

8 November 2022

TRANSMITTED VIA ELECTRONIC MAIL AND COURIER

RE: NOTICE OF BREACH OF REGISTRAR ACCREDITATION AGREEMENT

[REDACTED]
FLAPPY DOMAIN, INC. (IANA #1872)
[REDACTED]

Email: [REDACTED]

Dear [REDACTED]:

Please be advised that as of 8 November 2022, FLAPPY DOMAIN, INC. (“FLAPPY DOMAIN” or “Registrar”) is in breach of its 2013 Registrar Accreditation Agreement with the Internet Corporation for Assigned Names and Numbers (“ICANN”) dated 28 April 2019 (“RAA”).

This breach results from:

1. FLAPPY DOMAIN’s failure to comply with the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), as required by Section 3.8 of the RAA.

Please refer to the attachment for details regarding this breach.

In addition, FLAPPY DOMAIN has been deemed noncompliant in the following areas:

2. FLAPPY DOMAIN’s failure to escrow generic top-level domain (“gTLD”) registration data, as required by Section 3.6 of the RAA.
3. FLAPPY DOMAIN’s failure to provide and maintain accurate and current information as specified in the Registrar Information Specification (“RIS”), as required by Section 3.17 of the RAA.

Additional Concerns

FLAPPY DOMAIN has demonstrated a pattern of non-compliance with its UDRP and UDRP Rules obligations, including failure to timely implement the Czech Arbitration Court (“CAC”) Administrative Panel’s decision Case Number 104248 (“Decision”). Additionally, as of the date of this notice of breach, the domain name subject to the Decision is in pending Delete status and at risk of being purged from the Domain Name System (“DNS”). This behavior has directly and negatively impacted the UDRP proceeding, and the parties seeking the remedies offered by such a proceeding.

ICANN requests that FLAPPY DOMAIN cure these breaches by 29 November 2022, 21 days from the date of this letter, by taking the following actions:

1. Concerning the CAC Administrative Panel’s Decision:
 - a. Take necessary and prompt actions to ensure implementation of the Decision is completed within the terms prescribed by Paragraph 4(k) of the UDRP, provide evidence that this has been done and that the Complainant has been assisted.
 - b. Provide copies of the correspondence in which DOMAIN FLAPPY communicated to ICANN, the Provider and the Parties the date for the implementation of the Decision, as required by Paragraph 16(a) of the Rules; and
 - c. Provide a detailed remediation plan, with implementation date(s) and milestones, executed by the Registrar to ensure timely implementation of UDRP Decisions and response to Verification and Lock requests as well as the delivery of mandatory communications within the timelines required by the UDRP and UDRP Rules.
2. Deposit gTLD registration data on a weekly basis to an approved escrow agent and ensure that the deposits meet the required specifications.
3. Provide ICANN with a completed RIS form, including accurate and current information, the required supporting documentation and the location of any applicable information published on the Registrar’s website, as required by Section 3.17 of the RAA.
4. Provide ICANN with the corrective and preventative action(s) that FLAPPY DOMAIN will take, with implementation date(s), to address its pattern of untimely, incomplete and non-response to ICANN Contractual Compliance matters.

If FLAPPY DOMAIN fails to timely cure the breaches and provide the information requested by 29 November 2022, ICANN may commence the RAA 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 UDRP and UDRP Rules

Section 3.8 RAA requires registrars to comply with the UDRP. Paragraph 4(k) of the UDRP mandates that registrars implement UDRP decisions within ten (10) business days of having been informed by the applicable Provider, unless the relevant registrar receives from the Respondent official documentation that the Respondent commenced a lawsuit against the Complainant in a jurisdiction to which the Complainant has submitted under Paragraph 3(b)(xii) of the UDRP Rules. FLAPPY DOMAIN's failure to (1) timely implement the UDRP Decision rendered by the CAC; or (2) provide evidence of having received official documentation with respect to the commencement of a lawsuit is a breach of Section 3.8 of the RAA.

Failure to escrow gTLD registration data

Section 3.6 of the RAA requires registrars to submit an electronic copy of the data described in Sections 3.4.1.2 through 3.4.1.5 of the RAA to ICANN or, at the registrar's expense, to a reputable escrow agent mutually approved by the registrar and ICANN. Registrars shall submit the data on a schedule, under the terms, and in a format specified by ICANN. FLAPPY DOMAIN's failure to make timely deposits is a breach of Section 3.6 of the RAA.

Failure to provide and maintain required contact information

Section 3.17 of the RAA requires registrars to maintain and provide to ICANN the information specified in the RIS. FLAPPY DOMAIN's failure to provide to ICANN and maintain accurate and current information as specified in the RIS, is a breach of Section 3.17 of the RAA.

CHRONOLOGY

In the compliance notices detailed in the chronology below, ICANN notified FLAPPY DOMAIN of the violations associated with the case, including the relevant ICANN policies and agreements. Each communication requested the evidence, information and actions needed from FLAPPY DOMAIN to become compliant. The telephone call details below described an additional attempt from ICANN to communicate to the Registrar the details of the case and to make an ICANN Contractual Compliance staff member available to address any questions in order to assist FLAPPY DOMAIN in becoming compliant. All these attempts were unsuccessful.

Chronology: (Case#01171835):

Date of Notice	Deadline for Response	Details
14-Oct-2022	21-Oct-2022	ICANN sent 1st compliance notice via email to [EMAIL REDACTED]. No response received from the Registrar.
24-Oct-2022	31-Oct-2022	Due to the risk of the domain name being purged from the DNS, ICANN sent escalated compliance notice via email to [EMAIL REDACTED] and [EMAIL REDACTED].
26-Oct-2022	N/A	ICANN called Registrar Representative at [TELEPHONE REDACTED] and provided Registrar Representative with complaint details.
30-Oct-2022	N/A	Email from the Registrar ([EMAIL REDACTED]) insufficient to demonstrate compliance.
2-Nov-2022	4-Nov-2022	ICANN sent follow-up compliance notice via email to [EMAIL REDACTED] and [EMAIL REDACTED].
3-Nov-2022	N/A	Email from the Registrar ([EMAIL REDACTED]) insufficient to demonstrate compliance.
3-Nov-2022	4-Nov-2022	ICANN sent follow-up compliance notice via email to [EMAIL REDACTED] and [EMAIL REDACTED].
3-Nov-2022	N/A	ICANN conducted compliance check to determine other areas of noncompliance.
4-Nov-2022	N/A	Email from the Registrar ([EMAIL REDACTED]) insufficient to demonstrate compliance.
8-Nov-2022	N/A	To date, the Registrar has not responded to ICANN with the requested information and documentation, and the issue remains unresolved.