

# **.eu Alternative Dispute Resolution Rules (the "ADR Rules")**

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## **.eu Alternative Dispute Resolution Rules (the "ADR Rules")**

Alternative dispute resolution proceedings for the resolution of disputes under Paragraph 22(1)(a) and (b) of Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and principles governing registration and Regulation (EU) 2019/517 of the European Parliament and the Council of 19 March 2019 on the implementation and functioning of the .eu Top Level Domain shall be governed by these ADR Rules and the Supplemental ADR Rules of the Provider administering the ADR Proceedings, as far as available and posted on its web site. The interpretation and application of these ADR Rules will be conducted in the light of the EU legal framework which will prevail in case of conflict.

# **.eu Alternative Dispute Resolution Rules (the "ADR Rules")**

## **A GENERAL**

### **1 Definitions**

These ADR Rules are applicable to domain name disputes where the domain name has been registered under the .eu Top Level Domain or possible .eu variants in other scripts. The mention of .eu in these ADR rules refers not only to the Latin script, but also to .eu variants in other scripts.

Within these ADR Rules:

**ADR** means an 'alternative dispute resolution'.

**ADR Proceeding** is a proceeding initiated in accordance with the Procedural Rules.

**Complaint** means the document (including all annexes) prepared by the Complainant to initiate a cause of action under the ADR Proceeding.

**Complainant** means the Party initiating a Complaint concerning a .eu domain name registration or requesting to change the language of the ADR Proceeding.

**Date of Commencement of an ADR Proceeding** means a date on which all the following conditions are fulfilled:

- (a) an administratively compliant Complaint has been properly filed with the Provider; and
- (b) the appropriate fee for the ADR Proceeding is paid.

**Domain Name Holder** means a legal or natural person who holds an activated registration of a .eu domain name.

**European Union Regulations** refer to Regulation (EC) No 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain<sup>1</sup>, Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and principles governing registration<sup>2</sup>, Regulation (EU) 2019/517 of the European Parliament and of the Council of 19 March 2019 on the implementation and functioning of the .eu top level domain name and amending and repealing Regulation (EC) No 733/2002 and repealing Commission Regulation (EC) No 874/2004<sup>3</sup>, and any further regulation that would replace, amend or complete such rules and principles.

**Registry** means the entity entrusted by the European Commission with the organisation, administration and management of .eu designated in accordance with the procedure established in Article 3 of Regulation (EC) No 733/2002.

**Mutual Jurisdiction** means a court jurisdiction at the location of either:

- (a) the principal office of the Registrar (provided the Respondent has submitted in its Registration Agreement to that jurisdiction for court adjudication of disputes concerning or arising from the use of

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<sup>1</sup> O.J L 113 of 30.04.2002, p. 1.

<sup>2</sup> O.J. L 162 of 30.04.2004, p. 40.

<sup>3</sup> O.J L 91 of 29.03.2019, p. 25.

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the domain name, and provided that the court thus designated is located within the European Union);  
or

(b) the Respondent's address as shown for the registration of the domain name in the Registry's WHOIS database at the time the Complaint is submitted to the Provider, or as received from the Registry by the Complainant if such information is not available in the Registry's WHOIS database; or

(c) the principal office of the Registry in case of ADR Proceedings against the Registry.<sup>4</sup>

**Panel** means an ADR panel appointed by a Provider to decide upon a Complaint concerning a .eu domain name registration.

**Panelist** means an individual appointed by a Provider to be a member of a Panel.

**Party** means a Complainant or a Respondent; Parties means both of them.

**Procedural Rules** means these ADR Rules, the Provider's Supplemental ADR Rules, and European Union Regulations. In case of conflict between any of these rules, the European Union Regulations take precedence.

**Provider** means a dispute resolution service provider selected by the Registry.

**Registrar** means an entity with which the Respondent has registered a domain name that is the subject of a Complaint.

**Registration Agreement** means the agreement between a Registrar and a domain name holder.

**Registration Policy** means the .eu Domain Name Registration Policy issued by the Registry.

**Respondent** means the holder of a .eu domain name registration (or the holder's legal heirs or the Registry in case of an ADR Proceeding against the Registry) in respect of which a Complaint and/or a request to change the language of the ADR Proceeding is initiated.

**Response** means the document (including all annexes) filed by the Respondent in reply to the allegations set forth in the Complaint in accordance with these ADR Rules and the Supplemental ADR Rules.

**Sunrise Appeal Period** means the 40-day period during which a Complaint against the Registry's decision to register a domain name within the Sunrise period can be filed as specified in the Sunrise Rules.

**Sunrise Rules** means the .eu Registration Policy and the Terms and Conditions for Domain Name Applications made during the Phased Registration Period issued by the Registry.

**Supplemental ADR Rules** means the rules adopted by the Provider administering ADR Proceedings to supplement these ADR Rules.

