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# Sunrise Guide

December 2008

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## **Disclaimer**

The sole purpose of this information brochure and the frequently asked questions section is to provide the public with general information regarding the .tel Sunrise, which is governed by the Sunrise Policy issued by Telnic Ltd. All applications for the registration of domain names under the .tel Top Level Domain must meet the requirements laid down in the Sunrise Policy.

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## 1. INFORMATION BROCHURE

### 1.1. Introduction

On December 3, 2008, Telnic Ltd. ("Telnic") launched the .tel Sunrise period. This Sunrise period will last for two months and will close on February 2, 2009. The exact timing is announced on the Registry web site at [www.telnic.org](http://www.telnic.org).

The .tel Sunrise period allows holders of eligible registered trademarks to apply for a .tel domain name before the registration of domain names under the .tel TLD is open to the general public.

The Registry receives Sunrise domain name applications on a "first come, first served" basis.

This Sunrise period allows holders of registered trademarks to prevent the abusive registration of domain names identical to their trademarks. The Registry has entrusted Deloitte Enterprise Risk Services bcvba ("Deloitte") with the task to act as its exclusive Validation Agent for this process.

This document aims firstly to provide an overview of the rules governing this Sunrise process. In the second section, the document will address some frequently asked questions (FAQ).

### 1.2. Submitting a .tel Domain Name Application during Sunrise

#### 1.2.1. General Requirements for the Sunrise Period

Sunrise applications can only be submitted to the Registry through a registrar that is accredited both by ICANN and the Registry. The names of all such registrars are published on Registry's web site.

In order to submit a valid domain name application during the Sunrise period:

- the domain name applicant must be the owner, assignee or licensee of the corresponding eligible trademark that is registered and in full force and effect at the moment of receipt of the domain name application by the Registry;
- the eligible trademark invoked by the domain name applicant must be applied for before the 30<sup>th</sup> of May 2008 and registered prior to date of submission of the application to the Registry;
- the eligible trademark must be registered in a country, region, locality, or by an organisation referred to in the WIPO ST.3 standard (see <https://www.wipo.int/scit/en/standards/pdf/03-03-01.pdf>); the domain name application must make reference to the corresponding country, region, locality or organisation by using this standard.

The registrar filing the Sunrise application is the main point of contact for all communication concerning the Sunrise application towards the Registry and the Validation Agent.

### 1.2.2. Bibliographical Data Required

The Sunrise application must contain accurate, complete and up-to-date information in, amongst others, the following fields:

- The name or description of the trademark on which the Sunrise application is based (<trademark\_name>);
- The country, region, locality wherein or the organisation by whom the trademark has been registered (<trademark\_country>);
- The registration number of the trademark (<registration\_number>);
- The registration date of the trademark (<trademark\_registration\_date>);
- The capacity of the Sunrise applicant (<applicant\_capacity>).

### 1.2.3. Name corresponding to trademark

This field must contain the exact word or phrase which has been registered because the registered trademark forms the basis of the Sunrise application. Examples are provided below.

#### **1.2.3.1. *Word marks / Standard Character Marks***

For word marks / standard character marks, the information to be provided in the <trademark\_name> field is generally the same as the actual word(s) registered with the relevant trademark office. In case the relevant trademark office operates an approved on-line database (see Appendix A), this information should allow the Validation Agent to retrieve the trademark invoked by the Sunrise applicant.

In the example below, which is an extract of the on-line database of the US Patent and Trademark Office, this information can be found next to the field “Word Mark”.



Example: extract of the USPTO database containing the information for the registered word mark “DELOITTE”.

### 1.2.3.2. *Figurative Marks*

Registry has adhered to the standard for figurative marks that have also been used by other registries in previous Sunrise schemes.

This means that Sunrise applications that are based upon figurative marks are also accepted, as long as the sign exclusively contains a name, OR the word element is predominant, and can be clearly separated or distinguished from the device element, AND provided that all alphanumeric characters (including hyphens, if any) included in the mark are contained in the domain name applied for, in the same order as that in which they appear, and the general impression of the word is apparent, without any reasonable possibility of misreading the characters of which the sign consists or the order in which those characters appear.

In case the name protected by a trademark contains special characters which due to technical requirements cannot form part of a domain name (such as for instance @, !, \$, %, ...), these characters may either be transcribed, replaced by a hyphen or omitted.

For examples further clarifying the above rules, please refer to the FAQ section.

1.2.4. Registration Number <registration\_number>

This field should contain the registration number of the registered mark's current registration. Please do not refer to the application number of the trade mark.

