

**RULES FOR PANEL PROCEDURE CONCERNING  
DOMAIN NAME EXCLUSIONS**

I. GENERAL PROVISIONS

*Definitions*

*Article 1*

In these Rules:

“Applicant” means the party initiating an application for an exclusion in favor of a famous or well-known trade or service mark in which it has rights.

“Beneficiary of the Exclusion” means a party in whose favor an exclusion has been granted.

“Center” means the Arbitration and Mediation Center of the World Intellectual Property Organization.

“Exclusion” means the prohibition of the registration of a trade or service mark as a domain name by any person other than the Beneficiary of the Exclusion.

“Mark” means a trade or service mark that is the subject of an application for an exclusion, or a petition for the complete or partial cancellation of an existing exclusion.

“Panel” means the administrative panel appointed under these Rules to make a determination on an application for an exclusion, or on a petition for the complete or partial cancellation of an existing exclusion.

“Participant” means any person, other than a Party, that the Panel has decided, under Article 24 of these Rules may participate in the proceedings.

“Party” means the Applicant, the Petitioner, or a Participant.

“Petitioner” means the Party initiating a petition for the complete or partial cancellation of an existing exclusion.

“Policy” means the Policy for Domain Name Exclusions.

“WIPO” means the World Intellectual Property Organization.

*Scope of Application of Rules*

*Article 2*

Where an application for exclusion, or a petition for the complete or partial cancellation of an existing exclusion, is initiated by an Applicant or a Petitioner concerning a name that has been registered in the top-level domains (TLDs) to which the Policy applies, the application or petition shall be decided in accordance with the Policy and these Rules, as in effect on the date of the commencement of the application or petition.

*Notices and Periods of Time*  
*Article 3*

(a) Any notice or other communication that may or is required to be given under these Rules shall be delivered by expedited postal or courier service, transmitted by telefax, or sent, where the appropriate technical facilities are available, by electronic transmission through the Internet.

(b) For the purpose of determining the date of commencement of a time limit, a notice or other communication shall be deemed to have been received on the day it is delivered or, in the case of telecommunications or Internet modalities, transmitted.

(c) For the purpose of determining compliance with a time limit, a notice or other communication shall be deemed to have been sent or transmitted if it is dispatched prior to or on the day of the expiration of the time limit.

(d) For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a notice or other communication is received. If the last day of such period is an official holiday or a non-business day at the residence or place of business of the addressee, the period is extended until the first business day that follows. Official holidays or non-business days occurring during the running of the period of time are included in calculating the period.

(e) WIPO may, at the request of a Party or on its own motion, extend the periods of time referred to in these Rules.

*Representation*  
*Article 4*

(a) Any Party may be represented or assisted by persons of its choice, irrespective of, in particular, nationality or professional qualifications.

(b) Each Party shall communicate its own name, postal and e-mail address and telephone and telefax numbers, as well as the same information for any representative, to WIPO and to any other Party.

*Exclusion of Liability*  
*Article 5*

Except in respect of deliberate wrongdoing, any member of a Panel constituted under these Rules and WIPO shall not be liable to a Party for any act or omission in connection with any proceedings under these Rules.

## II. COMMENCEMENT OF APPLICATION OR PETITION

*Application for Exclusion*  
*Article 6*

(a) Any person may initiate an application under these Rules for an exclusion in a top-level domain to which the Policy applies in favor of a Mark in which the person has rights by transmitting the application to the Center.

(b) The application shall contain:

- (i) a request that the application be referred to a Panel under these Rules;
- (ii) the names and postal and e-mail addresses and the telephone and telefax numbers of the Applicant and of any representative of the Applicant;
- (iii) an indication of the Mark that is the subject of the application;
- (iv) a description of the grounds on which the application is based;
- (v) any documentary evidence upon which the Applicant relies, together with a schedule of such documents; and
- (vi) an indication of the TLDs for which the exclusion is sought.

*Notifications by the Center Upon Receipt of Application*  
*Article 7*

(a) The Center shall publish the application on a publicly accessible website and inform the Applicant of the date of commencement of the application.

(b) The date of commencement of the application shall be the date on which a copy of the application is posted on the Center's website.

