

16 July 2024

TRANSMITTED VIA ELECTRONIC MAIL, FACSIMILE, AND COURIER

RE: NOTICE OF BREACH OF REGISTRY AGREEMENT

[REDACTED]
.TOP Registry (top)
[REDACTED]

Emails: [REDACTED]
Fax: [REDACTED]

Dear [REDACTED]:

Please be advised that as of 16 July 2024, .TOP Registry (“Registry Operator”) is in breach of its Registry Agreement with the Internet Corporation for Assigned Names and Numbers (“ICANN”) dated 20 March 2014 and renewed on 20 March 2024 (“RA”). This breach results from:

1. .TOP Registry’s failure to comply with Specification 7, Section 2.b of the RA which requires compliance with the Uniform Rapid Suspension system (“URS”).
2. .TOP Registry’s failure to comply with Specification 6, Section 4.1 of the RA concerning the obligation to display on the Registry Operator’s website a primary contact for handling reports related to malicious conduct in the top-level domain (“TLD”), including DNS Abuse.
3. .TOP Registry’s failure to comply with Specification 6, Section 4.1 of the RA concerning the requirement to confirm to reporting parties that their reports of malicious conduct in the TLD, including DNS Abuse, have been received by .TOP Registry.
4. .TOP Registry’s failure to comply with Specification 6, Section 4.2 of the RA concerning DNS Abuse mitigation.

Please refer to the attachment for details regarding this breach.

In addition, the Registry Operator has been deemed noncompliant in the following area:

5. .TOP Registry’s failure to pay fees on a timely basis, as required by Article 6 of the RA.

Additional Concerns

Within the last few months, one URS Provider has submitted five different complaints to ICANN Contractual Compliance concerning the Registry Operator's failure to comply with the URS. According to Paragraph 4.1 of the URS, within 24 hours of receipt of the Notice of Complaint from a URS Provider, the Registry Operator must lock the domain name(s) and notify the URS Provider immediately upon applying the lock. The complaints received demonstrate that .TOP Registry failed to respond to multiple, repeated requests submitted by the URS Provider prior to contacting ICANN. The Registry Operator blatantly and repeatedly violated the requirements of Paragraph 4.1 of the URS. The Registry Operator's pattern of non-compliance with the URS directly impacts URS proceedings and the interests of the parties seeking remedies offered by those proceedings. Furthermore, the Registry Operator's responses to the compliance cases did not demonstrate that .TOP Registry had a clearly defined and time-bound remediation plan to ensure compliance with URS obligations moving forward, or that it intended to swiftly develop and implement one.

Additionally, through multiple communications with the Registry Operator in case number 01325566, ICANN Contractual Compliance gathered information and records concerning .TOP Registry's processes for addressing DNS Abuse reports. This investigation commenced upon receiving a complaint involving a report of multiple .top domain names allegedly used for phishing attacks. Based on the information and records gathered through several weeks, it was determined that .TOP Registry does not have a process in place to promptly, comprehensively, and reasonably investigate and act on reports of DNS Abuse. The Registry Operator's responses to the compliance case did not demonstrate that .TOP Registry had a clearly defined and time-bound remediation plan to ensure compliance with DNS Abuse mitigation requirements moving forward, or that it intended to swiftly develop and implement one. Furthermore, while case number 01325566 was in process, another complaint against .TOP Registry with similar allegations was received and is being addressed via case 01343327.

ICANN requests that .TOP Registry cure this Notice of Breach by 15 August 2024, 30 calendar days from the date of this letter, by taking the following actions:

1. With respect to the Domain Name Dispute Verification Requests the Registry Operator received from the Forum ("URS Provider") corresponding to cases FA2406002101024 and FA2406002101035, provide evidence that the Registry Operator notified the URS Provider of the lock of the domain names.
2. Provide a detailed description of .TOP Registry's current process for receiving and addressing requests from URS Providers under the URS requirements.
3. Provide a detailed description of the specific measures, with implementation date(s), that .TOP Registry has taken to ensure that the Registry Operator fully and timely acts on requests from URS Providers within the timelines prescribed by the URS. The description provided by the Registry Operator must include:
 - a. Each step taken and the date each step was implemented;

