

World Intellectual Property Organization
WIPO Supplemental Rules for Trademark Post-Delegation Dispute Resolution
Procedure

(In effect as of February 20, 2014)

1. Scope

(a) These are the WIPO Supplemental Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”) as referred to in Section 2.1 of the ICANN Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”) and Rule 1 of the Post-Delegation Dispute Resolution Procedure Rules (“Rules”). The Supplemental Rules are to be read and used in connection with the Procedure and the Rules.

(b) The version of the Supplemental Rules applicable to a proceeding conducted under the Procedure is the version in effect on the day when the relevant complaint in a Procedure proceeding is submitted.

2. Definitions

Terms defined in the Procedure and the Rules shall have the same meaning in the Supplemental Rules. Words used in the singular shall include the plural and *vice versa* as the context may require.

3. Communications

(a) Subject to Section 4.1 of the Procedure and Rule 2 of the Rules, except where otherwise agreed beforehand with the WIPO Arbitration and Mediation Center (“WIPO Center”), and subject to the discretion of any appointed Panel, any submission to the WIPO Center or to the Panel shall be made by electronic mail (email) using pddrp@wipo.int.

(b) In accordance with Rule 2(c) of the Rules, except where otherwise agreed beforehand with the WIPO Center, all submissions to the WIPO Center shall comply with the WIPO Center’s Filing Guidelines as set out in Annex E hereto and posted on the WIPO Center website.

4. Submission of Complaint and Response

(a) In accordance with Section 7 of the Procedure and Rule 3 of the Rules, the Complainant shall transmit its Complaint using the Complaint Model Form set out in Annex B hereto and posted on the WIPO Center website.

(b) In accordance with Section 10 of the Procedure and Rule 5 of the Rules, the registry operator shall transmit its Response using the Response Model Form set out in Annex C hereto and posted on the WIPO Center website.

5. Further submissions

(a) In accordance with Sections 9.3 and 9.4 of the Procedure, the registry operator shall have the opportunity, but is not required, to submit papers to support its position as to the Complainant's standing at the Threshold Review Stage, and the Complainant may submit an opposition to such papers. Any submitted papers or opposition must be made in accordance with Rule 4 of the Rules and must comply with the same limits described in Section 7.3 of the Procedure.

(b) In accordance with Section 11.1 of the Procedure and Rule 6 of the Rules, any Reply filed by the Complainant must be submitted electronically to the WIPO Center and must comply with the same limits described in Section 7.3 of the Procedure.

(c) In the event a party wishes to submit any non-electronic submissions, or any other submissions in addition to those provided for in the Procedure and Rules, it shall first request leave to do so from the WIPO Center. The WIPO Center shall, in its sole discretion, then determine whether to accept such submission, without prejudice to the discretion of any appointed Panel.

6. Default

In accordance with Section 12.2 of the Procedure, the WIPO Center normally will forward any late submission by the registry operator to the appointed Expert Panel for consideration as to its admissibility.

7. Appointment of Case Manager

(a) The WIPO Center shall advise the parties of the name and contact details of the Case Manager who shall be responsible for all administrative matters relating to the dispute and communications to the Panel.

(b) The Case Manager may provide administrative assistance to the parties or the Panel, but shall have no authority to decide matters of a substantive nature concerning the dispute.

8. Panel Appointment Procedure

(a) In accordance with Rule 7(a) of the Rules, the WIPO Center will maintain and publish on its website a publicly available List of Experts who may be available for Panel appointment.

(b) Pursuant to Section 9 of the Procedure, the WIPO Center shall select a single Threshold Review Panelist from its List of Experts.

(c) Pursuant to Section 13.2 of the Procedure, unless any party requests a three-member Expert Panel, there shall be a single-member Expert Panel to be appointed by the WIPO Center in its sole discretion.

(d) In the event any party requests a three-member Expert Panel, such request shall be made in the Complaint or the Response.

(i) Where a three-member Expert Panel has been requested, within four (4) days after the Reply has been filed by the Complainant, or if no Reply is filed, within four (4) days after the Reply was due to be filed, each party shall separately select and submit to the WIPO Center the names of three experts from the WIPO Center's List of Experts, in the order of preference, for the WIPO Center to confirm as Co-Panelist. In the event that none of a party's three candidates is available for confirmation as Co-Panelist, or a party fails to timely submit its preferences, the WIPO Center shall have the right to appoint the Co-Panelist(s) in its sole discretion.

