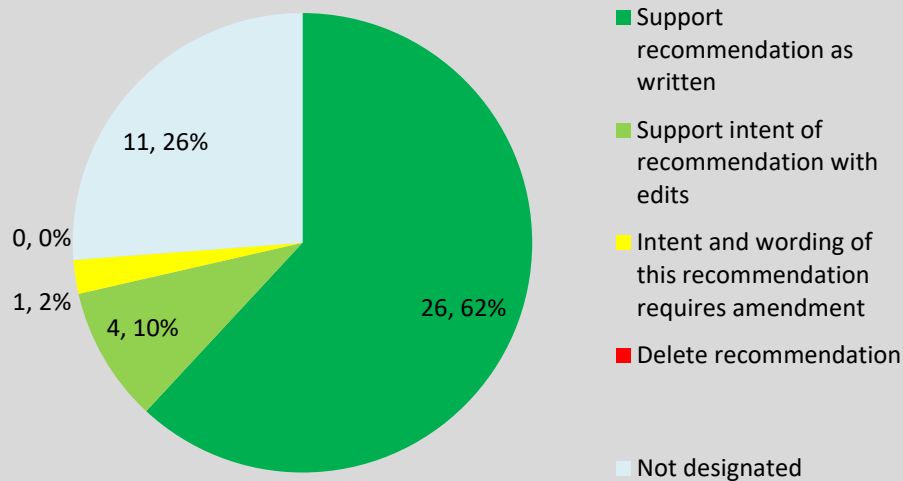


RECOMMENDATION 15

#	Comment	Contributor	EPDP Response / Action Taken
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The EPDP Team recommends that for the new policy on gTLD registration data, the requirements of the Temporary Specification are maintained in relation to URS and UDRP until such time as these are superseded by recommendations from the RPMs PDP WG (if any).



Support recommendation as written

1.	No comments provided in support of this recommendation	<ul style="list-style-type: none"> John Poole; Domain Name Registrant Sivasubramanian Muthusamy; Internet Society India Chennai Mark Massey; Domain Name Rights Coalition Michele Neylon; Blacknight Internet Solutions Ltd 	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
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#	Comment	Contributor	EPDP Response / Action Taken
		<ul style="list-style-type: none"> • Volker Greimann; Key-Systems GmbH • Zoe Bonython; RrSG • Domain.com, LLC & affiliates • Greg Aaron; iThreat Cyber Group • DR. JAIDEEP KUMAR MISHRA ; DIRECTOR MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, GOVERNMENT OF INDIA • Sara Bockey; GoDaddy • Lars Steffen; eco – Association of the Internet Industry • Wolf-Ulrich Knoben; ISPCP Constituency • Monica Sanders; i2Coalition • David Martel • Etienne Laurin • Ben Butler; SSAC • Evin Erdoğan; ALAC • Dean S. Marks; Coalition for Online Accountability • George Kirikos; Leap of Faith Financial Services Inc. • Brian Beckham; Head, Internet Dispute Resolution Section at WIPO 	
2.	We do not support the idea of disclosure of RNH data prior to the filing of a UDRP dispute. This process is not necessary in cases where a domain has Privacy/Proxy services and so there's no	Tucows Domains Inc.	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p>

