

Appendix IV

Guidelines for Uniform Dispute Resolution for dot ml (.ml) Domain Names or Registry Dispute Resolution Policy

(These guidelines are issued by ICANN and apply to all gTLDs. Thus, additional dispute resolution guidelines may apply in particular circumstances only in individual TLDs).

1. Object

This document establishes the general conditions as well as the guiding principles for the uniform resolution of disputes related to dot ml (.ml) domain names between the applicant and any party other than the Registry in relation to the registration and the use of a registered Internet domain name and incorporated by reference into the Registration Agreement.

The procedures described in paragraph 4 of these guiding principles will be conducted in accordance with the rules of application for uniform resolution of disputes relating to domain names, available at: (<http://www.icann.org/en/dndr/udrp/approved-providers.htm>) and additional rules of the selected administrative dispute resolution of the service provider.

2. Commitments of the applicant

By requesting registration or renewal of a dot ml (.ml) domain name, you hereby commit and guarantee to the Registry that:

- a. the information provided in your registration agreement are complete and accurate;
- b. to the best of your knowledge, the registration of the domain name will not infringe in any way on the rights of any third party;
- c. you are not registering the domain name for illegitimate purposes;
- d. you will not knowingly use the domain name in violation of applicable laws and regulations;
- e. it is your responsibility to determine whether the registration of your domain name infringes the rights of another natural or legal person.

3. Cancellations, transmissions and changes

The Registry will transfer or make changes to the domain name registrations in the following circumstances:

- a. subject to the provisions of paragraph 8, when the Registry receives via appropriate means written electronic or physical instructions whereby you (or your authorized agent) instruct us to take such action(s);
- b. when the Registry receives an order from a court or arbitral body in each case, from a competent jurisdiction, requiring us to take such action(s);

- c. when the Register receives a decision from an administrative commission requiring that this or these measure(s) be taken within the framework of an administrative procedure in which you were a stakeholder and which has been carried out in accordance with these guiding principles or a subsequent version thereof adopted by ICANN “See Paragraph 4 (i) and (k) below”.

The Registry may also cancel, transfer or make changes to the registration of a domain name, in accordance with the terms of your registration agreement or other legal requirements. The Registry will not transfer the registration of a domain name until it has all necessary information, including any fees, from the new domain name holder.

4. Mandatory administrative procedure

This paragraph stipulates the disputes for which you must be subject to a compulsory administrative procedure. These procedures will be conducted in front of one of the administrative dispute resolution service providers listed at <http://www.icann.org/en/dndr/udrp/approved-providers.htm>.

Relevant disputes: you must be subject to a mandatory administrative procedure in the event that a third party (a “complainant”) asserts to the service provider concerned, in accordance with the following procedural rules:

- i. your domain name is identical to a mark (trademark or service mark) or bears a confusing similarity in which the complainant has rights;
 - ii. you have no right or legitimate interest in the domain name;
 - iii. your domain name has been registered and is being used in bad faith;
 - iv. during the administrative procedure, the complainant must prove the truth of each of these assertions.
- a. Proof of registration and use in bad faith (see paragraph 4a(iii)): the following circumstances, if proven by the commission, will in particular constitute proof of registration and use of a domain name in bad faith:
 - i. circumstances indicating that you registered or acquired a domain name essentially for the purpose of selling, renting or otherwise assigning the registration of the domain name to the complainant who is the owner of the trademark or service mark, or to a competitor of such complainant, for value exceeding your documented expenses related directly to the domain name;
 - ii. that you registered the domain name for the purpose of preventing the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, to the extent that you have adopted a behavior of this type;
 - iii. that you have registered the domain name essentially to interrupt concurrent activity;
 - iv. that by using the domain name, you have the intention to attract, for commercial purposes, Internet users to your website or to another destination that creates a risk of confusion with the marque of the complainant as regard to the source, the sponsorship, the affiliate or the endorsement of your website or an online destination or a product or service offered thereon.

- b. How to demonstrate your rights and legitimate interests over the domain name in response to a complainant?

When you receive a complaint, you should refer to paragraph 5 of the procedure rules to determine how to prepare your response; any of the following circumstances, if considered true by the Commission based on its assessment of the evidence presented, will, in particular, attest your rights or legitimate interests in the domain name for the purposes of paragraph 4a(ii):

If you receive a complain, refer to paragraph 5 of the procedure rules to determine how to prepare your response; The following conditions, if considered proven by the commission on the basis of their evaluation of the elements of the previous presentation, attesting notation of your roots or internal connections on the name of the domain according to paragraph 4a(ii):

