

NEXUS DISPUTE POLICY

(Policy Withdrawn.)

1. **Purpose**—This Nexus Dispute Policy (the “Policy”) has been adopted by NeuStar, Inc., the Administrator for .US, and approved by the United States Department of Commerce (“DOC”). It is incorporated by reference into the usTLD Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you (as the registrant) and any party other than us (as the registrar) or the registry administrator for the usTLD (as the “Registry”) over the registration and use of an Internet domain name registered by you in violation of the Nexus Requirements set forth at www.neustar.us. Proceedings under Paragraph 4 of this Policy will be conducted according to the Rules for the usTLD Nexus Dispute Policy (the “Rules”).
2. **Your Representations**—By applying to register a domain name, registering a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your usTLD Registration Agreement are complete and accurate; (b) you are not registering the domain name for an unlawful purpose; and (c) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration is in compliance with the usTLD Registration Agreement.
3. **Cancellations, Transfers, and Changes**—We will cancel, transfer or otherwise make changes to a domain name registration that is subject to this Policy under the following circumstances:
 - a. Subject to the provisions of Paragraph 8, our receipt of written or appropriate electronic instructions from you or your authorized agent to take such action;
 - b. Our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction in the United States, requiring such action; and/or
 - c. Our receipt of a decision of a Panelist requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy.

We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your usTLD Registration Agreement

or other legal requirements.

4. Mandatory Administrative Proceeding—You are required to submit to a mandatory administrative proceeding in the event that a third party (a “Complainant”) asserts to the dispute provider (“Provider”), in compliance with the Rules, that your domain name has been registered or is being used in violation of the Nexus Requirements.

a. Evidence of Noncompliance with US Nexus—For the purposes of Paragraph 4, the following circumstances, in particular but without limitation, if found by the Provider to be present, shall be evidence of noncompliance with the Nexus Requirements:

i. You are not (a) a United States citizen, (b) a permanent resident of the United States of America or any of its possessions or territories, or (c) primarily domiciled in the United States of America or any of its possessions; or

ii. You are not a United States entity or organization that is (a) incorporated within one of the fifty (50) U.S. states, the District of Columbia, or any of the United States possessions or territories, or (b) organized or otherwise constituted under the laws of a state of the United States of America, the District of Columbia or any of its possessions or territories (including a federal, state, or local government of the United States or a political subdivision thereof, and non-commercial organizations based in the United States); or

iii. You are not a foreign entity (including an individual) or organization that has a *bona fide* presence in the United States of America. In order to have a “*bona fide* presence”, you must have real and substantial lawful connections with, or lawful activities in, the United States of America.

b. Initiation of Proceeding and Process and Appointment of Panelist—The Rules state the process for initiating and conducting a proceeding and for appointing the dispute provider panelist that will decide the dispute (“Panelist”).

c. Fees—All fees charged by Provider in connection with any dispute before a Panelist pursuant to this Policy shall be paid by the

Complainant.

- d. **Our Involvement in Administrative Proceedings**—We do not, and will not, participate in the administration or conduct of any proceeding before a Panelist. In addition, we will not be liable as a result of any decisions rendered by the Panelist.
- e. **Remedies**—The remedies available to a Complainant pursuant to any proceeding before a Panelist shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the Complainant.
- f. **Notification and Publication**—The Provider shall notify us of any decision made by a Panelist with respect to a domain name you have registered with us.
- g. **Availability of Court Proceedings**—The mandatory administrative proceeding requirements set forth in Paragraph 4 shall not prevent either you or the Complainant from submitting the dispute to a court of competent jurisdiction in the United States for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If a Panelist ultimately decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by Provider of the Panelist's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the Complainant in a jurisdiction to which the Complainant has submitted under Paragraph 4 of the Rules. If we receive such documentation within the ten (10) business day period, we will not implement the Panelist's decision, and we will take no further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

5. **All Other Disputes and Litigation**—All other disputes between you and any party other than us regarding your domain name registration that are not

brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

6. Our Involvement in Disputes—We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include us in any such proceeding. In the event that we are named as a party in any such proceeding, we reserve the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend ourselves.

7. Maintaining the Status Quo—We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8. Transfers During a Dispute

a. **Transfers of a Domain Name to a New Holder**—You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

b. **Changing Registrars**—You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

9. **Policy Modifications**—We reserve the right to modify this Policy at any time, subject to DoC approval. We will post our revised Policy at www.neustar.us at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to the Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of the change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your domain name registration.

RULES FOR NEXUS DISPUTE POLICY (THE "RULES")

Administrative proceedings for the resolution of disputes under the Nexus Dispute Policy adopted by DOC shall be governed by these Rules.

1. Definitions

In these Rules:

Complainant means the party initiating a complaint concerning a domain name registration.

DOC refers to the United States Department of Commerce.