#	Comment	Contributor	EPDP Response / Action Taken
	need for it when the info is masked due to GDPR or Temp Spec requirements. The dispute can be filed and RNH data provided to the URS/UDRP vendor, when the vendor requires it.		<p>Action Taken: none</p> <p>[COMPLETED]</p>
3.	<p>Although we support the recommendation as written, we have some further comments on this issue. In general, the UDRP has become more onerous, because in general, all complaints must now be filed as “Doe” complaints, and then later amended once the full registration information is disclosed to the complainant. This includes identifying and adding additional facts and evidence of bad faith, once new information about the registrant’s identity is available. It is still generally more challenging to put forward a complete case, as reverse WHOIS capabilities are severely limited, making evidence of broader schemes or portfolios of abusive domains harder to demonstrate. It would be exceedingly useful if, as part of a UDRP or URS filing, registries or registrars could somehow provide a list of all domains registered to that same respondent as part of the registrant information disclosure process, to solve the reverse WHOIS problem. This would not disclose any more personal data than has already been disclosed about the registrant, but could present other challenges – we suggest this approach be further considered within the EPDP and/or the RPM Review PDP. Otherwise, the requirements in the Temporary Specification regarding the URS and UDRP are acceptable from a practical standpoint, and we have no strong opposition to this recommendation.</p>	<ul style="list-style-type: none"> • Brian King; IPC • Brian King; MarkMonitor, Inc., a Clarivate Analytics company 	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
4.	<p>The EPDP is supposed to deal primarily with bringing ICANN’s Whois/RDDS into compliance with GDPR. In some cases there are interactions between Whois policy and UDRP and URS procedures. Rather than trying to modify additional policies via the EPDP, we should leave the temporary specification in place and allow the GNSO’s Rights Protection Mechanism PDP to take up the other issues. The extent to which these policies are addressed here should be limited to the extent to which gTLD Registration Data is processed within the context of DRP proceedings.</p> <p>We note that under the Temporary Specification, UDRP and URS proceedings are continuing, with Providers requesting and Registrars sharing registrant data on showing of a complaint filing. These proceedings are moving forward unabated -- with complaints continuing to processed and registrants continuing to be informed (via Notice).</p> <p>We further note it is our understanding that the RPM PDP WG has been reviewing this matter as part of its URS recommendation (UDRP review will not come until a later Phase 2), and is planning to make draft policy recommendations to facilitate URS processing in its upcoming Initial Report in 2019.</p>	Ayden Férdeline; NCSG	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
5.	The lack of WHOIS information available to a complainant before filing a complaint is so limited that proving bad faith in an initial complaint is very difficult when the identity of the registrant is not known. For example, a complainant cannot know if the registrant has engaged in a pattern	Lori Schulman Senior Director, Internet Policy; International Trademark Association (INTA)	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p>

#	Comment	Contributor	EPDP Response / Action Taken
	of cybersquatting. The complainant cannot know if the registrant has a legitimate interest in the domain without knowing the registrant's identity. The UDRP Rules should include a rule specifically 1) permitting complainants sufficient time to investigate and amend a complaint upon learning the identity of the registrant, and 2) requiring registrars to provide the complainant with a full list of all other domains owned by the registrant through the registrar.		Action Taken: none [COMPLETED]
6.	The EPDP is supposed to deal primarily with bringing ICANN's Whois/RDDS into compliance with GDPR. In some cases there are interactions between Whois policy and UDRP and URS procedures. Rather than trying to modify additional policies via the EPDP, we should leave the temp spec in place and allow the Right Protection Mechanism PDP to take up the other issues.	Farzaneh Badii; Internet Governance Project	Support EPDP Response: The EPDP appreciates the support Action Taken: none [COMPLETED]
Support intent of recommendation with edits			
7.	The RySG recommends the following edits to Recommendation #15: "The EPDP Team recommends that the supplemental requirements for the URS and UDRP, as set forth in Appendices D and E to the Temporary Specification, respectively, be maintained for the new policy on gTLD registration data until these supplemental requirements are superseded by recommendations from the RPMs PDP WG (if any)." The proposed revision clearly identifies the portions of the Temporary Specification that set forth URS- and UDRP-related requirements. Implementation of Recommendation #18 (data processing agreements with dispute resolution providers) is a prerequisite for implementation of Recommendation #15. Necessary data processing agreements must be in place before data is transferred to the dispute resolution providers.	Wim Degezelle ; RySG	Concerns EPDP Response: Action Taken: [COMPLETED / NOT COMPLETED] – [Instruction of what was done.]
8.	"The EPDP Team recommends that for the new policy on gTLD registration data, the requirements of the Temporary Specification are maintained [with required responses to enable investigations] in relation to URS and UDRP until such time as these are superseded by recommendations from the RPMs PDP WG (if any). However, additional recourse should be provided when registrant data is needed to establish if there is a pattern of bad faith conduct by the registrant (e.g. if the registrant has more domains infringing third-party intellectual property rights). This may be needed in order to file a complaint in relation to additional domains as well as for evidentiary purposes (i.e. illustrating the bad faith element of the UDRP test).	Jeremy Dallman, David Ladd – Microsoft Threat Intelligence Center; Amy Hogan-Burney, Richard Boscovich – Digital Crimes Unit; Makalika Naholowaa, Teresa Rodewald, Cam Gatta – Trademark; Mark Svancarek, Ben Wallace, Paul Mitchell – Internet Technology & Governance Policy; Cole Quinn – Domains	Concerns EPDP Response: Action Taken: [COMPLETED / NOT COMPLETED] – [Instruction of what was done.]

