brought under this Policy for domain names registered during the Sunrise Period in the .ERNI TLD shall be brought no later than 30 days after the end of the TLD Sunrise Period.

5. EVIDENCE AND DEFENSES

a) Evidence

The Committee will review the Registry’s Sunrise Eligibility Requirements, which are required to be submitted with the Complaint, as applicable, in order to adopt a decision.

b) Defences

Harmless error .ERNI as the only possible Respondents, may produce evidence to show that the true and correct evidence existed at the time the Sunrise registration was applied for and, thus, the registration should not be suspended by the challenge issued by the complainant.

6. REMEDIES

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

Improper Sunrise Registration

If a complaint is filed under SDRP, the domain name registration will be suspended until the dispute is resolved. If the panellists find that the domain name was improperly allocated during the Sunrise Period, the Sunrise domain name registration will be deemed invalid, and the name will be returned to the pool of names generally available for registration in the TLD. A decision suspending a Sunrise Period registration will not prevent ERNI from registering the same name in the general availability period.

7. PROCEDURE

a) Submission

A Complaint under this SDRP shall be submitted to the .ERNI TLD Committee (“ the Committee”) by submitting the complaint directly to the Committee. The Committee will administer the proceeding and select the qualified and eligible panellists (“panellists”) from within the Committee’s members. The Committee will establish the appropriate and commensurate Rules for the Committee’s Sunrise Dispute Resolution Policy (“Rules”) 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 Committee.

The SDRP proceeding shall have a cost of a €100 fee, to be satisfied by the complaining party before the initiation of the proceedings.

b) The .ERNITLD Committee

The .ERNI TLD Committee is composed of three to five members appointed by ERNI. The Committee members will be appointed to represent the best interests of both the Registry Operator of the .ERNI exclusive-use TLD and the Internet users as a whole, and will conduct their demeanour in relation to any potential Sunrise Period claims in the best interest of the .ERNI TLD mission and scope.

c) Registry’s or Registrar’s Involvement

Neither the Registry officers nor the registrar’s will participate in the administration of any proceeding initiated in front of the Committee. In any event, neither the Registry nor the registrar is or will be liable as a result of any decisions rendered by the panellists.

The Registry and the registrar will comply with any panellists' decision and make all appropriate changes to the status of the domain name Sunrise registration(s) in their Whois databases.

d) Parties

The designated ERNI officer, as the representative of the only potential registrant of a registered domain name in the TLD, shall be promptly notified by the Committee 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 Committee shall promptly notify all named parties in the dispute, as well as the registrar of any decision made by the panellists.

e) Temporary Suspension

During a proceeding under the SDRP, the registered domain name shall be suspended if the Committee determines such a decision is in order based on the claimant's arguments.

f) Adoption of a Decision

The panellists should adopt a final decision in 10 working days since the reception of the complaint.

g) Decisions

- i. The panellists may state the basis on which the decision is issued in summary format and may include such commentary or guidance as the panellists deems appropriate;
- ii. The decision shall state whether a registered domain name in the TLD is to be suspended or the status quo maintained; and
- iii. Decisions made under this SDRP will be publicly published by the Committee on the Registry's website.

h) Implementation of the Decision

If a panellists' decision requires a change to the status of a registered domain name, (namely, its suspension until the commencement of the general availability period) the Registry will implement that decision within 5 days since the reception of the panellists' decision.

i) 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.

8. INDEMNIFICATION / HOLD HARMLESS

The parties shall hold the registrar, the Registry, the Committee, and the panellists harmless from any claim arising from operation of the SDRP. Neither party may name the registrar, the Registry, the Committee, or the panellists as a party or otherwise include the registrar, the Registry, the Committee,

or the panellists 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, the Committee, the panellists 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, Committee, the panellists 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 the registered domain name(s) in the TLD.