



REVIEW OF ALL RIGHTS PROTECTION MECHANISMS IN ALL GTLDS WORKING GROUP PHASE 1 INITIAL REPORT

Proposed ALAC Public Comment Response
CPWG Meeting | 29 April 2020

Multiple Choice Answer Format

Mark only one oval.

- Support Recommendation as written
- Support Recommendation concept with minor change
- Significant change required
- Do not support Recommendation
- No opinion

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #1 The Working Group recommends that URS Rule 3(b), and, where necessary, a URS Provider’s Supplemental Rules be amended to clarify that a Complainant must only be required to insert the publicly-available WHOIS/Registration Data Directory Service (RDDS) data for the domain name(s) at issue in its initial Complaint.</p> <p>Furthermore, the Working Group recommends that URS Procedure para 3.3 be amended to allow the Complainant to update the Complaint within 2-3 calendar days after the URS Provider provides updated registration data related to the disputed domain name(s).</p>	<p>URS Question #1 1a. Should URS Rule 15(a) be amended to clarify that, where a Complaint has been updated with registration data provided to the Complainant by the URS Provider, there must be an option for the Determination to be published without the updated registration data? 1b. If so, when, by whom, and how should this option be triggered? 1c. Are there any operational considerations that will need to also be addressed in triggering this option?</p>	<p>Recommendation #1: Support Recommendation as written (The Working Group believes that its recommendation is consistent with the EPDP Phase 1 Recommendations #21, #23, and #27.) URS Question #1 1a. No 1b. N/A 1c. N/A</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation		Proposed ALAC Response
<p>URS Recommendation #2 The Working Group recommends that URS Providers send notices to the Respondent by the required methods after the Registry or Registrar has forwarded the relevant WHOIS/RDDS data (including contact details of the Registered Name Holder) to the URS Providers.</p>		<p>Support Recommendation as written (Consistent with GDPR implementation and EPDP Recommendations 23 and 27)</p>
<p>URS Recommendation #3 The Working Group recommends that URS Providers must comply with URS Procedure para 4.2 and para 4.3 and transmit the Notice of Complaint to the Respondent, with translation in the predominant language of the Respondent, via email, fax, and postal mail.</p>		<p>Support Recommendation as written (Translation of complaint into predominant language of the Respondent is consistent with ALAC principles.)</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #4</p> <p>The Working Group recommends that the ICANN org establishes a compliance mechanism to ensure that URS Providers, Registries, and Registrars operate in accordance with the URS rules and requirements and fulfill their role and obligations in the URS process.</p> <p>The Working Group recommends that such compliance mechanism should include an avenue for any party in the URS process to file complaints and seek resolution of noncompliance issues.</p> <p>As an implementation guidance, the Working Group recommends that the Implementation Review Team considers:</p> <ul style="list-style-type: none"> • Investigating different options for a potential compliance mechanism, such as ICANN Compliance, other relevant department(s) in ICANN org, a URS commissioner at ICANN org, a URS standing committee, etc. • Developing metrics for measuring performance of URS Providers, Registries, and Registrars in the URS process. 	<p>URS Question #2</p> <p>2a. What compliance issues have Registries and Registrars discovered in URS processes, if any?</p> <p>2b. Do you have suggestions for how to enhance compliance of URS Providers, Registries, and Registrars in the URS process?</p>	<p>URS Recommendation #4</p> <p>Support Recommendation as written (Consistent with principles of accountability, reliance on metrics and ability to seek redress.)</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #5 The Working Group recommends that the ICANN org, Registries, Registrars, and URS Providers keep each other’s contact details up to date in order to effectively fulfill the notice requirements set forth in the URS Procedure para 4.</p>	<p>URS Question #3 The Working Group recommends that public comment be sought from <u>Registry Operators</u> on the following question:</p> <p>3a. Have Registry Operators experienced any issues with respect to receiving notices from URS Providers?</p> <p>3b. Were these notices sent through appropriate channels?</p> <p>3c. Did the notices contain the correct information?</p>	<p>URS Recommendation #5: Support Recommendation as written (Process improvement)</p> <p>URS Question #3: N/A (for Registry Operators only)</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #6 The Working Group recommends that a uniform set of educational materials be developed to provide guidance for URS parties, practitioners, and examiners on what is needed to meet the “clear and convincing” burden of proof in a URS proceeding.</p> <p>As an implementation guidance, the Working Group recommends that the educational materials be developed in the form of an administrative checklist, basic template, and/or FAQ. Specifically, the Working Group recommends that the educational materials be developed with help from URS Providers, Practitioners, Panelists, as well as researchers/academics who study URS decisions closely.</p>	<p>URS Question #4</p> <p>4a. What content and format should these educational materials have?</p> <p>4b. How should these educational materials be developed?</p> <p>4c. Who should bear the cost for developing these educational materials?</p> <p>4d. Should translations be provided?</p>	<p>URS Recommendation #6 Support Recommendation as written (Provides assistance to those who may not be able to afford the assistance of counsel)</p> <p>URS Question #4</p> <p>4a. Content should be readily accessible to the average reader</p> <p>4b. Collaboration with both experienced individuals, organizations and end users.</p> <p>4c. DISCUSS. <i>Should this be URS providers? Who has the most to gain from this? Who will be neutral?</i></p> <p>4d. Yes, at a minimum to the usual ICANN languages; also to languages in which URS cases could be brought.</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation		Proposed ALAC Response
<p>URS Recommendation #7 The Working Group recommends that all URS Providers require their examiners to document their rationale in sufficient details to explain how the decision was reached in all issued Determinations.</p> <p>As an implementation guidance, the Working Group also recommends that URS Providers provide their examiners a uniform set of basic guidance for documenting their rationale for a Determination. The purpose of the guidance is to ensure consistency and precision in terminology and format as well as ensure that all steps in a proceeding are recorded. Such guidance may take the form of an administrative checklist or template of minimum elements that need to be included for a Determination.</p>		<p>Support Recommendation as written.</p> <p>(Consistent with principles of accountability and transparency)</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #8 The Working Group recommends that the Implementation Review Team considers reviewing the implementation issues with respect to the Registry Requirement 10 in the “URS High Level Technical Requirements for Registries and Registrars” and amend the Registry Requirement 10, if needed. The Providers Sub Team discovered issues with respect to implementing the outcomes of a URS proceeding (e.g. relief awarded following a URS decision, or where the parties settle the case prior to Determination, or where a Complainant requests to extend a suspension).</p>	<p>URS Question #5 Should the Registry Requirement 10 be amended to include the possibility for another Registrar, which is different from the sponsoring Registrar but accredited by the same Registry, to be elected by the URS Complainant to renew the URS Suspended domain name, and to collect the Registrar renewal fee?</p>	<p>No opinion on both. Technical Issues not of significant concern to end-users.</p>