**Terms and Conditions** mean the .eu Domain Name Registration Terms and Conditions issued by the Registry.

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<sup>4</sup> O.J. L 12 of 16.01.2001, p. 1.

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**Time of Filing** means the point in time when the following conditions are fulfilled:

- (a) a Complaint or a request to change the language of the ADR Proceeding has been properly filed with the Provider; and
- (b) the appropriate fee for the ADR Proceeding is received by the Provider.

**Working days** mean all days falling between Monday and Friday other than those which are public holidays in the country or state where the Provider or either of the Parties, as the case may be, is subject to an obligation to adhere to a period of time as specified under these ADR Rules.

### **2 Communications and Periods of Time**

(a) When forwarding a Complaint to the Respondent, it shall be the Provider's responsibility to employ the reasonably available means calculated to achieve actual notice to the Respondent.

(b) The Provider shall discharge its obligation to achieve actual notice by (i) sending the Complaint, or a notice with information detailing how to access the Complaint (e.g. for the purposes of an online platform operated by the Provider), to the Respondent, employing the means stipulated in (c) below to the address which the Registry has communicated to the Provider for the registered domain name holder, or to the Registry's seat in case of a Complaint against the Registry's decision; and (ii) in case the Respondent does not confirm receipt of the electronic communication made pursuant to (i) above within five (5) days from sending the communication, by forwarding the above mentioned notice with information how to access the Complaint by registered postal or courier service, postage pre-paid and return receipt requested, to the address(es) specified in (i) above.

(c) Unless specified otherwise in these ADR Rules, any written communication to the Complainant, the Respondent or the Provider provided for under these ADR Rules shall be made by the preferred means stated by the Complainant or Respondent, respectively, or in the absence of such specification:

- (1) electronically via the Internet, provided a record of its transmission is available; or
- (2) by telecopy or facsimile transmission, with a confirmation of transmission; or
- (3) by registered postal or courier service, postage pre-paid and return receipt requested.

(d) Either Party may update its contact details by notifying the Provider and the Registry.

(e) Except as otherwise stipulated by these ADR Rules, all communications provided for under these ADR Rules shall be deemed to have been received, in accordance with this provision:

- (1) if via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable; or
- (2) if delivered by facsimile transmission, on the date shown on the confirmation of transmission; or

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- (3) if by registered postal or courier service, on the date marked on the receipt or, if it is not possible to deliver the communication in this way, on the expiry of twelve (12) days from the handing-over of the communication to a postal or courier service provider.
- (f) It shall be the responsibility of the sender to retain records of the fact and circumstances of delivery, which shall be available for inspection by the Provider and for reporting purposes.
- (g) A system log of data messages of the Provider shall be considered as valid records in the absence of any evidence of malfunction of the Provider's system.
- (h) Except as otherwise stipulated by these ADR Rules, all time periods calculated under these ADR Rules begin on the earliest date that the communication is deemed to have been made in accordance with Paragraph A2(e).
- (i) At the request of a Party filed before the expiration of the relevant period(s) of time, the Provider and, after its appointment, the Panel, may, at its sole discretion, extend the period(s) of time laid down in these ADR Rules which are applicable to the Parties in exceptional circumstances or upon agreement by both Parties. The Provider and, after its appointment, the Panel, shall decide on any such limited period of extension.
- (j) No Party or anyone acting on its behalf may engage in any unilateral communication with the Panel. All communications between a Party, on the one hand, and the Panel or the Provider, on the other, shall be made to a case administrator appointed by the Provider by the means and in the manner prescribed in the Provider's Supplemental ADR Rules.
- (k) Any communication in an ADR Proceeding initiated by:
- (1) a Panel to a Party shall be made through the Provider;
  - (2) a Party shall be made through the Provider;
  - (3) the Provider to any Party or by a Party on after the Date of Commencement of an ADR Proceeding shall be copied by the Provider to the other Party and the Panel.
- (l) In the event that a Party sending a communication receives notification of non-delivery of the communication, the Party shall promptly notify the Provider of the circumstances of the notification.

### **3 Language of Proceedings**

- (a) The language of the ADR Proceedings must be one of the official EU languages. Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the ADR Proceeding shall be the language of the Registration Agreement for the disputed domain name. In the absence of an agreement between the Parties, the Panel may, at its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a Complainant, filed before initiating a Complaint, that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name.
- (b) The procedure related to the request for a change to the language of the ADR Proceeding shall be as follows:

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- (1) The request shall be submitted to the Provider and shall:
    - (i) specify the information under Paragraphs B1(b)(2), (b)(3), (b)(5), (b)(6), and (b)(7) of the ADR Rules;
    - (ii) specify the requested change of the language of ADR Proceeding;
    - (iii) specify the circumstances that would justify such a change of the language of an ADR Proceeding;
    - (iv) conclude with the statement under B1(b)(15) of the ADR Rules.
  - (2) The Provider will acknowledge receipt of the request from the Complainant, subject to the receipt of the fees due hereunder, and, if applicable, shall notify the Registry of the Time of Filing in accordance with B1(e) of the ADR Rules, having the same consequences as under B1(e) of the ADR Rules.
  - (3) The Provider shall notify the Respondent of the request to change the language of the ADR Proceeding within five (5) days following receipt of the fees payable hereunder.
  - (4) The Respondent shall have a right to submit a response to the Provider within twelve (12) days of the date of notification of the request to change the language of the ADR Proceeding.
  - (5) The Provider will acknowledge receiving the response from the Respondent and will appoint a single Panel to decide the request. Paragraph B5 applies accordingly.
  - (6) The Panel shall issue a decision whether or not to allow the requested change of the language of the ADR Proceeding within twelve (12) days from the date of its appointment. The Panel's decision shall be final and not subject to appeal. The decision shall be communicated to the Parties without delay.
  - (7) In case the Complainant files the Complaint within thirty (30) Working days from receiving the decision under (b)(6) above, the Time of Filing of the request to change the language of the ADR Proceeding shall apply with respect to the Complaint, provided the appropriate fee is paid.
- (c) All documents including communications made as part of the ADR Proceeding shall be made in the language of the ADR Proceeding or in the requested language if the Complainant proves in his submission that the Respondent has adequate knowledge of that language. Notwithstanding anything mentioned above, the Panel may request the translation of any documents submitted in other languages than the language of the ADR Proceeding. The Panel may disregard documents submitted in other languages than the language of the ADR Proceeding without requesting their translation. Any communication by the Provider which, from its content, cannot be regarded as amounting to procedural documents (such as cover letters with which the Provider sends procedural documents or automatic system notifications generated by the Provider's application) shall be made in the language of the ADR Proceeding or in English.
- (d) The Provider and, after its constitution, the Panel, by itself or upon the request of a Party, may order that any documents submitted in languages other than the language of the ADR Proceeding be accompanied by a translation in whole or in part into the language of the ADR Proceeding.

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### **4 Settlement or Other Grounds for Termination**

(a) The ADR Proceeding will be understood to be concluded once the Panel has received confirmation from both Parties that an agreement has been entered into by the Parties concerning the object of the dispute.

(b) If the Parties wish to negotiate a settlement, the Complainant may request that the Provider or, after its constitution, the Panel suspend the ADR Proceeding for a limited period. The suspension period may be extended by the Panel upon the Complainant's request. Any such suspension shall be without prejudice to the obligation of the Panel to forward its decision on the Complaint to the Provider within the time period specified in Paragraph B12(b) below. Resumption of the ADR Proceeding shall take place automatically upon receipt of a request thereto from either the Respondent or the Complainant or upon the expiration of the limited and specified time period.

(c) The Panel shall terminate the ADR Proceeding if it becomes aware that the dispute that is the subject of the Complaint has been finally decided upon by a court of competent jurisdiction or an alternative dispute resolution body.

(d) The Panel shall suspend any ADR Proceeding(s) pursuant to Paragraphs B1(f), B2(e) and B3(d) below.

### **5 Court Proceedings**

The conduct of the ADR Proceeding shall not be prejudiced by any court proceeding, subject to Paragraph A4(c) above.

### **6 Fees**

(a) The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Supplemental ADR Rules. Until the Provider has received this initial fee, it is not obliged to take any action on the Complaint. If the Provider has not received the fee within ten (10) days of the date of notification of unpaid fees, the Complaint shall be deemed withdrawn and the ADR Proceeding cancelled.

(b) A Complainant initiating a request to change the language of the ADR Proceeding under Section A3 above or initiating a challenge to the withdrawal of Complaint due to its administrative deficiency under Paragraph B2(c) below shall pay to the Provider separate fees in accordance with the Supplemental ADR Rules. If the Provider has not received the fee within five (5) days of the date of notification of unpaid fees, the request shall be deemed withdrawn.

(c) A Respondent electing under Paragraph B3(b)(4) to have the dispute decided upon by a three-member Panel, rather than single-member Panel elected by the Complainant, shall pay the Provider an additional fee specified in the Supplemental ADR Rules. In all other cases, the Complainant shall bear all of the Provider's fees.



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- (d) In exceptional circumstances (for example, in the event that an in-person hearing is held) the Provider shall request the Party or Parties requesting such an event respectively to pay additional fees, which, after its constitution, shall be established in consultation with the Panel before scheduling any such hearing.
- (e) Subject to Paragraph B1(f) below, paid fees are not reimbursable.