(ii) Within 5 days of the confirmation of the Co-Panelists, the Co-Panelists shall jointly submit to the WIPO Center a list of up to three experts from the WIPO Center's List of Experts, in the order of preference, for the WIPO Center to confirm as Presiding Panelist. In the event that none of the panelists selected by the Co-Panelists is available for confirmation as Presiding Panelist, or the Co-Panelists fail to timely agree on a list, the WIPO Center shall have the right to appoint the Presiding Panelist in its sole discretion.

9. Expert Impartiality and Independence

(a) In accordance with Section 13.4 of the Procedure, any prospective Panelist shall, before accepting appointment, disclose to the WIPO Center and the parties any circumstance that might give rise to justifiable doubt as to his/her impartiality or independence, or confirm in writing that no such circumstance exists by submitting to the WIPO Center a *Declaration of Impartiality and Independence* using the form set out in Annex D hereto and posted on the WIPO Center's website.

(b) In accordance with Rule 7(b) of the Rules, if at any stage during a proceeding conducted under the Procedure circumstances arise that might give rise to justifiable doubt as to a Panelist's impartiality or independence, the Panelist shall promptly disclose such circumstance to the parties and the WIPO Center.

(c) A party may challenge the appointment of a Panelist if circumstances exist which give rise to justifiable doubt as to the Expert's impartiality or independence. A party may challenge a Panelist whom it has appointed, only for reasons of which it reasonably becomes aware after the appointment has been made.

(i) A party challenging a Panelist shall send notice to the WIPO Center and the other party, stating the reasons for the challenge, within three (3) calendar days after being notified of that Panelist's appointment or becoming aware of circumstances that it considers give rise to justifiable doubt as to that Panelist's impartiality or independence.

(ii) The decision on the challenge shall be made by the WIPO Center in its sole discretion. Such a decision is of an administrative nature and shall be final. The WIPO Center shall not be required to state reasons for its decision. In the event of a Panelist's removal, in accordance with Rule 7(b) of the Rules the WIPO Center shall have the discretion to appoint a substitute Panelist.

10. Fees

(a) The applicable fees for the Procedure are specified in Annex A and posted on the WIPO Center's website.

(b) If an administrative proceeding is terminated prior to the appointment of the Threshold Review Panel or the Expert Panel (whichever is applicable), the WIPO Center shall return the unused Panel fee to the Complainant.

11. Confidentiality

(a) A party invoking the confidentiality of any information it wishes or is required to submit in any proceeding conducted under the Procedure, shall submit the request for confidentiality to the WIPO Center for the Panel's consideration, stating the reasons for which it considers the information to be confidential. If the Panel decides that the information is to be treated as confidential, it shall decide under which conditions and to whom the confidential information may in part or in whole be disclosed and shall require any person to whom the confidential information is to be disclosed to sign an appropriate confidentiality undertaking.

(b) Further to Section 4 of the Procedure and Rule 8 of the Rules, except in exceptional circumstances as decided by the Panel and in consultation with the parties and the WIPO Center, no party or anyone acting on its behalf shall have any *ex parte* communication with the Panel.

12. Consolidation

Pursuant to Rule 3(g) of the Rules, where a registry operator is the subject of two or more complaints under the Procedure, the WIPO Center may in its discretion choose to consolidate the disputes, provided all involved parties agree.

13. Mediation

In connection with Rule 15(a) of the Rules, prior to the Expert Panel rendering its decision in a proceeding conducted under the Procedure, the parties may inform the WIPO Center that they wish to participate in mediation to attempt to resolve the dispute and in that event may request the WIPO Center to administer the mediation. Unless both parties agree otherwise, the WIPO Mediation Rules shall thereby apply as appropriate. Absent exceptional circumstances, the WIPO Center's mediation administration fee shall be waived.

14. Effect of Court Proceedings

(a) Further to Rule 16 of the Rules, the Complainant and the registry operator shall include in any Complaint or Response relevant information regarding any other legal proceedings concerning the top-level domain.

(b) In the event of any legal proceedings initiated prior to or during a proceeding conducted under the Procedure, any appointed Panel shall have the discretion to decide whether to suspend or terminate such proceeding under the Procedure, or proceed to an Expert Determination.

15. Appeal of Expert Determination

(a) Pursuant to Article 20 of the Procedure, where an appeal is filed in accordance with the Procedure, the WIPO Center shall make a reasonable effort to appoint the three-member Appeal Panel in its sole discretion from the WIPO Center List of Experts within 20 days after the response to the appeal is filed, or if no response to the appeal is filed, 20 days after such response was due to be filed.