#	Comment	Contributor	EPDP Response / Action Taken
	<p>The restriction of information has made it difficult to provide a holistic filing with a dispute resolution provider. Access to data prior to filing is much more efficient and helpful. The WG should consider an anonymized identifier for each registrant. This would provide the ability to do correlation analysis prior to filing a dispute action (even without underlying data), instead of filing one-by-one cases for the same subject for a given registrar, and then repeating this process for each additional registrar.</p> <p>The UDRP, always an expensive process, has become more so, because complaints must now be filed as “Doe” complaints, which are later amended once the full registration information is disclosed to the complainant. This includes identifying and adding additional facts and evidence of bad faith, once new information about the registrant’s identity is available.</p> <p>It is even more challenging to put forward a complete case, in the absence of reverse WHOIS capabilities, making evidence of broader schemes or portfolios of abusive domains harder to demonstrate.</p> <p>The burden caused by limited access to registrant data would be lessened if brand owners were enabled to (1) confirm whether a collection of domains are registered by the same party (because reverse WHOIS searches are no longer available); and (2) name multiple domains in the same registrant’s name in one complaint, where these domain display similar bad faith and other relevant patterns of objectionable conduct by the registrant.</p> <p>We have no strong objection to this recommendation.</p> <p>It would be exceedingly useful if, as part of a UDRP or URS filing, registries or registrars could somehow provide a list of all domains registered to that same respondent as part of the registrant information disclosure process, which could provide a capability like reverse WHOIS without disclosing additional personal data. We suggest this approach be further considered within the EPDP and/or the RPM Review PDP.</p> <p>The old UDRP/URS system was balanced, and all parties could find relief in a predictable fashion. It was slow and expensive but fair. Now, with data unavailable and the costs of dispute resolution increasing, risk is being pushed off onto brands. But protection of brands is just a proxy for protection of consumers; consumers don’t know want to discover that their branded medicine, digital goods or accessories are low quality counterfeits or vectors for cybercrime.</p> <p>It seems likely that the pendulum will swing the other way, with Notice-and-Takedown (NTD) actions becoming more frequent (DCMA in USA; similar law in many other jurisdictions). It is already established that ISPs have responsibilities under NTD. This would not necessarily be a</p>	<p>and Registry; Joanne Charles – Privacy & Regulatory Affairs; Microsoft Corporation</p>	