- b. An explanation of how each step will ensure .TOP Registry's compliance with the URS moving forward; and
 - c. An explanation of how, and how often, the Registry Operator will monitor and measure the effectiveness of the measures taken to ensure continued compliance with the URS.
4. Provide the link to the Registry Operator's website where the following information related to malicious conduct in the TLD, including DNS Abuse, is published: (1) a valid email address or webform; (2) mailing address; and (3) a primary contact for handling reports.
5. Provide evidence that the Registry Operator has implemented measures to ensure that:
 - a. The Registry Operator provides any and all reporting parties with confirmation that a report related to malicious conduct in the TLD, including DNS Abuse, has been received; and
 - b. The report confirmation identifies, at a minimum, the Registry Operator, the reported domain name(s), and the date the report was submitted.
6. With respect to the list of domain names in compliance case number 01325566, provide:
 - a. An explanation of all steps taken by the Registry Operator to reasonably reach a determination regarding the use of the domain names for DNS Abuse. The explanation must include evidence of each step taken in connection with each domain name; and
 - b. An explanation as to why the evidence that the Registry Operator possesses regarding the use of these domain names is insufficient to compel the Registry Operator to reasonably investigate and reach a determination regarding the use of the domain names for DNS Abuse and what type of evidence .TOP Registry requires in this regard.
7. Provide a detailed description of the process that .TOP Registry has implemented to enable the Registry Operator to fully and promptly receive, assess and act on reports of DNS Abuse in the terms prescribed by Specification 6, Section 4.2 of the RA. This description must include:
 - a. Each step of the process and the date the step was implemented and
 - b. An explanation of how, and how often, the Registry Operator will monitor and measure the effectiveness of this process to ensure continued compliance with DNS Abuse mitigation requirements.
8. Pay all past and currently due fees.

If .TOP Registry fails to timely cure the breaches and provide the information requested by 15 August 2024, ICANN may commence the RA termination process.

If you have questions or require assistance, please contact Leticia Castillo at [REDACTED].

Sincerely,

[SIGNATURE REDACTED]

Jamie Hedlund

Senior Vice President, Contractual Compliance and U.S. Government Engagement

Cc: John O. Jeffrey, General Counsel and Secretary

ATTACHMENT

Failure to comply with the requirements of Dispute Resolution Mechanisms

Section 2.b of Specification 7 of the RA requires registry operators to comply with the URS posted at <https://www.icann.org/urs>. According to Paragraph 4.1 of the URS, within 24 hours of receipt of the Notice of Complaint from a URS Provider, the Registry Operator must lock the domain name(s) and notify the URS Provider immediately upon applying the lock. On 6 June 2024, the URS Provider sent Notices of Complaint to the Registry Operator. After that date, the URS Provider sent four additional requests to .TOP Registry prior to resorting to contacting ICANN. The domain names were not locked until 2 July 2024. Further, ICANN has obtained no evidence that the URS Provider was notified of the lock corresponding to FA2406002101035 and FA2406002101024. Due to the Registry Operator's failures to comply with URS obligations documented in previous compliance cases and the potential risk that .TOP Registry's pattern of noncompliance entails for URS proceedings, ICANN sent an escalated notice to the Registry Operator through case number 01342945. After multiple communications with .TOP Registry, ICANN Contractual Compliance confirmed the Registry Operator's noncompliance with URS obligations. The Registry Operator's failure to lock the domain names within 24 hours of receiving the Notices of Complaint from the URS Provider and to immediately notify the URS Provider is a breach of Section 2.b of Specification 7 of the RA.

Failure to display all required abuse contact information

Specification 6, Sections 4.1 of the RA requires a registry operator to provide to ICANN and publish on its website its accurate contact details including a valid email address or webform and mailing address as well as a primary contact for handling reports related to malicious conduct in the TLD, including DNS Abuse. Additionally, upon receipt of such reports, registry operators are required to provide each reporter with confirmation that the report has been received. The Registry Operator's failure to display on its website a primary contact for handling reports related to malicious conduct in the TLD, including DNS Abuse, is a breach of Section 4.1 of Specification 6 of the RA. The Registry Operator's failure to provide reporters with confirmation of receipt of reports of malicious conduct in the TLD, including DNS Abuse, is another beach of Section 4.1 of Specification 6 of the RA.