Mutual Jurisdiction means a court jurisdiction in the United States at the location of either (a) the principal office of the Registrar of the domain name in question, or (b) the domain name holder's address as shown for the registration of the domain name in Registrar's Whois database at the time a complaint is submitted to a Provider. If neither (a) or (b) are located within the United States, then Mutual Jurisdiction shall lie in solely in the Commonwealth of Virginia.

Nexus Requirements means those requirements set forth at www.neustar.us.

Panelist means an administrative Panelist appointed by Provider to decide a complaint concerning a domain name registration.

Party means a Complainant or a Registrant.

Policy means the Nexus Dispute Policy that is incorporated by reference and made a part of the Registration Agreement.

Provider means a dispute-resolution service provider performing services under agreement with NeuStar, as approved by DOC. A list of such Providers appears at http://www.neustar.us/policies/dispute_providers.html.

Registrar means the entity with which the Registrant 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.

Registrant means the holder of a domain name registration against which a

complaint is initiated.

2. Communications

- a. Any written communication required under these Rules shall be made by the means specified by the Complainant or the Respondent, respectively, or in the absence of such specification:
 - i. By facsimile with a confirmation of transmission;
 - ii. By postal or courier service, postage pre-paid and return receipt requested; and/or
 - iii. Electronically via the Internet, provided a record of its transmission is available.
- b. Any communication to the Provider or the Panelist shall be made in accordance with the Provider's Supplemental Rules.
- c. All communications shall be made in English.
- d. Either Party may update its contact details by notifying the other Party, the Provider and the Registrar.
- e. Except as otherwise provided in these Rules, or decided by a Panelist, all communications provided for under these Rules shall be deemed to have been made:
 - i. If delivered by facsimile transmission, on the date shown on the confirmation of transmission;
 - ii. If by postal or courier service, on the date marked on the receipt; or
 - iii. If via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable.
- f. Except as otherwise provided in these Rules, all time periods calculated under these Rules shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Paragraph 2(e).
- g. Except as otherwise provided in these Rules, any communication by:
 - i. A Panelist to any Party shall be copied to the Provider and to the other Party;

- ii. The Provider, following the commencement of an administrative proceeding pursuant to Paragraph 4(c), to any Party shall be copied to the other Party; and
- iii. A Party shall be copied to the other Party, the Panelist and the Provider, as the case may be.
- h. It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes.
- i. In the event that a Party sending a communication receives notification of non-delivery of the communication, that Party shall promptly notify the Provider of the circumstances of the notification.

3. The Complaint

- a. Any person or entity may initiate a Nexus Dispute by submitting a complaint in accordance with the Policy and these Rules to the Provider.
- b. The complaint shall be submitted in hard copy (with annexes) and in electronic form (without annexes).
- c. The complaint shall:
 - i. Request that the complaint be submitted for decision in accordance with the Policy and Rules and describe why the domain name registration should be considered subject to the Policy;
 - ii. Provide the full name, postal and e-mail addresses, and the telephone and facsimile numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;
 - iii. Specify a preferred method for communications directed to the Complainant in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy;
 - iv. Provide the full name of the Respondent and, if different from the contact details available in the Whois database for the domain name, provide all information known to the Complainant regarding how to contact Respondent or any representative of Respondent, including

contact information based on pre-complaint dealings;

- v. Specify the domain name(s) that is/are the subject of the complaint;
- vi. Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the complaint is filed;
- vii. Describe, in accordance with the Policy, the grounds on which the complaint is made including, the extent to which the domain name(s) is/are being used in violation of the Policy.
- viii. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
- ix. State that a copy of the complaint has been sent or transmitted to the Registrant (domain name holder), in accordance with Paragraph 2(b);
- x. Identify the Mutual Jurisdiction to which the Complainant will submit with respect to any challenges to a decision in the administrative proceeding to delete the domain name;
- xi. State whether the Complainant seeks transfer of the affected name to the Complainant, in the event that the Respondent fails to show nexus, and include demonstrable evidence that Complainant satisfies all Nexus Requirements;
- xii. Conclude with the following statement followed by the signature of the Complainant or its authorized representative:

“Complainant 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 waives all such claims and remedies against (a) the dispute-resolution provider and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Department of Commerce, as well as their directors, officers, employees, and agents.”

“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”; and

- xiii. Annex any documentary or other evidence together with a schedule indexing such evidence.
- d. The complaint may relate to more than one domain name, provided that the same domain name holder registers the domain names.

4. Notification of Complaint

- a. The Provider shall review the complaint for formal compliance with the Policy and the Rules. If the complaint is found to be in compliance, the Provider shall notify the Registrant. For the purposes of notifying the Registrant, the Provider shall not be required to use any contact details other than those available in the Whois database for the domain name(s) in dispute.
- b. If the Provider finds the complaint to be formally deficient, or if the Complainant has not included its Fees with the Complaint, the Provider shall promptly notify the Complainant of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.
- c. The date of commencement of the administrative proceeding shall be the date on which the Provider forwards the Complaint to the Registrant.
- d. The Provider shall notify the Complainant, the Respondent, and the concerned Registrar(s) of the date of commencement of the administrative proceeding.
- e. Upon notification by the Provider of the pending dispute, the domain name shall be “locked” by the Registrar until the matter is resolved. While in a “locked” position, Registrant may not (i) change any of the contact information for that particular domain name or (ii) transfer the domain name to any third party.