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### **B CONDUCT OF THE PROCEEDINGS**

#### **1 The Complaint**

(a) Any person or entity may initiate an ADR Proceeding by submitting a Complaint in accordance with the Procedural Rules to any Provider. A Complaint may be filed:

(1) against a Domain Name Holder in respect of which domain name the Complaint is initiated;  
or

(2) against the Registry.

For the avoidance of doubt, until the domain name in respect of which the Complaint is initiated has been registered and activated, a Party can initiate an ADR Proceeding only against the Registry.

(b) The Complaint shall:

(1) Request that the Complaint be submitted for a decision in an ADR Proceeding in accordance with the Procedural Rules;

(2) Provide the name, postal and e-mail addresses, and the telephone and fax numbers of the Complainant and of any representative authorised to act for the Complainant in the ADR Proceeding;

(3) Specify a preferred method for communication directed to the Complainant in the ADR Proceeding (including the person to be contacted, means of communication, and address information);

(4) Designate whether the Complainant elects to have the dispute decided by a single- or three-member Panel and, in the event the Complainant elects a three-member Panel, provide the names of three candidates to serve as one of the panelists (these candidates may be drawn from the list of panellists of the Provider dealing with the proceedings). To the maximum feasible extent, such candidates should not have been involved in the past three (3) years in any prior ADR Proceeding wherein the Complainant was a Party;

(5) Provide the name of the Respondent and, in case of an ADR Proceeding against a Domain Name Holder, provide all information (including any postal and e-mail addresses, and telephone and fax numbers) known to the Complainant detailing the means to contact the Respondent or any representative of the Respondent, including contact information based on pre-Complaint dealings, in sufficient detail to allow the Provider to send the Complaint to the Respondent as described in Paragraph A2(a);

(6) Specify the domain name(s) that is/are the subject of the Complaint;

(7) Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the Complaint is filed (not applicable for Complaints filed against the decision(s) of the Registry before the registration of the disputed domain name);

(8) In case the Complaint is filed against the decision(s) of the Registry, identify the disputed Registry decision(s) and whether or not the disputed decision deals with the registration of a domain name within the Sunrise Period;

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(9) Specify the names in respect of which a right is recognised or established by the national law of a Member State and/or European Union law. For each such name, describe exactly the type of right(s) claimed, and specify the law(s) as well as the conditions under which the right is recognised and/or established;

(10) Describe, in accordance with these ADR Rules, the grounds on which the Complaint is made including, in particular:

(i) In the case of an ADR Proceeding against the Domain Name Holder in respect of which domain name the Complaint is initiated:

A. why the domain name is identical or confusingly similar to the name or names in respect of which a right or rights are recognised or established by national and/or European Union law (as specified and described in accordance with Paragraph B 1 (b) (9)); and, either

B. why the domain name has been registered by its holder without rights or legitimate interests in respect of the domain name that is the subject of the Complaint; or

C. why the domain name should be considered as having been registered or being used in bad faith.

(ii) In the case of an ADR Proceeding against the Registry, the reasons why a decision taken by the Registry conflicts with European Union Regulations.

(11) Specify, in accordance with these ADR Rules, the remedies sought (see Paragraph B11 (b) and (c) below);

(12) If the Complainant requests transfer of the domain name, provide evidence that the Complainant satisfies the general eligibility criteria for registration set out in Paragraph 4(2)(b) of Regulation (EC) No 733/2002 as amended by articles 20 and 22 of the Regulation (EU) 2019/517;

(13) Identify any other legal proceedings that have been commenced or terminated in connection with, or relating to, any of the domain name(s) that is/are the subject of the Complaint;

(14) State that the Complainant will submit, with respect to any challenges to a decision in the ADR Proceeding revoking or transferring the domain name, to the jurisdiction of the courts in at least one specified Mutual Jurisdiction in accordance with Paragraph A1;

(15) Conclude with the following statement followed by the signature of the Complainant or its authorised representative (in case of electronic filing the signature must comply with requirements of the Provider's on-line platform):

*"Complainant warrants that all information provided hereunder is complete and accurate.*

*Complainant agrees with the processing of his/her personal data by the Provider to the extent necessary for the due performance of the Provider's responsibilities hereunder.*

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*Complainant also agrees with the publication of the full decision (including personal details contained in the decision) issued in the ADR Proceeding initiated by this Complaint in the language of the ADR Proceeding and in an unofficial English translation secured by the Provider.*

*Complainant further agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain name holder and hereby waives any and all claims and remedies against:*

*(i) the Provider, as well as its directors, officers, employees, advisors and agents, except in the case of deliberate wrongdoing;*

*(ii) panelists, except in the case of deliberate wrongdoing;*

*(iii) the Registrar, except in the case of deliberate wrongdoing; and*

*(iv) the Registry, as well as its directors, officers, employees, advisors, and agents, except in the case of deliberate wrongdoing.";*

(16) Annex any documentary or other evidence, including any evidence concerning the rights upon which the Complaint relies, together with a schedule indexing such evidence.