(b) The Appeal Panel shall render and sign a written Expert Determination on the Appeal which must state which party is the prevailing party. The Expert Determination on the Appeal shall be made publicly available by the WIPO Center on the WIPO Center website.

16. Termination

Further to Rule 15 of the Rules, if, prior to Panel appointment, it becomes unnecessary or impossible to continue a proceeding conducted under the Procedure for any reason, the WIPO Center in consultation with the parties may in its discretion terminate the proceeding.

17. Amendments

Subject to the provisions of the Procedure, the WIPO Center may amend these Supplemental Rules in its sole discretion.

18. Exclusion of Liability

Except in respect of deliberate wrongdoing, a Panelist, the World Intellectual Property Organization and its staff shall not be liable to any party or ICANN for any act or omission in connection with any proceeding conducted under the Procedure, the Rules, and the Supplemental Rules.

ANNEX A
WIPO Center Schedule of Fees for TM PDDRP *(all figures in U.S. dollars)*

Providing an estimate of costs for proceedings as per Section 14.1 of the Procedure, the following schedule operates largely on a fixed-fee basis. It is the WIPO Arbitration and Mediation Center's experience that such a model allows for greater fee transparency and predictability than an exclusively time-based fee schedule.

STAGE	COMPLAINANT		RESPONDENT	NOTES
Filing of Complaint (Procedure, Sections 7.4, 14.2)		Single Expert Panel	Three Expert Panel	Under Procedure, Section 14.2, Complainant is required to submit the full amount of the Provider administrative fees, the Threshold Review Panel fees, and the Expert Panel fees at the outset of proceedings. If Respondent prevails at the Threshold Review Panel (Procedure, Section 9.7) Complainant will be refunded the Expert Panel Admin Fee and the Expert Panel Fee.
	Threshold Review Admin Fee	\$1,000	\$1,000	
	Threshold Review Panel Fee	\$2,500	\$2,500	
	Expert Panel Admin Fee	\$2,000	\$2,000	
	Expert Panel Fee	\$10,000	\$25,000 (\$10,000 presiding; \$7,500 co-experts)	
	TOTAL	\$15,500	\$30,500	
Threshold Review Panel	<i>If Respondent files: \$500 matching fee</i>		<i>Optional: \$500 filing fee</i>	If Respondent pays the filing fee under Procedure, Section 9.3, Complainant must make a matching payment of \$500. If Respondent prevails at the Threshold Review Panel, the WIPO Center will reimburse any filing fee paid by Respondent under Procedure, Section 9.3 from the matching payment made by Complainant (Procedure, Section 14.2).
Filing of Response for Expert Panel (PDDRP Rules, Rule 5(c))	<i>If Respondent files: \$2,500 matching fee</i>		\$2,500 filing fee	If Respondent pays the Response filing fee under Rule 5(c), Complainant must make a matching payment of \$2,500.

Expert Panel	<i>See 'Filing of Complaint - Notes'</i>	<i>See 'Filing of Complaint – Notes'</i>	<p>If Complainant prevails at the Expert Panel, Respondent must reimburse Complainant for all Panel and Provider fees incurred (Procedure, Section 14.3) and the WIPO Center will refund any matching payments made by Complainant.</p> <p>If Respondent prevails at the Expert Panel, the WIPO Center will reimburse any filing fees paid by Respondent from the matching payments made by Complainant (Procedure, Section 14.2).</p>
Appeal Panel (Procedure, Section 20.4)	Appeal Panel		<p>The fees for an appeal in the first instance shall be borne by the appellant (Procedure, Section 20.4).</p> <p>The prevailing party shall be entitled to an award of costs of appeal (Procedure, Section 20.7).</p>
	Appeal Panel Admin Fee	\$2,500	
	Appeal Panel Fee	\$15,000 (\$10,000 presiding expert; \$7,500 co-expert)	
	TOTAL	\$27,500	
	<i>If a party files new admissible evidence</i>	\$500 filing fee	
Additional Payments (Procedure, Section 14.1; PDDRP Rules, Rule 10)	Depending on the circumstances of the case, additional payments may be required to be made. In determining whether additional payments shall be required, the WIPO Center, in consultation with the Panel, may consider the following non-exclusive factors: the complexity of the dispute, the anticipated time required for producing an expert determination, and the possible need for hearings, phone or video conferences, or additional pleading rounds.		