1.2.5. Trademark Country <trademark\_country>

The <trademark\_country> field must contain the correct reference (two letter code) to the country, region, locality or organisation as mentioned in the WIPO ST.3 Standard (<http://www.wipo.int/scit/en/standards/pdf/03-03-01.pdf>). **PLEASE NOTE THAT THE WIPO ST.3 STANDARD SOMETIMES USES DIFFERENT CODES FOR THE SAME TERRITORY THAN THE ISO-3166-A LIST; THE LATTER IS NOT TO BE USED HERE.**

For instance, if a Sunrise applicant is applying on the basis of a Community Trademark (CTM), the code "EM" must be selected (and NOT "EP", "QZ" or any country code of a member state of the European Union). Furthermore, in cases where the Sunrise applicant relies on a trademark that is registered in the Benelux, the WIPO ST.3 code "BX" must be selected.

Also, in case the Sunrise applicant wishes to invoke a trademark registered in the United Kingdom, it should not select "UK", as the correct WIPO ST.3 code is "GB".

1.2.6. Registration Date <trademark\_registration\_date>

This is the date on which the competent trademark office actually registered the registered trademark or attributed a corresponding status thereto. Please note that the application date should not be provided in this field, but rather the day on which the mark was registered and entered into full force and effect.

1.2.7. Applicant capacity <applicant\_capacity>

The Validation Agent needs to know whether the Sunrise applicant (corresponding to the registrant contact) holds the trademark as an original "OWNER", a "LICENSEE", or an "ASSIGNEE".

**1.2.7.1. OWNER**

In case the Sunrise applicant is the holder of the registered trademark invoked in the Sunrise application, the field <applicant\_capacity> should contain the value "OWNER". In this case, the name of the Sunrise applicant must also be identical to the name of the trademark owner, as reported by the official on-line database operated by the trademark office indicated in the

Sunrise application, the trademark certificate or other official declaration issued by the trademark office.

If there is no identical match between the name of the Sunrise applicant and the name registered with the trademark office, the Sunrise applicant must choose "LICENSEE" or "ASSIGNEE" as appropriate (see below).

#### **1.2.7.2. LICENSEE**

In case the Sunrise applicant is not the holder of the registered trademark invoked in the Sunrise application, but is a licensee of such a trade mark, the Sunrise applicant must submit as documentary evidence a duly completed license declaration, signed by the trademark owner, using the template which is made available by the Registry on its website.

#### **1.2.7.3. ASSIGNEE**

The Sunrise applicant must indicate "ASSIGNEE" in this field in any of the following circumstances:

- in case the trademark invoked in the Sunrise application has been transferred, and such transfer has not yet been recorded by the trademark office, so that no match between the two can be made on the basis of the information made available in on line databases made available free of charge and/or the documentary evidence provided by or on behalf of the trademark owner;
- where the official name of the trademark owner has been changed, and such change has not (yet) been recorded with the competent trademark office; and/or
- where the official name of the trademark owner is otherwise different from the name of the Sunrise applicant, as mentioned in the Sunrise application; this can, for instance, be the case where the official name of the trademark owner is reported in a script other than standard Latin script.

In all of the above cases, the Sunrise applicant must submit as documentary evidence a duly completed declaration of assignment executed by (a representative of) the Sunrise applicant.

No other documents are allowed.

### **1.3. Guidelines for Documentary Evidence**

If the Validation Agent deems it necessary to ascertain the Sunrise applicant's eligibility for the domain name applied for, the Sunrise applicant is required to submit documentary evidence in order to substantiate its claim made in the Sunrise application.

Such evidence must include at least a scanned copy of an official registration document issued by the corresponding trademark office or trademark registry or a recent extract from an official on-line database operated and/or managed by the corresponding trademark office or trademark registry, indicating that the trademark meets all of the eligibility requirements laid down above.

The Sunrise applicant should provide accurate, up-to-date and correct information for the consideration of the Validation Agent. Documentary evidence must clearly indicate that:

- a) the Sunrise applicant is the holder of a right to the registered trademark (as OWNER, LICENSEE or ASSIGNEE); and
- b) the trademark invoked by the Sunrise applicant meets the conditions set forth in the .tel Sunrise Policy (*e.g.* the application for the registered trademark has been submitted before May 30, 2008, the trademark is registered, and is of national effect, etc...).

This information must be provided in English; the Validation Agent may allow other languages as it deems fit.