(17) Include any forms prescribed in the Supplemental ADR Rules and comply with any formal requirements contained in the Supplemental ADR Rules, including any word limit.

(c) The Complaint may relate to more than one domain name, provided that the Parties and the language of the ADR Proceedings are the same.

(d) The Provider will acknowledge receiving the Complaint from the Complainant, subject to the receipt of the fees due above.

(e) As soon as practicable after the Time of Filing, but in any event not later than five (5) days from the date of Time of Filing and before notifying the Respondent pursuant to Article B2 below, the Provider shall inform the Registry of the identity of the Complainant and the domain name(s) involved. Upon receiving information from the Provider, the Registry shall block the disputed domain name pursuant to .eu Domain Name Registration Terms and Conditions.

(f) Any ADR Proceeding(s) against a Domain Name Holder with a later Time of Filing with respect to the same domain name(s) shall be suspended pending the outcome of the ADR Proceeding initiated by the Complaint with the earliest Time of Filing. If in the ADR Proceeding the Panel decides to grant the Complainant the remedies requested, all suspended ADR Proceedings will be terminated and any fees paid shall be reimbursed. If in the ADR Proceeding the Panel rejects the Complaint, the Provider shall activate the Complaint next in line to the Time of Filing. The Provider shall notify the respective Complainant(s) of the termination, activation, or continued suspension of their Complaint(s) in writing within five (5) days from the date the Panel decision related to the prior Complaint is issued.

(g) In the case that an ADR Proceeding is initiated against the Registry with a later Time of Filing than another ADR Proceeding against the Registry with respect to the same decision taken by the Registry, the ADR Proceeding against the Registry with a later Time of Filing shall be terminated and any fees paid shall be reimbursed.

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(h) Nothing mentioned in Paragraph 15, (i) to (iv) above, prevents the Complainant from initiating an ADR Proceeding against the Registry where a decision taken by the Registry conflicts with European Union Regulations.

(i) In case of an ADR Proceeding against the Registry, any request of a Complainant for documents or other information related to the Registry decision challenged in the ADR Proceeding must be made directly to the Registry in accordance with the Registration Policy.

### **2 Notification of Complaint**

(a) The Provider shall review the Complaint for administrative compliance with the Procedural Rules and with Regulation (EC) No 733/2002 as amended by articles 20 and 22 of the Regulation (EU) 2019/517 and, if in compliance, shall forward the Complaint (together with the explanatory cover sheet prescribed by the Provider's Supplemental ADR Rules) to the Respondent, in the manner prescribed by Paragraphs A2(a) and A2(b), within five (5) Working days following receipt of the fees to be paid by the Complainant in accordance with Paragraph A6.

(b) If the Provider finds the Complaint not to be in administrative compliance with the Procedural Rules, it shall promptly notify the Complainant of the nature of the deficiencies identified. If the deficiencies are capable of being corrected, the Complainant shall have seven (7) days within which to correct any such deficiencies and submit an amended Complaint, after which, if not corrected, the Provider shall inform the Complainant that the ADR Proceeding is deemed to be withdrawn due to administrative deficiency and without prejudice to submission of a different Complaint by the Complainant.

(c) A Complainant can challenge the withdrawal of its Complaint due to administrative deficiency pursuant to Paragraph B2(b) above. The procedure related to such a challenge shall be as follows:

(1) The request shall be submitted to the Provider within five (5) days from receiving the information concerning the withdrawal and shall:

(i) specify the information under Paragraphs B1(b)(2), B1 (b)(6) and B1 (b)(8) (if applicable) of the ADR Rules;

(ii) specify the requested cancellation of the withdrawal of the Complaint due to administrative deficiency;

(iii) specify the reasons of the requested cancellation;

(iv) conclude with the statement under B1(b)(15) of the ADR Rules.

(2) The Provider will acknowledge receiving the request from the Complainant, subject to the receipt of the fees due pursuant to Paragraph A6(a) above and will appoint a single Panel to decide the request. Paragraph B5 applies accordingly.

(3) The Panel shall issue a decision whether or not to allow the requested challenge within twelve (12) days from the date of its appointment. The Panel's decision shall be final and not subject to appeal. The decision shall be communicated to the Complainant without delay.

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- (d) The Provider shall immediately notify the Complainant, the Respondent and the Registry of the Date of Commencement of an ADR Proceeding.
- (e) The Provider shall suspend the ADR Proceeding until the procedures specified in Paragraphs B2(b) and B2(c) above are completed.

### **3 The Response**

(a) Within thirty (30) Working days of the date of delivery of the Complaint in accordance with Paragraph A2(b), the Respondent shall submit a Response to the Provider.