Failure to comply with DNS Abuse mitigation requirements

Section 4.2 of Specification 6 of the RA requires registry operators to take mitigation actions when they reasonably determine that a registered domain name in the TLD is being used for DNS Abuse which, for the purposes of the RA, is defined as malware, botnets, phishing, pharming, and spam (when spam serves as a delivery mechanism for the other four forms of DNS Abuse) as those terms are defined in Section 2.1 of [SAC115](#). The Registry Operator did not demonstrate compliance with these requirements with respect to the 18 April 2024 report it received involving multiple .top domain names allegedly used to conduct phishing attacks. The DNS Abuse reporter did not receive confirmation that the Registry Operator had received this report upon submission, or any indication that actions were being taken to review, assess and act appropriately on the report before resorting to contacting ICANN. As of the time of this Notice of Breach, approximately 32% of the reported domain names have been suspended by the sponsoring registrars. Upon multiple reviews and requests, ICANN Contractual Compliance obtained information from the Registry Operator indicating that .TOP Registry did not review the

report until after it was contacted by ICANN. Further, the Registry Operator failed to sufficiently demonstrate that it lacked actionable evidence or access to sufficient information to reasonably investigate and reach a determination regarding the use of the domain names for DNS Abuse.

Failure to pay fees

Article 6 of the RA requires registry operators to pay Registry-Level Fees on a quarterly basis within 30 calendar days following the date of the invoice provided by ICANN. The Registry Operator owes ICANN past due fees, in breach of Article 6 of the RA.

CHRONOLOGIES

Chronology (Case #01342945):

Date of Notice	Deadline for Response	Details
3-Jul-2024	10-Jul-2024	ICANN sent escalated compliance notice via email to [EMAIL REDACTED].
3-Jul-2024	10-Jul-2024	ICANN sent escalated compliance notice via fax to [FAX REDACTED]. Fax unsuccessful.
5-Jul-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) insufficient to demonstrate compliance.
9-Jul-2024	12-Jul-2024	ICANN sent a follow-up to the escalated compliance notice via email to [EMAIL REDACTED].
9-Jul-2024	12-Jul-2024	ICANN re-sent the follow up to the escalated compliance notice via email to [EMAIL REDACTED], [EMAIL REDACTED], and [EMAIL REDACTED].
10-Jul-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) that confirmed the non-compliance.
15-Jul-2024	N/A	ICANN conducted compliance check to determine other areas of noncompliance.

Chronology (Case #01325566):

Date of Notice	Deadline for Response	Details
25-Apr-2024	2-May-2024	ICANN sent 1st compliance notice via email to [EMAIL REDACTED]. No response received from the Registry Operator.
3-May-2024	10-May-2024	ICANN sent escalated compliance notice via email to [EMAIL REDACTED], [EMAIL REDACTED], and [EMAIL REDACTED].
3-May-2024	N/A	ICANN sent the escalated compliance notice via fax to [FAX REDACTED]. Fax unsuccessful.

Date of Notice	Deadline for Response	Details
5-May-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) insufficient to demonstrate compliance.
6-May-2024	10-May-2024	ICANN sent a follow-up to the escalated compliance notice via email to [EMAIL REDACTED], [EMAIL REDACTED], and [EMAIL REDACTED].
9-May-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) insufficient to demonstrate compliance.
3-Jul-2024	10-Jul-2024	ICANN sent a follow-up to the escalated compliance notice via email to [EMAIL REDACTED], [EMAIL REDACTED], and [EMAIL REDACTED].
8-Jul-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) insufficient to demonstrate compliance.
9-Jul-2024	12-Jul-2024	ICANN sent a follow-up to the escalated compliance notice via email to [EMAIL REDACTED].
10-Jul-2024	N/A	Email from the Registry Operator (EMAIL REDACTED) that confirmed the non-compliance.
15-Jul-2024	N/A	ICANN conducted compliance check to determine other areas of non-compliance.