#	Comment	Contributor	EPDP Response / Action Taken
	<p>good outcome for anyone, but it may become the appropriate outcome simply because it remains practical to implement.</p>		
9.	<p>1. Amend paragraph 2 (URS Rules) of the Appendix D: Uniform Rapid Suspension by substituting the wording "Examiner" with "Provider".</p> <p>2. Amend paragraph 2 (URS Rules) of the Appendix D: Uniform Rapid Suspension and paragraph 1.2 of Appendix E: Uniform Domain Name Dispute Resolution Policy by substituting the wordings "Doe complaint" with "complaint against an unidentified Respondent" and adding the wording "the Complainant with".</p> <p>Thus, the proposed text of the last part of paragraph 2 of Appendix D and of paragraph 1.2 of Appendix E is as follows: "In such an event, Complainant may file a complaint against an unidentified Respondent and the Provider shall provide the Complainant with the relevant contact details of the Registered Name Holder after being presented with a complaint against an unidentified Respondent."</p> <p>1. Substituting the wording "Examiner" with "Provider": the Examiner is appointed to the URS dispute by the Provider at a later stage, only upon the expiry of the 14-day Response Period (or extended period if granted) and the notification of the Notice of Default or after the submission of the Response by the Respondent and the administrative review of the Response by the Provider (see URS paragraph 12(a) URS Rules and paragraph 5.6 of URS Procedure). Hence, it is not feasible that the Examiner who is still not selected by the Provider provides the Complainant with the contact details of the Registered Name Holder. Moreover, paragraph 7 of URS rules provides that no Party may have any unilateral communication with the Examiner and all communication between a Party and the Examiner shall be made through the Provider.</p> <p>2. Substituting the wordings "Doe complaint" with "complaint against an unidentified Respondent" and adding the wording "the Complainant with": the expression/concept of Doe complaint is used by common law systems (https://en.wikipedia.org/wiki/John_Doe) and hardly understandable for Parties coming from civil law systems. Considering the global nature of the Internet and Domain Name System and the multiplicity of the jurisdictions where parties of a dispute might be located, it would be advisable to use a neutral wording instead of an expression/concept used in common law systems.</p>	Ivett Paulovics; MFSD Srl URS Provider	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	Adding the wording "the Complainant with" clarifies the obligation of the Provider to communicate the registration data of the registrant to the Complainant.		
10.	<p>Appendix D: Paragraph 2, "Examiner" should be replaced with "Provider" and "shall" should be replaced with "may."</p> <p>It would be inappropriate and counter to the URS rules for an Examiner to contact either party to a dispute. Further, the Examiner is not appointed until after the response period ends, so there would be little benefit to the Complainant to receive information from the Examiner at that point in the proceedings. The Provider may likely have the contact information much earlier in the process.</p> <p>The Provider may not always receive contact information before the proceedings have concluded, especially in cases with a privacy shield. To state that either the Examiner (or the Provider as suggested) "shall" provide the relevant contact details may not be feasible in each matter.</p>	Renee Fossen; Forum - URS and UDRP Provider	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
Intent and wording of this recommendation requires amendment			
11.	<p>The EPDP Team recommends that for the new policy on gTLD registration data, the requirements of the Temporary Specification (Appendix E) are modified to allow for an unlimited number of domain names to be included in one URS or UDRP filing when there is a good faith belief that the registrants are acting in bad faith and there is a demonstrable connection between the registrants.</p> <p>When the domain name registration information is received by the complainant the URS or UDRP filing could be amended to remove registrants where no connection was found. Until such time as these are superseded by recommendations from the RPMs PDP WG (if any).</p> <p>The restriction of information has made it difficult to make a filing with a dispute resolution provider. Access to data prior to filing is much more efficient and helpful.</p> <p>In general, the UDRP has become more onerous, because all complaints must now be filed as "Doe" complaints but are limited in the number of Doe's that can be included, and then later amended once sufficient registration data is disclosed to the complainant. Each filing costs the complainant up to \$10,000 USD. This includes identifying and adding additional facts and evidence of bad faith, once new information about the registrant's identity is available. It is still generally more challenging to put forward a complete case, as reverse WHOIS capabilities are severely limited, making evidence of broader schemes or portfolios of abusive domains harder to demonstrate.</p>	Steve DelBianco; BC	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>Allowing an unlimited number of domain names to be named in one complaint in which there is similar bad faith and other factors that appear to connect the registrants would lessen the burden of that limited access to registrant data has imposed.</p> <p>It would be exceedingly useful if, as part of a UDRP or URS filing, registries or registrars could provide a list of all domains registered to that same respondent as part of the registrant information disclosure process, to solve the reverse WHOIS problem. This would not disclose any more personal data than has already been disclosed about the registrant; however, it could present other challenges – we suggest this approach be further considered within the EPDP and/or the RPM Review PDP. Otherwise, the requirements in the Temporary Specification regarding the URS and UDRP are acceptable from a practical standpoint, and we have no strong opposition to this recommendation.</p>		
Delete recommendation			
12.	[None]		<p>Concerns Divergence Support New Idea</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
Not designated			
13.	No selection made and no additional comments submitted	<ul style="list-style-type: none"> • Tim Chen; DomainTools • Steve Gobin; Corporate domain name management • Ashley Heineman; NTIA • Neil Fried; The Motion Picture Association of America • Sajda Ouachtouki; The Walt Disney Company • Greg Mounier on behalf of Europol AGIS; Europol Advisory Group on Internet Security • Monique A. Goeschl; Verein für Anti-Piraterie 	<p>EPDP Response: none</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>

#	Comment	Contributor	EPDP Response / Action Taken
		der Film- und Videobranche (VAP) <ul style="list-style-type: none"><li data-bbox="1285 209 1599 236">• Fabien Betremieux; GAC<li data-bbox="1285 240 1464 268">• Theo Geurts<li data-bbox="1285 272 1599 300">• Ashley Roberts; Valideus<li data-bbox="1285 304 1509 331">• Stephanie Perrin	