(b) The Response shall:

(1) Provide the name, postal and e-mail addresses, and the telephone and fax numbers of the Respondent and of any representative authorised to act for the Respondent in the ADR Proceeding;

(2) Specify a preferred method for communication directed to the Respondent in the ADR Proceeding (including the person to be contacted, the medium, and address information);

(3) If the Complainant has elected a single-member Panel in the Complaint (see Paragraph B1(b)(3)), state whether the Respondent elects instead to have the dispute decided by a three-member Panel;

(4) If either Complainant or Respondent elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the panelists (these candidates may be drawn from any Provider's list of panelists; to the maximum extent practicable, such candidates should not have been involved in the past three (3) years in any prior ADR Proceeding where the Respondent was a Party);

(5) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that is/are the subject of the Complaint;

(6) Describe, in accordance with these ADR Rules, the grounds on which the Response is made.

(7) Conclude with the following statement followed by the signature of the Respondent or its authorised representative; in case of electronic filing the signature must comply with requirements of the Provider's on-line platform:

*"Respondent warrants that all information provided hereunder is complete and accurate.*

*Respondent agrees with the processing of his/her personal data by the Provider to the extent necessary for the due performance of the Provider's responsibilities hereunder.*

*Respondent also agrees with the publication of the full decision (including personal data contained in the decision) issued in this ADR Proceeding in the language of the ADR Proceeding and in an unofficial English translation secured by the Provider.*

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*Respondent hereby waives any and all claims and remedies related to the current ADR Proceeding against*

*(i) the Provider as well as its directors, officers, employees, advisors and agents, except in the case of deliberate wrongdoing;*

*(ii) panelists, except in the case of deliberate wrongdoing,*

*(iii) the Registrar, except in the case of deliberate wrongdoing and*

*(iv) the Registry, as well as its directors, officers, employees, and agents, except in the case of deliberate wrongdoing.";*

(8) Attach any documentary or other evidence, including any evidence concerning the rights upon which the Respondent relies, together with a schedule indexing such evidence.

(9) Include any forms prescribed in the Supplemental ADR Rules and comply with any formal requirements contained in the Supplemental ADR Rules, including any word limit.

(c) If the Complainant has elected to have the dispute decided by a single-member Panel and the Respondent elects a three-member Panel, the Respondent shall be required to pay a fee in accordance with Paragraph A6(b). This payment shall be made together with the submission of the Response to the Provider. In the event that the required payment is not made, the dispute shall be decided by a single-member Panel.

(d) The Provider shall confirm receipt of the Response to the Respondent. If the Provider finds the Response not to be in administrative compliance with the Procedural Rules, it shall promptly notify the Respondent of the nature of the deficiencies identified. If the deficiencies are capable of being remedied, the Respondent shall have seven (7) days within which to correct any such deficiencies and submit an amended Response, after which the Response shall be deemed not submitted by the Respondent. The Provider shall suspend the ADR Proceeding until either of the following two actions happens first: (i) the Provider receives the amended Response or (ii) the time period mentioned in this Paragraph expires.

(e) The Provider shall forward the administratively compliant Response to the Complainant without delay.

(f) If a Respondent does not submit a Response or submits solely an administratively deficient Response, the Provider shall notify the Parties of the Respondent's default. The Provider shall send to the Panel for its information, and to the Complainant, the administratively deficient Response submitted by the Respondent.

(g) The Respondent can challenge the Provider's notification of the Respondent's default in a written submission to the Provider filed within five (5) days from receiving the notification of the Respondent's default. The Provider shall acknowledge receiving the Respondent's challenge and shall forward the Respondent's challenge to the Panel within three (3) days from its receipt. The Respondent's challenge shall be considered by the Panel at its sole discretion as part of its decision making. If the Panel confirms that the Response is administratively deficient, the Panel may decide the dispute based upon the Complaint only.

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(h) Nothing mentioned in Paragraph 7, (i) to (iv) above, prevents the Respondent from initiating an ADR Proceeding against a decision taken by the Registry which conflicts with European Union Regulations.

### **4 Appointment of the Panel and Timing of Decision**

(a) The panelists shall be selected in accordance to the internal procedures of the Providers. They shall have appropriate expertise and shall be selected in an objective, transparent and non-discriminatory manner. Each Provider shall maintain and publish a publicly available list of panelists and their qualifications.

(b) If neither the Complainant nor the Respondent has elected a three-member Panel (Paragraphs B1(b)(3) and B3(b)(4)), the Provider shall appoint a single Panelist from its list of panelists.

(c) Unless it has already elected a three-member Panel, the Complainant shall submit to the Provider, within five (5) days of communication of a Response in which the Respondent elects a three-member Panel, the names and contact details of three candidates to serve as one of the panelists. These candidates may be drawn from any Provider's list of panelists. To the maximum extent practicable, such candidates should not have been involved in the last three (3) years in any prior ADR Proceeding where the Complainant was a Party.