URS Preliminary Recommendations and Community Questions

Preliminary Recommendation	Question Seeking Community Input	Proposed ALAC Response
<p>URS Recommendation #9 The Working Group recommends that as implementation guidance, the Implementation Review Team considers developing guidance to assist the URS providers in deciding what language to use during a URS proceeding and when issuing a Determination. Such guidance should take into account the fact that domains subject to a URS Complaint may have been registered via a privacy or proxy service and the location of the service will determine the language of that service, which may be relevant.</p>		<p>Support Recommendation as written. (Consistent with principles of using primary languages of participants where possible.)</p>
<p>URS Recommendation #10 The Working Group recommends that clear, concise, easy-to-understand informational materials should be developed, translated into multiple languages, and published on the URS Providers' websites to assist Complainants and Respondents in URS proceedings. Such information materials should include, but not be limited to: 1) a uniform set of basic FAQs, 2) links to Complaint, Response, and Appeal forms, and 3) reference materials that explain URS Providers' services and practices.</p>	<p>URS Question #6 Who has the responsibility for developing the uniform set of basic FAQs for URS Complainants and Respondents?</p>	<p>URS Recommendation #10 Support Recommendation as written. (Consistent with principles of using primary languages of participants where possible.)</p> <p>URS Question #6 Providers, in collaboration with both experienced individuals, organizations and end users.</p>