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE

WIPO MODEL COMPLAINT FORM

(Annex B to WIPO Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure)

This model form must be used by parties wishing to file a Complaint with the World Intellectual Property Organization Arbitration and Mediation Center (“WIPO Center”) pursuant to the Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”) provided as an Attachment to Module 5 of the New gTLD Applicant Guidebook (“Applicant Guidebook”) (v. 2012-01-11) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on June 20, 2011 and as updated on January 11, 2012, the Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Rules”), and the World Intellectual Property Organization Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”).

By submitting this Complaint to the WIPO Center the Complainant hereby agrees to abide and be bound by the provisions of the Procedure, the Rules, and the Supplemental Rules in effect on the day when the Complaint was submitted.

Pursuant to the Procedure, section 3, all submissions made in connection to the Procedure must be made in English. Parties may submit supporting evidence in their original language, provided and subject to the authority of the Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

[In the event of any questions relating to the filing of a Complaint under the Procedure, parties are invited to contact the WIPO Center by email at pddrp@wipo.int, or by telephone to +41 22 338 8247 or (toll free) 0800 888 549.]

Before the:

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
ARBITRATION AND MEDIATION CENTER**

[NAME OF COMPLAINANT]

(Complainant)

-v-

*[NAME OF RESPONDENT REGISTRY
OPERATOR AND OF <.TLD>]*

(Respondent)

**TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE
COMPLAINT**

I. Introduction

[1.] This Complaint is hereby submitted to the World Intellectual Property Organization Arbitration and Mediation Center (“WIPO Center”) for determination in accordance with the Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”), provided as an Attachment to Module 5 of the gTLD Applicant Guidebook (“Applicant Guidebook”) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on June 20, 2011 and as updated on January 11, 2012, the Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Rules”), and the World Intellectual Property Organization Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”).

II. The Parties

A. The Complainant

(Procedure, Sections 7.2.1, 7.2.2; Rules, rule 3)

[2.] The Complainant in this proceeding is *[please provide the Complainant's full name and, if relevant, legal status, place of incorporation, and principal place of business]*.

[3.] The Complainant's contact details are:

Address: *[mailing address]*

Phone: *[phone number]*

E-mail: *[e-mail address]*

Fax: *[fax number]*

[4.] The Complainant's authorized representative in this proceeding is:

Name: *[full name]*

Address: *[mailing address]*

Phone: *[phone number]*

E-mail: *[e-mail address]*

Fax: *[fax number]*

[5.] The Complainant's preferred contact details for purposes of this proceeding are:

For electronic-only material

Method: e-mail

Address: *[Specify one e-mail address]*

Contact: *[Identify name of one contact person]*

For any hardcopy* material

Method: *[Specify one: fax, post/courier]*

Address: *[Specify one address, if applicable]*

Fax: *[Specify one fax number]*

Contact: *[Identify name of one contact person]*

[Please note that according to Procedure section 4.1, all communications must be submitted electronically. A Party wishing to make a submission not in electronic form shall first request leave from the Panel, who shall in its sole discretion, determine whether to accept the non-electronic submission; prior to Panel appointment, parties are referred to Rule 3(b) of the Supplemental Rules.]*

B. The Respondent

(Procedure, Section 7.2.1; Rules, rule 3(b)(iii),(iv))

[6.] The Respondent in this proceeding is *[identify the Respondent Registry Operator, including full name, and if relevant, legal status, place of incorporation and principal place of business]*.

[7.] All information known to the Complainant regarding how to contact the Respondent and/or its representative(s) is as follows:

[Provide all contact details (postal address, phone number, e-mail addresses, and fax number) for the Respondent Registry Operator from the Registry Agreement, including those that may have been used successfully in the course of pre-Complaint dealings.]

[8.] The current owner(s) of the at-issue domain name(s) related to the dispute is *[identify the current owner of any at-issue domain name registration related to the dispute, including address.]*

III. The Dispute

(Procedure, Section 7.2.3; Rules rule 3(b)(v))

[9.] This Complaint concerns the *[top-level or second-level]* domain(s) identified below:

[<.EXAMPLE>]

[NOTE: in case of any doubt, e.g., where certain numbers or letters may appear similar depending on the font used (e.g., the number “1” and the lower-case letter “l”), please confirm the exact nature/characters.]

