

Preliminary Working Draft – Subject to further review and revision

Excerpted Redline of Trademark Clearinghouse Rights Protection Mechanism Requirements – Sections 2.3.6 and 2.3.7 – For Discussion Purposes

2.3.6 Registry Operator MUST provide a mechanism to resolve disputes regarding its registration of Sunrise Registrations. Each Registry Operator MUST develop a Sunrise Dispute Resolution Policy (“SDRP”), which will allow challenges to Sunrise Registrations related to Registry Operator’s Allocation and registration policies. Registry Operator MUST incorporate the TMCH Dispute Resolution Procedure (as defined in Section 2.3.7 below) in its SDRP to address challenges to Sunrise Registrations related to the grounds that the domain name that was registered does not match the Trademark Record on which the Sunrise -Eligible Rights Holder based its Sunrise Registration. Registry Operator MUST provide prompt notice of the outcome of an SDRP proceeding to the affected parties. To the extent applicable, ICANN MUST use commercially reasonable efforts to ensure that the TMCH Sunrise and Claims Operator cooperates with Registry Operator in effectuating Registry Operator’s SDRP.

2.3.7. Registry Operator will immediately temporarily suspend a Sunrise Registration following notice from the Trademark Clearinghouse that the Trademark Record on which the Sunrise-Eligible Rights Holder based its Sunrise Registration was deemed invalid in accordance with the TMCH Dispute Resolution Procedure as set forth at <https://trademark-clearinghouse.com/dispute-resolution-procedures/> (as updated from time to time, the “TMCH DRP”) until the Trademark Clearinghouse provides further notice that such Trademark Record (A) has been updated to <verified> in accordance with the TMCH DRP, in which case the Registry Operator shall restore such Sunrise Registration; or (B) remains invalid following either sixty (60) calendar days (or such other period as set forth in the TMCH DRP) after such Sunrise Registration was deemed invalid or the conclusion of a challenge by the Trademark Holder or Trademark Agent (as defined in the TMCH DRP), in which case the Registry Operator shall delete such Sunrise Registration.

Commented [ICANN1]: Per Sunrise Final Recommendation #8, which is being implemented as part of the next round, “SDRP is not intended to allow challenges to Sunrise registrations on the grounds that the Trademark Record on which the registrant based its Sunrise registration is invalid.”

RPM PDP Final Report:
<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>
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Commented [ICANN2]: Per Sunrise Final Recommendation #8, which is being implemented as part of the next round, “The Registry Operator will, upon receipt from the TMCH of a finding that a Sunrise registration was based upon an invalid TMCH record (pursuant to a TMCH dispute resolution procedure), immediately suspend the domain name registration for a period of time to allow the registrant to challenge such finding using the TMCH dispute resolution procedure. As a point of reference, Registry Operators in their applicable SDRPs will describe the nature and purpose of the TMCH dispute resolution procedure and provide a link to the relevant resource on the TMCH Validation Provider’s site.”

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<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>