



## .scot Pioneer Name Challenge Procedure

### Grounds for Challenge

All .scot Pioneer Name applicants must submit to this mandatory Pioneer Name Challenge Procedure (“**PNCP**”) in the event that a complainant meets each of the following three elements:

1. The challenged Pioneer Name is identical or confusingly similar to a trademark in which the complainant has rights, provided that such trademark:
  - (a) is a word trademark;
  - (b) if it is a registered trademark, it was applied for on or before June 13th 2012 and granted on or before January 23rd 2014; or if it is a trademark protected by a statute or treaty that such statute or treaty was in effect on or before 26 June 2008; and
  - (c) has effective presence in Scotland. In assessing the fulfillment of this requirement the Registry Operator may take into account the market share of the mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the claimant in promoting it.
2. The holder of the challenged Pioneer Name has no rights or legitimate interests in respect to that name. The holder of the challenged Pioneer Name will be presumed to have legitimate interest if:
  - (a) It has the right to use the Pioneer Name as, e.g., trademark, denomination of origin, individual's name, company name, etc.; or if
  - (b) As an individual, business, or other organization, the holder of the Pioneer Name has been commonly known by the Pioneer Name, even if it has acquired no trademark rights on it.
3. The challenged Pioneer Name has been applied for or is being used in bad faith. It will be presumed that the Pioneer Name has been registered in bad faith if:



- (a) The holder of the Pioneer Name has registered the Pioneer Name primarily for the purpose of disrupting the business of a competitor; or if
- (b) The holder of the Pioneer Name has intentionally attempted to attract, for commercial gain, Internet users from the claimant's website or other on-line location, by creating a likelihood of confusion with the complainant's mark.

If the challenge prevails, the Pioneer Application will be rejected. If no other acceptable Proposal has been submitted for that same Pioneer Name and the domain is not otherwise reserved based on the Reserved Names Policies, or if the Pioneer Name has not been otherwise registered, such registration will be cancelled, and the domain will be available for subsequent start-up phases.

## Procedure

1. To challenge a Pioneer Name, the trademark owner (challenger) must:
  - (a) Submit a written challenge proving the fulfillment of the three elements referred above, along with supporting evidence. Challenges must be sent via email to [insert .scot email address] (Subject: "**Pioneer Challenge**"); and
  - (b) Pay a Challenge Procedure Fee of 100 GBP to the Registry Operator.
2. The deadline to submit challenges to Pioneer Names will end thirty (30) days after the eligible Pioneer Name Proposal has been published at the Registry Operator's website.
3. **Statement of Defense.** The applicant or registrant of a disputed domain name in the TLD shall be promptly notified by the Registry Operator of the commencement of a challenge under this procedure and may, if they wish, contest within the next three (3) business days the allegations of the complaint or show other cause why the challenge should not prevail. In all cases, the burden of proof shall be on the complainant, and default or other failure of the applicant or holder of the disputed pioneer name shall not constitute an admission to any allegation of the complaint.
4. The Registry Operator will assess the challenge, its claims and supporting documentation. The Registry Operator may ask for further information from the challenger and/or the Pioneer Name applicant in order to make an informed decision.
5. Within ten (10) calendar days after gathering all the required information, the Registry Operator will make a decision on whether the challenge should prevail and



will notify the interested parties via email.

6. If a Decision requires a change to the status of a registered domain name, the Registry Operator will implement it within the following ten (10) business days after communication of the decision to all the parties involved.
7. Parties to a challenge under this procedure shall warrant that all factual allegations made in the course thereof are true and correct to the best of their knowledge, shall remain subject to all representations and warranties made in the course of registration of a disputed domain name.