*Petition for Cancellation*  
*Article 8*

(a) Any person may initiate a petition for the complete or partial cancellation of an existing exclusion by transmitting the petition to the Center.

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- (b) The petition shall contain:
- (i) a request that the petition be referred to a Panel under these Rules;
  - (ii) the name and postal and e-mail addresses and the telephone and telefax numbers of the Petitioner and of any representative of the Petitioner;
  - (iii) an indication of the Mark subject to the exclusion that the petition seeks to have, in whole or in part, cancelled;
  - (iv) a brief description of the grounds on which the petition is made;
  - (v) any documentary evidence upon which the Petitioner relies, together with a schedule of such documents; and
  - (vi) a statement of the determination sought, including an indication of the TLDs for which the cancellation of the exclusion is sought.

*Notifications by the Center Upon Submission of Petition*  
*Article 9*

- (a) The Center shall transmit to the Beneficiary of the Exclusion a copy of the petition, shall publish the petition on a publicly accessible website, and shall inform the Beneficiary of the Exclusion and the Petitioner of the date of commencement of the petition.
- (b) The date of commencement of the petition shall be the date on which the petition is posted on the Center's website.

*Response to Petition*  
*Article 10*

- (a) The Beneficiary of the Exclusion shall, within 15 days of the commencement of the petition, submit to the Center a response to the petition which shall contain comments on any of the elements in the petition, and shall be accompanied by the documentary evidence on which the Beneficiary of the Exclusion relies, together with a schedule of such documents.
- (b) The Center shall post a copy of the response to the petition on its website and shall transmit a copy to the Petitioner and to any person that has submitted a request to participate.

*Request to Participate*  
*Article 11*

- (a) Within 15 days of the date of commencement of an application for exclusion or a petition for cancellation, any person may submit to the Center a request to participate in the proceedings. If no request to participate is submitted during this period, the file for the application or the petition will be considered closed for participation and forwarded to a Panel for review and determination.

- (b) The request to participate shall contain:
  - (i) a request to participate in the proceedings;
  - (ii) the name and postal and e-mail address and the telephone and telefax numbers of the proposed Participant and of any representative of the proposed Participant; and
  - (iii) a statement of the grounds on which the proposed Participant considers that its participation is justified.
- (c) The request to participate shall be accompanied by the payment of the fee for submission of such request.
- (d) The Center shall post a copy of the request to participate on its website and shall transmit a copy thereof to the Applicant or the Petitioner, as the case may be.

### III. COMPOSITION AND ESTABLISHMENT OF THE PANEL

#### *Appointment of the Panel* *Article 12*

- (a) The Center shall appoint a Panel of three members, one of whom it shall designate to be the presiding member, to reach a determination on the application or the petition.
- (b) The Applicant and any Participant shall be notified by the Center of the appointment of the members of the Panel and of the presiding member.

#### *Impartiality and Independence* *Article 13*

- (a) Each member of the Panel shall be impartial and independent.
- (b) Each prospective member of the Panel shall, before accepting appointment, disclose to the Center, the Applicant or the Petitioner and other members of the Panel any circumstances that might give rise to justifiable doubt as to that person's impartiality or independence, or confirm in writing that no such circumstances exist.
- (c) If, at any stage during the proceedings, new circumstances arise that might give rise to justifiable doubt as to the impartiality or independence of any member of the Panel, that member shall promptly disclose such circumstances to the Center, the Applicant or the Petitioner and the other members of the Panel.

*Article 14*

(a) Each member of the Panel shall, by accepting appointment, be deemed to have undertaken to make available sufficient time to enable the proceedings to be conducted and completed expeditiously.

(b) Each prospective member of the Panel shall communicate acceptance of appointment to the Center.

*Objection to a Member of the Panel*  
*Article 15*

The Applicant or the Petitioner may present an objection to any member of the Panel if circumstances exist that give rise to justifiable doubt as to the member's impartiality or independence in relation to the application or the petition, as the case may be.