(d) In the event that either the Complainant or the Respondent elects a three-member Panel, the Provider shall appoint one Panelist from the list of candidates submitted by the Complainant, one Panelist from the list of candidates submitted by the Respondent, and one Panelist from its list of panelists. If either Party does not duly submit its list of candidates, the Provider shall appoint an additional Panelist from its list of panelists.

(e) Once the entire Panel is appointed, the Provider shall notify the Parties of the identity of the panelists appointed and the date by which, absent exceptional circumstances, the Panel shall forward its decision on the Complaint to the Provider.

### **5 Impartiality and Independence**

(a) The panelists shall have no personal or economic interests in the results of the dispute, and they undertake to resolve the dispute under the principles of good faith, fairness and due diligence. The panelists shall maintain the confidential character of the information disclosed to them during the ADR Proceedings.

(b) A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the ADR Proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of a Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such an event, the Provider shall have the sole discretion to appoint a substitute Panelist.

(c) Apart from the above, the Parties can also challenge the appointment of a Panelist. The Party that challenges a Panelist should explain to the Provider his/her reasons for the challenge. The



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challenge shall be filed within two (2) days from receiving the notice of the subject Panelist's appointment, or after having become aware of the circumstances giving rise to justifiable doubt in regard to the impartiality or independence of the Panelist.

(d) When a Panelist has been challenged by one Party, the other Party and/or the challenged Panelist will be entitled to submit a response. This right will be exercised within two (2) days after receiving the communication to which the previous Paragraph refers.

(e) The Provider will decide on the challenge, and its decision will be final and not subject to appeal.

### **6 Transmission of the File to the Panel**

The Provider shall forward the file to the Panel as soon as the Panelist is appointed in the case of a Panel consisting of a single member, or as soon as the last Panelist is appointed in the case of a three-member Panel.

### **7 General Powers of the Panel**

(a) The Panel shall conduct the ADR Proceeding in such manner as it considers appropriate in accordance with the Procedural Rules. The Panel is not obliged, but is permitted at its sole discretion, to conduct its own investigations on the circumstances of the case.

(b) In all cases, the Panel shall ensure that the Parties are treated fairly and with equality.

(c) The Panel shall ensure that the ADR Proceeding takes place with due expedition.

(d) The Panel shall determine at its sole discretion the admissibility, relevance, materiality and weight of the evidence.

### **8 Further Statements**

In addition to the Complaint and the Response, the Panel may request or admit, at its sole discretion, further statements or documents from either of the Parties.

### **9 In-Person Hearings**

There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference). The decision will be handled based on documents or other types of written evidence unless the Panel determines, at its sole discretion and as a matter of exceptional circumstances, that such a hearing is necessary for rendering a decision on the Complaint.

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### 10 Default

(a) In the event that a Party does not comply with any of the time periods established by these ADR Rules or by the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party.

(b) Unless provided differently in these ADR Rules, if a Party does not comply with any provision of, or requirement under, these ADR Rules, the Supplemental ADR Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

### 11 Basis for Decision

(a) The Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Procedural Rules.

(b) The remedies available pursuant to an ADR Proceeding where the Respondent is the Domain Name Holder in respect of which domain name the Complaint was initiated shall be limited to the revocation of the disputed domain name(s) or, if the Complainant satisfies the general eligibility criteria for registration set out in Paragraph 4(2)(b) of Regulation (EC) No 733/2002 as amended by articles 20 and 22 of the Regulation (EU) 2019/517, the transfer of the disputed domain name(s) to the Complainant.

(c) The main remedy available pursuant to an ADR Proceeding where the Respondent is the Registry shall be the annulment of the disputed decision taken by the Registry. The Panel may decide in appropriate cases pursuant to the Procedural Rules, Registration Policy, Sunrise Rules and/or the Terms and Conditions that the domain name in question shall be transferred, revoked or attributed. However, with regard to any Registry decision relating to a prior right invoked during the phased registration period, such measures of transfer and attribution will only be granted by the Panel if the Complainant is the next applicant in the queue for the domain name concerned, and subject to the decision by the Registry that the Complainant satisfies all registration criteria set out in the European Union Regulations and to the subsequent activation by the Registry of the domain name in the name of the Complainant who is the next applicant in the queue.

(d) The Panel shall issue a decision granting the remedies requested under the Procedural Rules in the event that the Complainant proves:

(1) in ADR Proceedings where the Respondent is the holder of a .eu domain name registration in respect of which the Complaint was initiated that:

(i) The domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by the national law of a Member State and/or European Union law and; either

(ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or

(iii) The domain name has been registered or is being used in bad faith.

(2) in ADR Proceedings where the Respondent is the Registry that the decision taken by the Registry conflicts with the European Union Regulations.

