auDA PUBLISHED POLICY

Policy Title: PROHIBITION ON MISSPELLINGS POLICY
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1. BACKGROUND

1.1   This document sets out auDA's policy on the registration of misspellings. It clarifies 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. TERMINOLOGY

2.1   This policy uses the following terms:

a)   "entity name" means the name of an Australian registered company or incorporated association as listed with the Australian Securities and Investment Commission (ASIC), or the name of an Australian government body. It does not include a registered business name;

b)   "personal name" means the given name(s) and/or last name of a person; and

c)   "brand name" means the name of an identifiable and distinctive product or service, whether commercial or non-commercial.

3. POLICY PRINCIPLES

3.1   auDA's objective in enforcing a 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.

3.2   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 entity, personal or brand names). The complaints-handling process set out in section 4 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.

3.3   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 6 of this policy.

3.4   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.

4. SCOPE OF PROHIBITION

4.1   The prohibition on misspellings applies where:

a)   the domain name is a misspelling of an entity, personal or brand name that does not belong to the registrant; and

b) the registrant has deliberately registered the misspelling in order to trade on the reputation of the other entity, person or brand.

4.2 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.

5. COMPLAINTS-HANDLING PROCESS

5.1 Where a person believes that a domain name is a prohibited misspelling as defined in section 4 of this policy, that person should lodge a complaint with auDA using the contact details on the auDA website at http://www.auda.org.au.

5.2 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.

5.3 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).

5.4 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 dropped from the registry database at a random time between 10.30am and 5.00pm AEST (or 11.30am and 6.00pm AEDT) on the next business day.

5.5 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.

6. AUDIT PROCESS

6.1 auDA will publish a list of prohibited misspellings that have been deleted under section 5 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).

6.2 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 entity, personal 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 dropped from the registry database at a random time between 10.30am and 5.00pm AEST (or 11.30am and 6.00pm AEDT) on the next business day.

6.3   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.