



dotkoeln registry

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Sunrise Dispute Resolution Policy for the TLD .cologne

I. Purpose of this document

The purpose of this document is to describe NetCologne's policy on Sunrise Registration dispute resolution, to provide a method by which challenges may be resolved.

II. Backreason and objectives

NetCologne has developed a Launch Policy that meets the requirements of ICANN in relation to the implementation of Rights Protection Mechanisms for the TLD .cologne. The Launch Policy ("Lunch_Policies_cologne.pdf") can be found in the policy section of our website at the following link www.dotkoeln.de.

In addition to the Launch Policy, ICANN's requirements also prescribe the implementation of a mechanism to address challenges to applications submitted during the Sunrise Period and Sunrise Registrations.

This policy and others issued by NetCologne are incorporated by reference to the agreement entered into by a registrant at the time of registration of a domain name.

III. Application of this policy

This policy applies to applications submitted during the Sunrise Period and Sunrise Registrations, and comes into effect upon the conclusion of the Sunrise Period.

IV. Grounds for challenge

The following cases cover all the reasons for complaint under the SDRP.

The appeals process will follow the rules and procedures from the Sunrise Dispute Resolution Policy (SDRP). Thus, according to the sunrise service rules as articulated by ICANN, the SDRP will allow challenges based on at least one of the following grounds:

- 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.



- The domain name is not identical to the mark on which the registrant based its sunrise registration.
- 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.
- The trademark registration on which the domain name registrant based its sunrise registration did not issue on or before the effective date of the Registry Agreement and was not applied for on or before ICANN announced the applications received

Complainants are notified that the SDRP procedure is not a substitute for or alternative to the other trademark dispute resolution procedures such as URS or UDRP. The SDRP procedure is never used for a trademark dispute. SDRP procedure are concerned solely with the reasons for complaint listed above which are directed at fault validations.

V. Procedure

NetCologne will commission an expert and neutral third party ("Dispute Resolution Provider" or "DRP") to resolve the dispute in accordance with the SDRP. Information on the dispute resolution provider and the fees for dispute resolution are published on the registry's website.

The registry together with the DRP will provide electronic forms in sufficient time before the start of the sunrise phase with which complainants can initiate the procedure. The form will request all necessary data. Incomplete applications cannot be processed.

Complainants should state before initiating the procedure whether they want registration in their favor of the domain complained of. In this case complainants must provide evidence meeting all the conditions for registration of the domain in the TLD .cologne policies along with submission of the complaint. This also applies for any validations required. If the complainant does not provide this information, they cannot request transfer under this policy of the domains complained of.

The complainant is obliged to pay the fees published by the registry for carrying out the procedure. The registry will publish details in sufficient time.

The complainant should submit all necessary documentation to the DRP along with submission of the complaint. Necessary documents are those showing a reason for complaint listed above, and specifically extracts from trademark registers, screenshots of web sites or extracts from commercial registers.

If the DRP agrees that there is a reason for complaint, the respondent is requested to respond with a set period.

If the respondent fails to respond, the complaint is upheld. If the respondent responds, the DRP will review this and then issue a written decision on the complaint.

The parties will be informed by e-mail of all acts by the DRP. An exception is the final decision of the DRP, which is sent to the parties in writing.



VI. Consequences of a complaint procedure

After completion of the complaint procedure the parties should state within a period set by the DRP whether review of the DRP's decision by a regular court is required. Court review is also possible after the end of the periods of notice set by the DRP.

However, after expiration of such a period of notice and the sunrise lock, the registry is entitled to dispose of the TLD .cologne domain involved in accordance with the DRP's decision. Specifically, the registry may be entitled to:

- Transfer the domain involved to the complainant, or
- Delete the domain in question, or
- In the event of court proceedings, to keep the domain involved under sunrise lock until the close of the proceedings.

VII. Dealing with 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.

VIII. 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.

IX. Indemnification

The registrar of the Sunrise Registration, respondent and the complainant will indemnify, defend and hold harmless NetCologne and its respective employees, contractors, agents and service providers, against any claim brought or filed by a third party against us, in relation to the operation of this policy including any decision of the DRP.

Neither party may name NetCologne or the DRP as a party, or otherwise include us or the DRP, in any judicial proceeding relating to the dispute or the administration of this policy. Neither NetCologne nor our 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.



The complainant shall be directly and solely liable to the registrant in the event that it prevails in circumstances where the registrant is lawfully entitled to registration and use of the registered domain name in the TLD.

X. Other

The dispute resolution procedure described here does not constitute formal arbitration within the meaning of the German Civil Procedure Code. While the procedure under SDRP is helpful and promotes speedy resolution of the issue, it is not a formal requirement for filing suit.

German law shall apply exclusively.

The sole venue for all disputes with companies arising out of and in connection with the .cologne Sunrise Dispute Resolution Policy is Köln (Cologne). If the registry is the plaintiff, it is also entitled to choose the registered office of the registrant as venue. This does not affect the right of both parties to seek injunctive relief before the competent courts as recognized by statute. In the event of disputes with consumers, the general venues apply.

If any provision of the present policy should be or become invalid or contain an inadmissible period of notice or a gap, this does not affect the legal validity of the other provisions. Unless the invalidity results from a violation of §§ 305 et seq. German Civil Code (BGB) the invalid provision is deemed to be replaced by a valid provision which commercially most closely approaches the result intended by the parties. The same applies in the event of a gap. In the event of an inadmissible period of notice, the statutory period applies.

XI. Definition and review

This document has been prepared and published in order to represent NetCologne's policy with regard to the administrative and technical management of the TLD .cologne.

NetCologne may discontinue or amend any part or the whole of this policy from time to time at our absolute discretion.