*Article 16*

The Party presenting an objection to a member of the Panel shall submit a notice to the Center and to the Panel stating the reasons for the objection, within 7 days after being notified of that member's appointment or after becoming aware of the circumstances that it considers give rise to justifiable doubt as to that member's impartiality or independence.

*Article 17*

The Panel may, in its discretion, suspend or continue the proceedings concerning the application or petition in relation to which the objection has been presented during the pendency of the objection.

*Article 18*

The member in respect of whom the objection is presented may agree to the objection, in which case the member shall be replaced without any implication that the grounds for the objection are valid.

*Article 19*

If the member does not agree to the objection, the decision on the objection shall be made by the Center in accordance with its internal procedures. Such a decision is of an administrative nature and shall be final. The Center shall not be required to state reasons for its decision.

*Release from Appointment*  
*Article 20*

At the request of a member of the Panel, the member may be released from appointment with the consent of the Center.

*Replacement of a Member of the Panel*  
*Article 21*

Whenever necessary, a substitute member of the Panel shall be appointed by the Center.

#### IV. CONDUCT OF THE PROCEEDINGS

*Transmission of the File to the Panel*  
*Article 22*

The Center shall transmit the file to each member of the Panel as soon as the member is appointed.

*General Powers of the Panel*  
*Article 23*

(a) Subject to these Rules, the Panel may conduct the proceedings in such manner as it considers appropriate.

(b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

(c) The Panel shall ensure that the proceedings take 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, by itself or agreed to by the Parties. In urgent cases, such an extension may be granted by the presiding member alone.

*Decision on Participation of Persons Other than Parties*  
*Article 24*

(a) As soon as possible after the transmission of the file to the Panel, the Panel shall decide whether any person that has submitted a request to participate may participate in the proceedings on an application for exclusion or on a petition for the complete or partial cancellation of an existing exclusion. The Panel shall notify the Center of its decision.

(b) The Center shall notify the person that has submitted the request to participate and the Parties of the decision of the Panel.

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(c) A Participant shall, within 10 days after receiving notice of the decision of the Panel in paragraph (b), transmit its statement of participation to the Center, to each Party and to the Panel.

(d) The statement of participation may set out any facts and legal arguments that the Participant considers pertinent to the determination of the issues raised in the application or the petition and shall be accompanied by the documentary evidence on which the Participant relies, together with a schedule of such documents.

*Further Statements*  
*Article 25*

The Panel may, in its discretion, allow or require further statements from the Parties.

*Language of Proceedings*  
*Article 26*

(a) The language of the proceedings shall be English or French, subject to the power of the Panel to determine otherwise, having regard to any observations of the Parties and the circumstances of the proceedings.

(a) The Panel may order that any documents submitted in languages other than the language of the proceedings be accompanied by a translation in whole or in part into the language of the proceedings.

*Communication Between Parties and the Panel*  
*Article 27*

Except as otherwise provided in these Rules or permitted by the Panel, no Party or anyone acting on its behalf may have any *ex parte* communication with any member of the Panel with respect to any matter of substance relating to the application or the petition.

*Evidence*  
*Article 28*

(a) The Panel shall determine the admissibility, relevance, materiality and weight of evidence.

(b) At any time during the proceedings, the Panel may, at the request of a Party or on its own motion, order a Party to transmit such documents or other evidence as it considers necessary or appropriate.



*Hearings*  
*Article 29*

(a) Normally, the determinations on applications or petitions under these Rules are to be made with reference to the file alone. However, as an exceptional matter, a Panel may, at the request of a Party or on its own motion, determine in relation to a particular application or petition that a hearing shall be held with the participation of the Parties.

(b) For the purposes of this Article, “hearing” shall include a physical meeting, a telephone or video conference and the simultaneous exchange of electronic communications in a manner that allows the Panel and the Parties to receive any communication sent by one of them and to send communications to the others.

(c) In the event of a hearing, the Panel shall give the Parties adequate notice of the date, time and modality thereof, determine whether the hearing is to be private, and determine whether and, if so, in what form a record shall be made.

*Closure of Proceedings*  
*Article 30*

The Panel shall declare the proceedings closed when it is satisfied that the Parties have had adequate opportunity to present submissions and evidence.