Any request for documentary evidence must be responded to within the time period specified by the Validation Agent, which shall be no less than 10 calendar days. Submission of documentary evidence is primarily by electronic format. The electronic documentation must meet the following requirements:

- The documentary evidence must be submitted as an electronic file in .PDF format and a maximum size of 1 Mb;
- Electronic documents must be in DIN A4 or Letter standard layout;
- The contents must be humanly readable; and
- The documentary evidence must not be retouched or otherwise altered.

Other formats, an original copy and/or a certified copy of an original may be requested as the Validation Agent deems necessary.

#### 1.4. Sunrise Reconsideration Proceedings

In accordance with the .tel Sunrise Policy either a Sunrise applicant or a third party may under certain circumstances initiate a Sunrise reconsideration proceeding as described below. The request for reconsideration must be submitted within a 10 calendar day period from the publication date of the Registry's decision in the Sunrise application database.

A Sunrise applicant may request a reconsideration (through its Registrar) when its Sunrise application has been rejected by the Registry.

Any third party who does not agree with the Registry's decision may initiate a Sunrise Reconsideration Proceeding on the assertion that:

- the Sunrise applicant is not the owner, licensee or assignee of the registered trademark on which the Sunrise application is based;
- the domain name applied for is not identical to the trademark invoked in the Sunrise domain name application, as requested by the .tel Sunrise Policy; and
- the trademark invoked by the Sunrise applicant does not fulfil the requirements as set out in the .tel Sunrise Policy.

In both cases a request for reconsideration must be submitted to the Validation Agent (through a Registrar) and a reconsideration fee must be paid to the Registry. Under the

reconsiderations Sunrise proceedings, the Validation Agent may request additional documentary evidence.

## 2. FREQUENTLY ASKED QUESTIONS

### 2.1. General

#### 2.1.1. What is the Sunrise process?

Prior to the opening of .tel domain name registration to the general public, the Registry has decided to put in place a timeframe during which the holders of registered national, Benelux and Community trademarks can register the .tel domain name that corresponds to their trade mark.

The Sunrise Period started on December 3, 2008 and will end on February 2, 2009.

The main objective of the Sunrise period is to avoid the abusive registration of said domain names (a practice commonly referred to as cybersquatting).

Multiple applications for the same .tel domain name are processed on the basis of the “first come, first served” principle. This implies that the first correct, up-to-date and accurate Sunrise application is processed first.

#### 2.1.2 Who is eligible to apply for .tel domain names during the Sunrise period?

The .tel Sunrise is open to all holders, licensee, assignees of registered trademarks that are eligible for the .tel Sunrise period.

#### 2.1.3. Who validates my .tel Sunrise application?

The designated Validation Agent for the .tel Sunrise is Deloitte.

#### 2.1.4. Can I track my Sunrise application?

Yes. For each Sunrise application received, the Registry shall make information regarding the Sunrise applicant and the trademark invoked available in a web-based Sunrise application database, and any other claims for the same domain name filed by other Sunrise applicants. Details of the Sunrise application database are on the Telnic website at <http://sunrise.nic.tel>.

The Registry and its agents make no warranties of any sort about the accuracy or validity of the data contained in Sunrise applications or contained in the Sunrise application database.

#### 2.1.5. How long will the Validation process take?

The Registry and the Validation Agent intend to process the Sunrise applications received during the Sunrise period in an efficient and expedient fashion. The total time required or specific time required for a particular application is highly dependent on a number of factors, not all of which are known of at this stage, but that include:

- the total number of applications received;
- the accuracy of the data submitted to the Registry;
- whether or not documentary evidence is required and whether it meets the requirements laid down in the Sunrise Policy and the Guidelines;
- the number of requests for reconsiderations.

If the number of applications is high, the validation process could last several months.

2.1.6. Are there any other resources available on the .tel Sunrise and Telnic in general?

Further information is contained on the Telnic website at [www.telnic.org](http://www.telnic.org) and in the .tel Sunrise Policy.

2.2. Eligible trademarks

2.2.1. What entitlement to a trademark must I have in order to be eligible to make a Sunrise application for the corresponding domain name?

The following are all eligible to apply under the .tel Sunrise:

- the reported owner of the trademark invoked;
- a licensee of the trademark invoked; and
- an assignee of the trademark invoked.

In case the Sunrise applicant is a licensee or assignee, the Sunrise applicant may be requested by the Registry and/or the Validation Agent to provide a declaration. Such a declaration must be duly completed and signed by both the owner of the claimed registered trademark and the Sunrise applicant.