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(e) Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the Respondent's rights or legitimate interests to the domain name for purposes of Paragraph B11(d)(1)(ii):

(1) prior to any notice of the dispute, the Respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the Respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;

(3) the Respondent is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognised or established by national law and/or European Union law.

(f) For purposes of Paragraph B11(d)(1)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, may be evidence of the registration or use of a domain name in bad faith:

(1) Circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name, in respect of which a right is recognised or established by national and/or European Union law, or to a public body; or

(2) The domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised or established by national and/or European Union law, or a public body, from reflecting this name in a corresponding domain name, provided that:

(i) the Respondent has engaged in a pattern of such conduct; or

(ii) the domain name has not been used in a relevant way for at least two years from the date of registration; or

(iii) there are circumstances where, at the time the ADR Proceeding was initiated, the Respondent has declared its intention to use the domain name, in respect of which a right is recognised or established by national and/or European Union law or which corresponds to the name of a public body, in a relevant way but failed to do so within six months of the day on which the ADR Proceeding was initiated;

(3) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor; or

(4) the domain name was intentionally used to attract Internet users, for commercial gain to the Respondent's website or other online location, by creating a likelihood of confusion with a name on which a right is recognised or established, by national and/or European Union law, or it is a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the Respondent; or

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(5) the domain name is a personal name for which no demonstrable link exists between the Respondent and the domain name registered.

### **12 Decision-Making and Form of Decisions**

(a) The decisions of the panelists will be final, not subject to appeal, and compulsory for the Parties, without detriment to the right of the Parties to initiate a court proceeding in a Mutual Jurisdiction which will have consequences to the implementation of the decision as described in the Terms and Conditions.

(b) The Panel shall forward its decision on the Complaint to the Provider within one (1) month of the Provider's receipt of an administratively compliant Response or the lapse of the time period for its submission.

(c) In the case of a three-member Panel, the Panel's decision shall be made by simple majority.

(d) The Panel's decision shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered, and identify the name(s) of the Panelist(s). If the Panel decides that the disputed domain name should be revoked or transferred to the Complainant, it shall state that the decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction (see Paragraphs B12(a) and B14).

(e) Panel decisions shall comply with the formal requirements set forth in the Provider's Supplemental ADR Rules.

(f) If the Panel concludes that the dispute is not within the scope of the Regulation (EC) No 874/2004 and the Regulation (EU) No. 2019/517, it shall so state.

(g) If the Complainant has

(1) proved that the domain name is identical or confusingly similar to a name in respect of which a right is recognised or established by a Member State's national law and/or European Union law or to a name of a public body; and

(2) failed to prove the Respondent's lack of rights and legitimate interests, as specified in Paragraph B11(d)(1)(ii) of these ADR Rules; and

(3) relied on Paragraph B11(f)(2)(iii) of these ADR Rules to prove bad faith; and

(4) failed to prove bad faith on any other grounds;

the Panel shall issue an interim decision setting out its findings on issues (1) to (4) above and shall suspend the proceedings until a date six (6) months after the Time of Filing. In such an event (and should the Respondent not submit evidence of relevant use by the postponed date and the Complainant prove the remaining elements required by Paragraph B11(f)(2)(iii)), the Panel shall decide whether or not to grant to the Complainant the requested remedy. Under all other circumstances, the Panel shall proceed to a decision without reference to Paragraph B11(f)(2)(iii).

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All evidence submitted by the Respondent must be accompanied by a declaration of completeness and accuracy and be given to the Complainant. The Complainant shall have the right to submit a response to the Respondent's evidence within fifteen (15) days from receiving the evidence.

(h) If after considering the submissions the Panel finds that the Complaint was initiated in bad faith, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of administrative proceeding.

(i) Each Panel decision shall contain a brief summary in English in accordance with guidelines prepared by the Provider.

### **13 Communication of Decision to Parties**

(a) Within three (3) Working days after receiving the final decision from the Panel, the Provider shall communicate the full text of the decision to each Party, the concerned Registrar(s) and to the Registry.

(b) The Provider shall publish the full decision on a publicly accessible web site.

### **14 Implementation of Decision**

The implementation of the decision shall follow the Terms and Conditions.

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### C CONCLUDING PROVISIONS

#### 1 Exclusion of Liability

Except in the case of deliberate wrongdoing, neither the Provider nor a Panelist shall be liable to a Party for any act or omission in connection with any ADR Proceeding under these ADR Rules.

#### 2 Amendments

The version of these ADR Rules in effect at the time of the submission of the Complaint to the Provider shall apply to the ADR Proceeding commenced thereby. The Provider may amend these ADR Rules at any time after receiving the prior written approval of the Registry.

#### 3 Effective Date

These ADR Rules apply to all Complaints filed on or after 19 October 2019.