- i. before receiving any notification related to the dispute, your use or your preparation works which can be demonstrated as the use of the domain name or a name corresponding to the domain name, in the context of an offer of goods or services in good faith;
 - ii. you (as a person, company or other organization) are generally known by the domain name, even if you have not acquired any industrial and commercial property rights;
 - iii. you make a legitimate non-commercial or a loyal use of the domain name, without intending to make commercial profit by deceptively misdirecting users or tarnishing the image of the trademark or that of the service mark in question.
- c. Choice of service provider: the complainant must select the service provider from among those approved by ICANN by filing the complaint against the service provider; the chosen service provider will be responsible for administering the procedure, except in cases of groupings as described in paragraph 4(f);
- d. Launch of the procedure, the process and the appointment of the administrative commission: the procedure rules set out the process to be applied to launch and conduct a procedure and to designate the commission which will be responsible for ruling on the dispute (the administrative commission);
- e. Consolidation: in the event of multiple disputes between you and a complainant, one of you may request to consolidate the disputes before a single administrative commission; this request must be submitted to the first administrative commission designated to investigate an ongoing dispute between the parties; the administrative commission may consolidate some or all of the disputes on which it has to rule, in its sole discretion, provided that the consolidated disputes are governed by these guiding principles or a later version thereof adopted by ICANN;
- f. Fees: all fees invoiced by a service provider in relation to a dispute before an administrative commission, under the terms of these guiding principles, must be paid by the complainant except in cases where you have chosen to expand the administrative commission from one to three members according to the provisions of paragraph 5b(iv) of the Rules of Procedure, in which case, all fees will be divided equally between you and the complainant;
- g. Our involvement in administrative procedures: we do not and will not participate in the administration or conduct of procedures in front of an administrative commission; in addition, the Registry cannot be held responsible for the decisions rendered by the administrative commission;

- h. Remedies: the remedies available to a complainant following proceedings before/in front of an administrative commission are limited to requiring the cancellation of your domain name or the transfer of the registration of your domain name to the complainant;
- i. Notification and publication: the service provider must notify the Registry of any decision taken by an administrative commission related to a domain name that you have registered with the Registry; all decisions under these guiding principles will be published in their entirety on the Internet unless the administrative commission decides, in certain exceptional cases, to publish only parts of its decision;
- j. Possibility to initiate legal proceedings: The mandatory administrative procedure requirements set out in paragraph 4 will not prevent you or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution before such administrative procedure binding is launched or after it has been concluded; If an administrative commission decides that the registration of your domain name must be canceled or transferred, the Registry will wait ten (10) working days (according to the policy observed at the place of the registered office of the Registrar) after the Registry has been informed by the service provider concerned of the decision of the administrative commission before applying it, the Registry will then apply the decision unless it has received documents from you, during this period of ten (10) working days; official documents (such as a copy of a complaint bearing the clerk's stamp) attesting that you have commenced legal action against the complainant in a jurisdiction to which the complainant has submitted complaint under paragraph 3b(xiii) of the procedural rules (in general, this jurisdiction is either the location of the registered office of the Registry or the location corresponding to your address as it appears in the WHOIS database (for more details see paragraphs 1 and 3b(xiii)) procedural rules); if the Registry receives these documents within the period of ten (10) working days, it will not apply the decision of the administrative commission and will not take any other action until it has received:
 - i. satisfactory evidence of settlement between the parties;
 - ii. satisfactory proof that your legal action has been dismissed;
 - iii. a copy of an order of this court dismissing your legal action or stating that you no longer have the right to use your domain name.

5. Any other dispute/litigation and differences

All other disputes between you and any party other than the Registry relating to the registration of your domain name which are not brought, in accordance with the provisions related to the compulsory administrative procedure (paragraph 4) must be settled between you and such party party through any court, arbitral body or proceeding that may be available to you.

6. Involvement of the Registry in litigation/Disputes

The Registry will not intervene in any way in possible disputes between you and any party related to the registration and/or use of your domain name. You are required to refrain from naming the Registry as a party or otherwise including it in any such proceeding.

In the event that the Registry is named as a party in any such proceeding, it reserves the right to use any means of defense it deems appropriate and to take any other possible measures necessary to defend itself.

7. Maintaining the status quo

The Registry will not cancel, transfer, activate, deactivate or change the registration status of a domain name under these Guidelines, subject to the provisions of paragraph 3 above.

8. Transfer during litigation

- a. Transfer of a domain name to a new holder

You cannot transfer your domain name registration to another holder:

- i. during a pending administrative proceeding according to/in conformity with paragraph 4;
 - ii. during any pending legal action or arbitration procedures related to your domain name, unless the party to whom the domain name registration is transferred agrees in writing to be bound by the decision of the court or arbitral body; the Registry reserves the right to cancel any transfer of a domain name registration to another registrant that is made in violation of this subparagraph.
- b. Change of Registrar.

You may not transfer your domain name registration to another Registrar during a pending administrative procedure in conformity with paragraph 4.

You may transfer the administration of your domain name registration to another Registrar during a pending legal action or arbitration procedure, provided that the domain name you have registered with the Registry shall continue to be subject to legal actions taken against you in accordance with the terms of these guidelines.

In the event that you transfer the registration of a domain name to the Registry during a pending legal action or arbitration procedure, such dispute must remain subject to the dispute resolution principles related to domain names from the Registrar from which the domain name registration was transferred.

9. Changes to the Guiding Principles

The Registry reserves the right to modify these Guidelines at any time with permission from ICANN. We will post our revised Guidelines on <https://domain.ml> at least thirty (30) calendar days before they take effect. Unless these Guidelines have already been invoked by filing a complaint with a Service Provider, in which case the version of the Guidelines in effect at the time they were invoked will apply until the end/conclusion of the dispute, all such modifications will be enforceable against you regarding any dispute related to the registration of a domain name, whether the dispute arose before or after the effective date of our modification.

In the event that you object to a modification made to these guiding principles, your sole recourse is to cancel the registration of your domain name with the Registry, it is to be

understood that you will not be entitled to any reimbursement of any costs that you have paid to the Registry. The revised Guidelines will apply to you until you cancel your domain name registration.