IV. Factual and Legal Grounds

(Procedure, Sections 5, 7.2.3; Rules rule 3(b)(vi),(vii))

[This section of the Complaint may not exceed 5,000 words or 20 pages, whichever is less, excluding attachments. Pursuant to Rule 3(d) of the Rules and Rule 3 of the Supplemental Rules, any supporting evidence or documentation must be submitted electronically as Annexes with an accompanying schedule listing and describing all Annexes. For any cases or other legal documentation cited in support of the Complaint, please use a full legal citation, e.g., in the format predominantly used or accepted in your jurisdiction.]

[10.] *[Please provide a statement regarding Complainant’s standing including a statement of how the asserted harm is the result of the Registry Operator’s manner of operation or use of the top-level domain]*

[11.] This Complaint is based on the following grounds:

[Please specify the nature of the dispute, including:

- (a) *The particular legal rights claim being asserted, the marks that form the basis for the dispute and a short plain statement of the basis upon which the Complaint is filed.*
- (b) *A detailed explanation of how the Complainant’s claim meets the requirements for filing a claim pursuant to that particular ground or standard.*
- (c) *A detailed explanation of the validity of the Complaint and why the Complainant is entitled to relief.*
- (d) *A statement that the Complainant has at least 30 days prior to filing the Complaint notified the registry operator in writing of: (i) its specific concerns and specific conduct it believes is resulting in infringement of the Complainant’s trademarks and (ii) its willingness to meet to resolve the issue.*
- (e) *An explanation of how the mark is used by the Complainant (including the types of goods/services, period and territory of use – including all online usage) or otherwise protected by statute, treaty or has been validated by a court of the Clearinghouse.*
- (f) *Copies of any documents that the Complainant considers to evidence its basis for relief, including evidence of current use of the Trademark at issue in the Complaint and domain name registrations.*
- (g) *A statement that the proceedings are not being brought for any improper purpose.*
- (h) *A statement describing how the registration at issue has harmed the trademark owner.]*

V. Panel (of Experts)

(Procedure, Section 13; Rules rule 3(b)(viii); Supplemental Rules rule 8(d))

[12.] The Complainant elects to have the dispute decided by a [*choose **either**: “single-member Panel” / “three-member Panel”*].

[Please note that unless any party requests a three-member Expert Panel, a single-member Expert Panel will be appointed by the WIPO Center in its sole discretion. In event a party requests a three-member Expert Panel, within four (4) days after the Reply has been filed by the Complainant under Section 11 of the Procedure, or if no Reply is filed, within four (4) days after the Reply was due to be filed, each party shall separately select and submit

to the WIPO Center the names of three experts from the WIPO Center's List of Experts (<http://www.wipo.int/amc/en/domains/panel/panelists.jsp?code=tpdDRP>), in the order of preference, for the WIPO Center to confirm as Co-Panelist. The two confirmed co-panelists will then select a Presiding Panelist in accordance with the Supplemental Rules, rule 8(d)(ii).]

VI. Other Legal Proceedings

(Procedure, Section 22; Rules rules 3(b)(ix), 16; Supplemental Rules rule 14)

- [13.] *[Please identify any other legal proceedings of which you are aware that have been commenced or terminated in connection with or relating to any of the domain name(s) that are subject to the Complaint and summarize the issue(s) that is (are) the subject of those proceedings.]*

VII. Mutual Jurisdiction

(Rules rule 3(b)(x))

- [14.] In accordance with rule 3(b)(x) of the Rules, with respect to any challenges to a decision in the administrative proceedings the Complainant will submit to the jurisdiction of the courts where the Registry has its principal place of business.

VIII. Communications

- [15.] A copy of this Complaint has been sent electronically to the Respondent on *[date]* by *[indicate method(s) of communication and contact details used]*.

IX. Payment

(Procedure, Section 7.4; Rules rule 3(c); Supplemental Rules rule 10)

[16.] As required by the Procedure, the Rules, and the Supplemental Rules, payment in the amount of *[amount]* has been made by *[method]*; evidence of such payment is provided as Annex *[Annex number]*.

By submitting this Complaint, the Complainant acknowledges and agrees that further payments may be required, *e.g.*, in the event the Respondent requests Determination by a three-member Panel, or as may otherwise be provided in the Procedure, Rules and Supplemental Rules.

[At the same time the Complaint is filed, please include evidence of payment. If the filing fee is not paid (i.e., received by the WIPO Center) in full within ten (10) days of the WIPO Center's receipt of the Complaint, the Complaint will be dismissed without prejudice.]

