

auDA PUBLISHED POLICY

Policy Title: CLARIFICATION OF DOMAIN NAME LICENCE – PROHIBITION ON MISSPELLINGS

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1. BACKGROUND

- 1.1 This document clarifies the terms and conditions of a domain name licence in the .au domain, with respect to the registration of misspellings.
- 1.2 Under clauses 10.1 and 10.2 of the Registrar Agreement, accredited registrars are required to enter into a binding and enforceable Registrant Agreement (domain name licence) with a registrant which contains a number of minimum provisions, including that the registrant must not deliberately register misspellings of another entity's company or brand name in order to trade on the reputation of another entity's goodwill.

2. POLICY PRINCIPLES

- 2.1 The purpose of this policy is to clarify the type of domain name that auDA may regard as a prohibited misspelling, and the process that auDA will follow in dealing with prohibited misspellings.
- 2.2 auDA's objective in enforcing the domain name licence prohibition on misspellings is to preserve the integrity of the .au domain space by discouraging "typosquatting", whereby a person deliberately registers a misspelling of a popular domain name in order to divert trade or traffic.
- 2.3 auDA recognises that a domain name that appears to be a prohibited misspelling may not in fact be a prohibited misspelling given the particular circumstances of the case (eg. where two registrants have very similar company or brand names). The complaints-handling process set out in section 3 of this policy gives the registrant an opportunity to respond to the complaint and provide reasons why the domain name is not a prohibited misspelling. auDA will consider each case on its own merits.
- 2.4 auDA is also aware that some prohibited misspellings are repeatedly re-registered for the purpose of domain monetisation. In order to deal effectively with this category of prohibited misspellings, auDA will use the audit process set out in section 5 of this policy.
- 2.5 This policy may not be used to settle disputes between a registrant and a third party about competing rights to a domain name. Such disputes should be handled under the .au Dispute Resolution Policy (auDRP) or under Australian law.

3. SCOPE OF PROHIBITION

- 3.1 The prohibition on misspellings applies where:
 - a) the domain name is a misspelling of a company or brand name;
 - b) the domain name is a misspelling of the company or brand name of another entity; and

- c) the registrant has deliberately registered the misspelling in order to trade on the reputation of another entity's goodwill.
- 3.2 For the purposes of the prohibition, a domain name will be regarded as a misspelling if it falls into one of the following categories:
- a) the singular version of a plural name, or the plural version of a singular name (eg. woolworth.com.au, safeways.com.au);
 - b) a name with missing letters (eg. yhoo.com.au);
 - c) a name with additional letters (eg. quantas.com.au);
 - d) a name with transposed letters (eg. goolge.com.au, wetspac.com.au);
 - e) a name with letters replaced by numbers, or numbers replaced by letters (eg. 9msn.com.au);
 - f) a hyphenated version of a name (eg. e-bay.com.au, micro-soft.com.au);
 - g) a name prefixed by "www" (eg. wwwseek.com.au); or
 - h) any other name that auDA determines is a deliberate misspelling, having regard to the surrounding circumstances.

4. COMPLAINTS-HANDLING PROCESS

- 4.1 Where a person believes that a domain name is a prohibited misspelling as defined in section 2 of this policy, that person should lodge a complaint with auDA using the contact details on the auDA website at <http://www.ada.org.au>.
- 4.2 If auDA determines that the domain name may be a prohibited misspelling, auDA will contact the registrant and ask them to provide evidence to show that the domain name is not a prohibited misspelling. The registrant will be required to respond within 7 calendar days of auDA's request. The registrar of record for the domain name will also be notified of the complaint.
- 4.3 If the registrant is able to show that the domain name is not a prohibited misspelling, auDA will take no further action on the complaint. The complainant may have further recourse against the registrant under the .au Dispute Resolution Policy (auDRP) or under Australian law (eg. trade mark infringement).
- 4.4 If the registrant is unable to show that the domain name is not a prohibited misspelling, or does not respond to auDA's request for information, auDA will instruct the registrar to delete the domain name. The domain name will enter "serverUpdateProhibited" and "serverHold" status for 14 calendar days, then it will be randomly dropped from the registry database within the next 7 calendar days.
- 4.5 The domain name will not be transferred to the complainant, or reserved for the complainant. If the complainant wants to license the domain name, they must apply for it using the normal application process.

5. AUDIT PROCESS

- 5.1 auDA will publish a list of prohibited misspellings that have been deleted under section 3 of this policy. auDA will conduct regular audits of the registry database to check whether domain names on the list have been registered again (by the same registrant, or another registrant).
- 5.2 Where a domain name on the list is found to have been registered by a person who does not appear to be associated with the relevant company or brand name, auDA will instruct the registrar of record to delete the domain name. The domain name will enter "serverUpdateProhibited" and "serverHold" status for 14 calendar days,

then it will be randomly dropped from the registry database within the next 7 calendar days.

- 5.3 auDA will notify the registrant that the domain name has been deleted as a prohibited misspelling. Whilst the domain name is in "serverUpdateProhibited" and "serverHold" status, if the registrant is able to show that the domain name is not a prohibited misspelling, auDA will instruct the registrar to reinstate the domain name.