*Waiver*  
*Article 31*

A Party which knows that any provision of, or requirement under, these Rules, or any direction given by the Panel, has not been complied with, and yet proceeds without promptly recording an objection to such non-compliance, shall be deemed to have waived its right to object.

## V. DETERMINATIONS AND OTHER DECISIONS

*Determination of Exclusion, or Complete or Partial Cancellation of an Exclusion*  
*Article 32*

The Panel shall determine the application or the petition in accordance with the Policy.

*Decision-Making*  
*Article 33*

(a) Any determination, order or other decision of the Panel shall be made by a majority. In the absence of a majority, the presiding member of the Panel shall make the determination, order or other decision as if acting as sole panelist.

(b) The Panel shall transmit to the Center a copy of each order or other decision that it makes.

*Form and Notification of Determinations*  
*Article 34*

(a) The determination shall state the date on which it was made.

(b) The determination shall state the reasons on which it is based.

(c) The determination shall be signed digitally or in writing by the members of the Panel. Signature of the determination by a majority of the members of the Panel, or, in the case of Article 33(a), second sentence, by the presiding member, shall be sufficient. Where a member fails so to sign, the determination shall briefly state the reason for the absence of the signature.

(d) The Panel may consult the Center with regard to matters of form concerning the determination.

(e) The determination shall be communicated by the Panel to the Center, which shall communicate the determination to each Party.

(f) The Center shall communicate the determination to ICANN and to the appropriate registration authorities, which shall take any action necessary to implement the determination, and publish the determination on a publicly accessible website.

(g) At the request of a Party, the Center shall provide it with a copy of the determination certified by it.

*Time Period for Delivery of Determinations*  
*Article 35*

The proceedings should, wherever reasonably possible, be declared closed within not more than 15 days after either the delivery of any response, statement of participation or the establishment of the Panel, whichever event occurs latest. The final determination should, wherever reasonably possible, be made within 15 days after the closure of the proceedings.

*Effect of Determination*  
*Article 36*

(a) The Parties and the registration authorities undertake to carry out the determination without delay.

(b) The determination shall be effective and binding on the Parties as from the date it is communicated to ICANN and the registration authorities pursuant to Article 34(f).

## VI. FEES AND COSTS

### *Administration Fee* *Article 37*

(a) The application or the petition, and any request to participate, shall be subject to the payment of an administration fee to the Center. The amount of the corresponding administration fee shall be as fixed by the Center and publicly notified.

(b) The administration fee shall not be refundable.

(c) No action shall be taken by the Center on an application, petition or request to participate until the administration fee has been paid.

(d) If an Applicant, Petitioner or proposed Participant fails, within 7 days after a second reminder transmitted by the Center, to pay the corresponding administration fee, it shall be deemed to have withdrawn its application, petition or request to participate, as the case may be.

### *Fees of the Panel* *Article 38*

The amount of the fees of the members of the Panel shall be fixed by the Center and publicly notified.

### *Deposit* *Article 39*

(a) Upon receipt of notification from the Center of the establishment of the Panel, the Applicant or the Petitioner shall deposit an amount as an advance for the costs of the proceedings referred to in Article 40. The amount of the deposit shall be determined by the Center.

(b) If a Party fails, within 7 days after a second reminder transmitted by the Center, to pay the required deposit, it shall be deemed to have withdrawn the application or the petition, as the case may be.

### *Costs of Proceedings* *Article 40*

(a) The Applicant shall be responsible for and pay the costs of the proceedings, which shall consist of:

(i) the Panel's fees;

(ii) any properly incurred outgoings of the members of the Panel; and

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(iii) such other expenses as are necessary for the conduct of the proceedings, such as the cost of hearing facilities.

(b) The aforementioned costs shall, as far as possible, be debited from the deposits required under Article 39.

(c) In the case of a petition, the Panel shall, in its determination, fix the costs of the proceedings, which shall consist of the items mentioned in paragraph (a).

(d) In the case of a petition, the Panel shall, subject to any agreement of the Parties, apportion between the Parties the costs of the proceedings and the administration fee in the light of all the circumstances and the outcome of the proceedings.

[Annex VIII follows]