X. Certification

(Rules rule 3(b)(xi))

[17.] Complainant agrees that its claims and remedies concerning the dispute proceedings, or the dispute's resolution shall be solely against the Respondent, and the Complainant waives all such claims and remedies against; (a) the Provider and Expert Panel, except in the case of deliberate wrongdoing; and (b) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

[18.] Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully submitted,

[Name/Signature, Title]

[Month, Day, Year]

[To avoid any doubt, please spell out the month]

XII. Schedule of Annexes

(Rules rule 3(d))

[Please provide a schedule listing and describing any and all relevant supporting evidence or documentation as Annexes.]

[Please note that according to Procedure Section 3.2, parties may submit supporting evidence in its original language, provided and subject to the authority of the Panel to determine otherwise, that such evidence is accompanied by a certified or otherwise official English translation of all relevant text.]

[Please note that according to Procedure, Section 4.1, all communications must be submitted electronically. A Party wishing to make a submission not in electronic form shall first request leave from the Panel, who shall in its sole discretion, determine whether to accept the non-electronic submission; prior to Panel appointment, parties are referred to Supplemental Rules rule 3.]

[1.

2.

3.

etc.]

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE

WIPO MODEL RESPONSE FORM

(Annex C to WIPO Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure)

This model form must be used by parties wishing to file a Complaint with the World Intellectual Property Organization Arbitration and Mediation Center (“WIPO Center”) pursuant to the Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”) provided as an Attachment to Module 5 of the New gTLD Applicant Guidebook (“Applicant Guidebook”) (v. 2012-01-11) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on June 20, 2011 and as updated on January 11, 2012, the Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Rules”), and the World Intellectual Property Organization Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”).

By submitting this Complaint to the WIPO Center the Complainant hereby agrees to abide and be bound by the provisions of the Procedure, the Rules, and the Supplemental Rules in effect on the day when the Complaint was submitted.

Pursuant to the Procedure, section 3, all submissions made in connection to the Procedure must be made in English. Parties may submit supporting evidence in their original language, provided and subject to the authority of the Expert Panel to determine otherwise, that such evidence is accompanied by an English translation of all relevant text.

[In the event of any questions relating to the filing of a Complaint under the Procedure, parties are invited to contact the WIPO Center by email at pddrp@wipo.int, or by telephone to +41 22 338 8247 or (toll free) 0800 888 549.]

Before the:

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
ARBITRATION AND MEDIATION CENTER**

[NAME OF COMPLAINANT]

(Complainant)

-v-

*[NAME OF RESPONDENT REGISTRY
OPERATOR AND OF <.TLD>]*

(Respondent)

TRADEMARK POST-DELEGATION DISPUTE RESOLUTION PROCEDURE
RESPONSE

I. Introduction

[1.] This Response is hereby submitted to the World Intellectual Property Organization Arbitration and Mediation Center (“WIPO Center”) for determination in accordance with the Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”), provided as an Attachment to Module 5 of the gTLD Applicant Guidebook (“Applicant Guidebook”) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on

June 20, 2011 and as updated on January 11, 2012, the Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Rules”), and the World Intellectual Property Organization Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”).

II. The Respondent

(Procedure, Section 10.2; Rules rule 5(a))

[2.] The Respondent in this proceeding is *[please provide the Respondent Registry Operator’s full name and, if relevant, legal status, place of incorporation, and principal place of business]*.

[3.] The Respondent’s contact details are:

Address: *[mailing address]*

Phone: *[phone number]*

E-mail: *[e-mail address]*

Fax: *[fax number]*

[4.] The Respondent’s authorized representative in this proceeding is:

Name: *[full name]*

Address: *[mailing address]*

Phone: *[phone number]*

E-mail: *[e-mail address]*

Fax: *[fax number]*

[5.] The Respondent’s preferred contact details for purposes of this proceeding are:

For electronic-only material

Method: e-mail
Address: *[Specify one e-mail address]*
Contact: *[Identify name of one contact person]*

For any hardcopy* material

Method: *[Specify one: fax, post/courier]*
Address: *[Specify one address, if applicable]*
Fax: *[Specify one fax number]*
Contact: *[Identify name of one contact person]*

[Please note that according to Procedure section 4.1, all communications must be submitted electronically. A Party wishing to make a submission not in electronic form shall first request leave from the Panel, who shall in its sole discretion, determine whether to accept the non-electronic submission; prior to Panel appointment, parties are referred to Rule 3(b) of the Supplemental Rules.]*