2.2.2. Which registered marks are eligible for Sunrise applications?

In order for a Sunrise application to be considered valid, the Sunrise applicant must be able to prove that the trademark has been registered within a country, region or locality, or by a trademark registry that is reflected in the WIPO ST.3 standard.

A registered trademark must meet the following requirements in order to be eligible:

- the trademark must be applied for prior to May 30, 2008;
- the trademark must be registered and in full force and effect prior to the date that the application was submitted to the Registry;
- the trademark must be registered by a competent authority having jurisdiction over an entire nation (e.g. national trademarks, Community trademarks, Benelux trademarks) prior to the date that the application is submitted to the Registry.

Sunrise applications based upon figurative marks are also accepted, as long as:

- the mark exclusively contains a name,

OR

- the word element is predominant, and can be clearly separated or distinguished from the device element,

provided that:

- all alphanumeric characters (including hyphens, if any) included in the trademark are contained in the domain name applied for, in the same order as that in which they appear,

AND

- the general impression of the word is apparent, without any reasonable possibility of misreading the characters or the order in which they appear in the mark.

### 2.2.3. When is a trademark considered to be registered?

This depends wholly on the relevant legislation governing the trade mark. In all such cases, the Sunrise applicant must be able to provide evidence of actual registration (or equivalent status) prior to the date that the application is submitted to the Registry.

### 2.2.5. My trademark application is pending. Can I still apply for the corresponding domain name during the Sunrise?

No. The .tel Sunrise period is only open to marks that are registered.

### 2.2.6. What information regarding my registered mark do I have to submit to the Validation Agent?

The Validation Agent verifies both the Sunrise applicant's relation to the trademark and the trade mark's correspondence to the domain name applied for. For the former, the following bibliographical data must be provided by the Sunrise applicant at the minimum (and not limited to):

- *Registered trade mark:* The exact word or phrase described by the registered trademark used in the Sunrise application.
- *Registration Number:* Registration number of the registered mark's current registration. This is not the trademark application number. This number must enable the Validation Agent to access the correct registration entry in the trademark registry or trademark office.
- *Registration Country:* Location (country/region/organisation) where the right is established, using the appropriate official WIPO ST.3 two-letter code (see <http://www.wipo.int/scit/en/standards/pdf/03-03-01.pdf>).
- *Registration Date:* Date on which the competent trademark office has registered the registered trademark (this is not the application date but the day for which the mark is registered and has entered into full force and effect).
- *Applicant capacity:* The capacity of the Sunrise applicant ("OWNER", "LICENSEE" or "ASSIGNEE").

## 2.3. Technical Issues

### 2.3.1. What domain names can I apply for on the basis of my trade mark?

Sunrise applications on the basis of a registered trademark must consist of the complete and identical name which is protected by the registered trade mark, as can be verified by the Validation Agent on the basis of an official on-line, freely-accessible trademark database or on the basis of the provided documentary evidence.

For example, the holder of the registered trademark DELOITTE can register the domain name <deloitte.tel>.

Certain exceptions are provided for in consideration of the technical limitations of the domain name system (DNS). These are outlined in section 2.3.2 of this FAQ.

### 2.3.2. What exceptions are there to the identical match rule?

The following exceptional circumstances do not lead to an identical match, but they are nevertheless deemed an acceptable match. No priority or any other advantage shall be given to "identical matches" over "acceptable matches".

#### 2.3.2.1. *Exceptions for Spaces, Punctuations and Special Characters*

For registered trademarks that contain spaces between textual elements, the spaces may be omitted or replaced by a hyphen. The resulting text will be considered an acceptable match with the registered trade mark. For example, for a registered mark that contains the text "A B C D", the domains: "A-B-C-D.tel", "ABCD.tel", "AB-CD.tel", etc. are considered acceptable matches.

Punctuations and special characters in a registered trademark may also be omitted or replaced by hyphens. These characters include but are not limited to the following:

~ @ # !, §, % ^ © or &

Punctuations and special characters may also be spelled out in full utilizing LDH (Letter Digit Hyphen) characters with appropriate word(s) describing the character. For example, “A+B” can be written as “AandB.tel” or “AplusB.tel”. Both will be considered an acceptable match. The appropriateness of the replacement word will be determined by the Validation Agent with additional information sought from the Sunrise applicant should further clarification be required.

Importantly, the hyphen is also recognised as a special character which may be omitted or spelled out.