5. Initial Provider Decisions

- a. The Provider shall make an initial evaluation of the complaint on the basis of the statements and documents submitted by the Complainant in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

- b. In the event that the Provider finds that the Complainant has not established a prima facie case that Registrant has not met any of the Nexus Requirements, the Provider shall issue a letter to the Complainant denying its challenge. In addition, the Provider shall communicate the full text of the decision to each Party, and the concerned Registrar(s).
- c. In the event that the Provider finds that the Complainant has established a prima facie case that Registrant has not met any of the Nexus Requirements set forth at www.neustar.us the Provider shall issue a letter to Registrant to submit evidence of compliance with the Nexus Requirements ("Letter").

6. Registrant Response to Letter. If the Provider issues a Letter, Registrant shall have a period of thirty (30) calendar days from the date of the Letter to submit evidence of compliance with the Nexus Requirements (the "Response Period"). The response shall:

- i. Specifically respond to the statements contained in the Letter and include any and all basis for the Registrant to retain registration and use of the disputed domain name on the basis of being in compliance with the Nexus Requirements;
- ii. Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Registrant and of any representative authorized to act for the Registrant in the administrative proceeding;
- iii. Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
- iv. State that a copy of the response has been sent or transmitted to the Complainant, in accordance with Paragraph 2(a);
- v. Conclude with the following statement followed by the signature of the Registrant or its authorized representative:

"Registrant certifies that the information contained in this Response is to the best of Registrant'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."; and

- vi. Annex any documentary or other evidence upon which the Registrant relies, together with a schedule indexing such documents.
- 7. Appointment of the Panelist.** The Provider shall appoint a single panelist within five (5) calendar days following receipt of the response by the Provider.
 - 8. Impartiality and Independence.** An appointed Panelist shall be impartial and shall disclose any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Panelist.
 - 9. Panelist Evaluation of Response**
 - a.If, within the Response Period, Registrant submits evidence demonstrating in specificity that it meets any of the Nexus Requirements, the Panelist shall issue, within fourteen (14) business days from the end of the Response Period, a written finding directing that Registrant be permitted to keep the domain name. In addition, the Provider shall communicate the full text of the Panelist decision to each Party, and the concerned Registrar(s).
 - b.If the Panelist determines that the evidence submitted fails to demonstrate that the Registrant actually meets any of the Nexus Requirements, the Panelist shall issue, within fourteen (14) business days from the end of the Response Period, a finding that Registrant has failed to meet the Nexus Requirements ("Nexus Failure Finding") and shall communicate such Nexus Failure Finding to each Party.
 - c.If the Registrant does not respond within the Response Period, the Provider shall issue a Nexus Failure Finding.
 - d. In the event of a Nexus Failure Finding, the Panelist shall issue a written finding directing that the domain name either be (i) transferred to the Complainant if the Complainant (a) has requested such relief and (b) satisfies all applicable nexus requirements; or (ii) deleted from the Registry database and placed into the list of available domain names.

10. Communication Between Parties and the Panelist—No Party or anyone acting on its behalf may have any unilateral communication with the Panelist.

11. General Powers of the Panelist

- a. The Panelist shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.
- b. In all cases, the Panelist shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.
- c. The Panelist shall ensure that the administrative proceeding takes place with due expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panelist.
- d. The Panelist shall determine the admissibility, relevance, materiality and weight of the evidence.
- e. The Panelist shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

11. Further Statements—In addition to the complaint and the response, the Panelist may request, in its sole discretion, further statements or documents from either of the Parties.

12. In-Person Hearings—There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panelist determines, in its sole discretion and as an exceptional matter, that such a hearing is necessary for deciding the complaint.

13. Grounds for Termination. If, before the Panelist's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panelist shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panelist.

14. Effect of Court Proceedings

- a. In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, the Panelist shall have the discretion to decide

whether to suspend or terminate the administrative proceeding, or to proceed to a decision.

- b. In the event that a Party initiates any legal proceedings during the pendency of an administrative proceeding in respect of a domain name dispute that is the subject of the complaint, it shall promptly notify the Panelist.

15. Fees

- a. The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Provider's Supplemental Rules, within the time and in the amount required.
- b. The Provider shall not take any action on a complaint until it has received from Complainant the initial fee.

16. 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 administrative proceeding under the Policy and the Rules.

17. Amendments—The version of these Rules in effect at the time of the submission of the complaint to the Provider shall apply to the administrative proceeding commenced thereby. These Rules may not be amended without the approval of DOC.