III. Factual and Legal Grounds

(Procedure, Section 10.2; Rules rule 5(a)(ii))

[This section of the Response may not exceed 5,000 words or 20 pages, whichever is less, excluding attachments. Pursuant to Rule 5(a)(vii) of the Rules and Rule 3 of the Supplemental Rules, any supporting evidence or documentation must be submitted electronically as Annexes with an accompanying schedule listing and describing all Annexes. For any cases or other legal documentation cited in support of the Complaint, please use a full legal citation, e.g., in the format predominantly used or accepted in your jurisdiction.]

[6.] *[Please respond specifically to each of the grounds upon which the Complaint is based and include any defense which contradict the Complainant's claims.]*

[7.] Pursuant to Rules rule 5(a)(iii) the Respondent Registry Operator may request a finding that the Complaint is without merit by affirmative and specific pleadings.]

IV. Panel (of Experts)

(Procedure, Section 13; Rules rule 5(a)(iv); Supplemental Rules rule 8(d))

[8.] The Respondent elects to have the dispute decided by a [choose ***either***: “single-member Panel” / “three-member Panel”].

[Please note that unless any party requests a three-member Expert Panel, a single-member Expert Panel will be appointed by the WIPO Center in its sole discretion. In event a party requests a three-member Expert Panel, within four (4) days after the Reply has been filed by the Complainant under Section 11 of the Procedure, or if no Reply is filed, within four (4) days after the Reply was due to be filed, each party shall separately select and submit to the WIPO Center the names of three experts from the WIPO Center’s List of Experts (<http://www.wipo.int/amc/en/domains/panel/panelists.jsp?code=tpdDRP>), in the order of preference, for the WIPO Center to confirm as Co-Panelist. The two confirmed co-panelists will then select a Presiding Panelist in accordance with the Supplemental Rules, rule 8(d)(ii).]

V. Other Legal Proceedings

(Procedure, Section 22; Rules rule 5(a)(v), 16; Supplemental Rules rule 14)

[9.] *[Please identify any other legal proceedings of which you are aware that have been commenced or terminated in connection with or relating to any of the domain name(s) that are subject to the Complaint and summarize the issue(s) that is (are) the subject of those proceedings.]*

VI. Communications

[10.] A copy of this Response has been sent electronically to the Complainant on *[date]* by *[indicate method(s) of communication and contact details used]*.

VII. Payment

(Rules rule 5(c); Supplemental Rules rule 10)

[11.] As required by the Procedure, the Rules, and the Supplemental Rules, payment in the amount of *[amount]* has been made by *[method]*; evidence of such payment is provided as Annex *[Annex number]*.

By submitting this Complaint, the Complainant acknowledges and agrees that further payments may be required, *e.g.*, in the event the Respondent requests Determination by a three-member Panel, or as may otherwise be provided in the Procedure, Rules and Supplemental Rules.

[At the same time the Complaint is filed, please include evidence of payment. If the filing fee is not paid (i.e., received by the WIPO Center) in full within ten (10) days of the WIPO Center's receipt of the Complaint, the Complaint will be dismissed without prejudice.]

VIII. Certification

(Rules rule 5(a)(vi))

[12.] Respondent agrees that its claims and remedies concerning the dispute proceedings, or the dispute's resolution shall be solely against the Complainant, and the Respondent waives all such claims and remedies against; (a) the Provider and Expert Panel, except in the case of

deliberate wrongdoing; and (b) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

[12.] Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully submitted,

[Name/Signature, Title]

[Month, Day, Year]

[To avoid any doubt, please spell out the month]

IX. Schedule of Annexes

(Rules rule 5(a)(vii))

[Please provide a schedule listing and describing any and all relevant supporting evidence or documentation as Annexes.]

[Please note that according to Procedure Section 3.2, parties may submit supporting evidence in its original language, provided and subject to the authority of the Panel to determine otherwise, that such evidence is accompanied by a certified or otherwise official English translation of all relevant text.]

[Please note that according to Procedure, Section 4.1, all communications must be submitted electronically. A Party wishing to make a submission not in electronic form shall first request leave from the Panel, who shall in its sole discretion, determine whether to accept the non-electronic submission; prior to Panel appointment, parties are referred to Supplemental Rules rule 3.]

[1.

2.

3.

etc.]