### **2.3.2.2. Exceptions for Accented and Combined Characters**

Registered trademarks that contain elements beyond the LDH (Letter Digit Hyphen) repertoire as technically accepted by the DNS (without IDN provisions) may replace those characters with corresponding LDH characters for which the additional element is removed or for which the characters are decoupled.

## **2.4. Documentary Evidence**

### **2.4.1. How do I know what evidence I need to submit to the Validation Agent?**

If you are requested to submit documentary evidence to substantiate the trademark claim made in the Sunrise application, your registrar will receive an e-mail detailing the request. According to the .tel Sunrise Policy, you may be required to provide, by way of example and without limitation), evidence such as:

- An electronic copy of an official document issued by the corresponding trademark office or trademark registry indicating that the trademark is duly registered or applied for before May 30, 2008. Either the original registration or, in case the expiry date of the initial registration is before the actual submission date of the Sunrise application, the latest renewal certificate should be submitted.
- If the Sunrise Applicant is an assignee or licensee he may be asked to provide corresponding declarations.
- An original or certified copy of any document the Validation Agent deems relevant. A certified translation of documents that are not in English may be requested by the Validation Agent at any time.

Appendix A contains a list of jurisdictions with approved on-line databases. The Validation Agent is unlikely to request additional documentary evidence in respect of the databases in these jurisdictions. The Validation Agent may request documentary evidence in respect of jurisdictions not on this list. Note, however, that the Validation Agent may request documentary evidence in respect of *any* application.

2.4.2. What are the procedural rules I have to abide by for the submission of evidence?

Any request for documentary evidence must be responded to within the time period specified by the Validation Agent, which shall be explained in the notice requesting the evidence. Submission of documentary evidence is primarily by electronic format. The electronic documentation must meet the following technical requirements:

- The documentary evidence must be submitted as an electronic file in .PDF format and a maximum size of 1 Mb;
- Electronic documents must be in DIN A4 or Letter standard layout;
- The contents must be humanly readable; and
- The documentary evidence must not be retouched or otherwise altered.

Other formats, an original copy and/or a certified copy of an original may be requested as the Validation Agent deems necessary.

2.5. Sunrise Reconsideration Proceedings

2.5.1. What if my Sunrise application does not meet the requirements?

In case the Validation Agent determines that the application does not meet the Sunrise requirements, the Registry is notified of this. Upon notification, the Registry may reject the Sunrise application.

In case there were other Sunrise applications for the domain name concerned, the Validation Agent proceeds with the next application for the same domain name.

2.5.2. Can my Sunrise application be reconsidered?

Yes, a Sunrise applicant whose .tel Sunrise application has been rejected can file a Sunrise reconsideration request with the Validation Agent within 10 calendar days following the notification by the Registry that the Sunrise application was rejected.

This request must be lodged through a Telnic accredited registrar.

2.5.3. Can a third party file a request for reconsideration?

Yes, within 10 calendar days as from the publication date of the Registry's decision, any third party may request for reconsideration based on the assertions that:

- the Sunrise applicant is not the owner, licensee or assignee of the registered trademark on which the Sunrise application is based;
- the domain name applied for is not identical to the trademark invoked in the Sunrise application, as required by the .tel Sunrise Policy; and
- the trademark invoked by the Sunrise applicant does not fulfil the requirements as set out in the .tel Sunrise Policy.

**Appendix A**

**Approved On-Line Databases**

| Country/Economy    | Notes  |
|--------------------|--|
|                    |  |
| Argentina          |  |
| Australia          |  |
| Benelux            |  |
| Brazil             |  |
| Canada             |  |
| Chili              |  |
| China              |  |
| Croatia            |  |
| Czech Republic     |  |
| Denmark            |  |
| Estonia            |  |
| European Community |  |
| Finland            |  |
| Germany            |  |
| Hong Kong          |  |
| Iceland            |  |
| Indonesia          |  |
| Ireland            |  |
| Italy              |  |
| Japan              | In case the information is not presented in Standard US ASCII, a declaration signed by the Applicant may be required |
| Korea              | In case the information is not presented in Standard US ASCII, a declaration signed by the Applicant may be required |
| Lithuania          |  |
| Macao              |  |
| New Zealand        |  |
| Norway             |  |
| Philippines        |  |
| Poland             |  |
| Singapore          |  |
| Slovakia           |  |
| Slovenia           |  |
| Spain              |  |
| Switzerland        |  |
| Taiwan             | In case the information is not presented in Standard US ASCII, a declaration signed by the Applicant may be required |
| Turkey             |  |
| United Kingdom     |  |
| United States      |  |
| Vietnam            |  |
| WIPO               |  |