STATEMENT OF ACCEPTANCE
AND
DECLARATION OF IMPARTIALITY AND INDEPENDENCE

Case Number: [number]

I, the undersigned, _____ (Last Name, First Name),

[] hereby declare that I accept to serve as an Expert in accordance with the Trademark Post-Delegation Dispute Resolution Procedure (“Procedure”) provided as an Attachment to Module 5 of the New gTLD Applicant Guidebook (“Applicant Guidebook”) (v. 2012-01-11) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on June 20, 2011 and as updated on January 11, 2012, the Rules for the Trademark Post-Delegation Dispute Resolution Procedure (“Rules”), and the World Intellectual Property Organization (WIPO) Supplemental Rules for Trademark Post-Delegation Dispute Resolution Procedure (“Supplemental Rules”) in effect as of February 20, 2014. By making this declaration, I confirm that I have familiarized myself with the principles, standards, requirements and fees set out in the aforementioned instruments and that I am available to serve as an Expert in accordance therewith. I further declare that, by accepting to serve as an Expert in this case, I shall execute my responsibilities honestly, fairly and within the time periods required by the Procedure, Rules, and Supplemental Rules.

[] hereby agree that, unless required by a court of law or authorized in writing by the parties, by undertaking to act as an Expert in the above-captioned case, I will not act in any capacity whatsoever, in any pending or future proceedings, whether judicial, arbitral or otherwise, relating to the matter referred to expert determination under the Procedure.

[] hereby agree that, if at any stage during the above-captioned case, as conducted under the Procedure, circumstances arise that might give rise to justifiable doubt as to my impartiality or independence as an Expert, I will promptly disclose such circumstances to the parties and the WIPO Center.

Please check the appropriate box below, taking into consideration, *inter alia*, whether there exists any past or present relationship, direct or indirect, with either of the parties, whether financial, professional or of another kind and whether the nature of any such relationship is such that disclosure is called for. **[Any doubt should be resolved in favor of disclosure.]**

[] I am independent of each the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

[] I am independent of each of the parties. However, I wish to disclose the circumstances described in the attachment hereto (attach separate sheet) as they might be of such a nature as to call in to question my independence in the eyes of one or both of the parties.

[] hereby declare that I decline to serve as an Expert in the present case. (Disclosure of the reasons for declining to accept the appointment may be made on a separate sheet and attached hereto.)

Signature: _____

Place: _____

Date: _____

ANNEX E

Trademark Post-Delegation Dispute Resolution Procedure E-Filing Guidelines

The following guidelines apply to the Complaint, Response, and all Replies filed with the WIPO Arbitration and Mediation Center (the WIPO Center) under ICANN's Trademark Post-Delegation Dispute Resolution Procedure (TM PDDRP) including the TM PDDRP Rules and the WIPO Center Supplementary Rules to the TM PDDRP.

Email size (email communications)

Unless approved beforehand by the WIPO Center, the size of any one email communication (including attachments) transmitted to the WIPO Center in connection with any TM PDDRP proceeding shall not exceed 10 MB (ten megabytes). For documentation exceeding 10 MB, files may be "split" across multiple email communications, subject to the total file size limits detailed below.

Total file size (complaint/response)

The total size of a complaint or response (including any annexes) filed in relation to a TM PDDRP proceeding shall not exceed 50 MB (fifty megabytes); in exceptional circumstances this limit may be exceeded, where approved beforehand by the WIPO Center.

Individual file size (email attachments)

Unless approved beforehand by the WIPO Center, the size of any individual file (such as a document in Word, PDF or Excel format) transmitted to the WIPO Center in connection with any TM PDDRP proceeding shall not exceed 10 MB (ten megabytes). For documentation exceeding 10 MB, and subject to the total file size limited detailed above, files may be "split" into an appropriate number of separate files or documents, each no larger than 10 MB.

Email subject heading

It is advised that the email subject heading for a Complaint or Response (including any annexes) should clearly identify the email (e.g. as being either a "TM PDDRP Complaint" or a "TM PDDRP Response" as the case may be). Once a Complaint is registered for processing by the WIPO Center, a case number will be assigned; it is advised that the email subject heading for case related communications include the relevant case number.

File type (format)

Parties are encouraged to submit electronic files in a format that will be as universally accessible as possible (e.g. .doc, .docx, or .pdf). Parties should submit the pleadings themselves in WORD format; annexes and supporting evidence may be submitted in other formats.