URS Preliminary Recommendations and Community Questions

Question Seeking Community Input	Proposed ALAC Response
<p>URS Question #7: What mechanism do you suggest that allows a URS Provider to efficiently check with other URS and UDRP Providers in order to ensure that a disputed domain name is not already subject to an open and active URS/UDRP proceeding?</p>	<p>No opinion, technical issue not of significant interest to end-users</p>
<p>URS Question #8: The Working Group recommends that public comment be sought from <u>Registry Operators</u> on the following questions: 8a. What issues have you encountered with respect to implementing the HSTS-preloaded domain suspension remedy, if any? 8b. What would need to be done to help resolve the issues you have encountered?</p>	<p>N/A</p>
<p>URS Question #9: Are the non-refundable late Response fees paid by Respondent reasonable?</p> <ul style="list-style-type: none"> • FORUM has a flat fee for late response. ADNDRC and MFSD have fees based on the number of domains and/or the type of Respondents involved. FORUM has never collected these fees for late response. • FORUM: Re-examination Fee (more than 30 days late): 200 USD; Re-examination Extension Fee: 100 USD • ADNDRC: 1 to 5 domain names: 180 USD, 6 to 14 domain names: 200 USD, 15 to 29 domain names: 225 USD, <ul style="list-style-type: none"> • 30 domain names or more: To be determined by the Relevant Office of ADNDRC • MFSD: Paid by the Respondent who is natural person/sole proprietorship/public body/non-profit entity; <ul style="list-style-type: none"> ■ 1-15 domain names: 175 EUR, 16-50 domain names: 200 EUR, 50 domain names or more: To be decided with MFSD ○ Paid by the Respondent who is partnership/corporation/public company/private limited/limited liability company <ul style="list-style-type: none"> ■ 1-15 domain names: 190 Euros, 16-50 domain names: 225 Euros, 50 domain names or more: To be decided with MFSD 	<p>No opinion</p> <p>Issue not of significant interest to end-users</p>
<p>URS Question #10 10a. Are penalties for Complainant or Respondent who abuses the URS process sufficient? 10b. If not, should they be expanded? 10c. If they should be expanded, how?</p> <p>Per Section 11.4 and 11.5 of the URS Procedure, the penalties for abusive complaints are:</p> <ul style="list-style-type: none"> • 11.4 In the event a party is deemed to have filed two (2) abusive Complaints, or one (1) “deliberate material falsehood,” that party shall be barred from utilizing the URS for one-year following the date of issuance of a Determination finding a complainant to have: (i) filed its second abusive complaint; or (ii) filed a deliberate material falsehood. • 11.5 Two findings of “deliberate material falsehood” shall permanently bar the Complainant from utilizing the URS. 	<p>No opinion</p> <p>Issue not of significant interest to end-users</p>

TMCH Preliminary Recommendation

Preliminary Recommendation	Proposed ALAC Response
<p>TMCH Recommendation #1</p> <p>The Working Group considered the following aspects of the TMCH:</p> <ol style="list-style-type: none">1. Whether the “TM +50” rule should be changed or maintained;2. Whether the current “exact match” rules should be changed or maintained; and3. Whether, where a trademark contains dictionary term(s), the Sunrise and Trademark Claims RPMs should be limited in their scope such as to be applicable only in those gTLDs that relate to the categories of goods and services for which the dictionary term(s) within that trademark are protected. <p>The Working Group’s preliminary recommendation for these three questions is that the status quo (i.e. the current rules as applied to the gTLDs delegated under the 2012 New gTLD Program round) should be maintained.</p> <p>The Working Group’s review of the public comments on these topics may lead to Working Group consensus to amend its preliminary recommendation in respect of one or more of these topics, in which case the Working Group’s Final Report will be updated accordingly with specific, numbered recommendations.</p>	<p>Support Recommendation as written.</p> <p>The current rules appear to be working as intended.</p>

Sunrise Service Preliminary Recommendations

Preliminary Recommendation	Proposed ALAC Response
<p>Sunrise Recommendation #1 In the absence of wide support for a change to the status quo, the Working Group recommends that the current availability of Sunrise registrations only for identical matches should be maintained, and the matching process should not be expanded.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>
<p>Sunrise Recommendation #2 The Working Group recommends that the Registry Agreement for future new gTLDs includes a provision stating that a Registry Operator shall not operate its TLD in such a way as to have the effect of circumventing the mandatory RPMs imposed by ICANN or restricting brand owners' reasonable use of the Sunrise rights protection mechanism.</p>	<p>Support Recommendation as written. Consistent with principles of allowing ICANN policies to operate as written.</p>
<p>Sunrise Recommendation #3 In the absence of wide support for a change to the status quo, the Working Group does not recommend the creation of a challenge mechanism.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>
<p>Sunrise Recommendation #4 In the absence of wide support for a change to the status quo, the Working Group does not recommend the publication of the Reserved Names lists by Registry Operators.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>

Sunrise Service Preliminary Recommendations

Preliminary Recommendation	Proposed ALAC Response
<p>Sunrise Recommendation #5 The Working Group recommends, in general, that the current requirement for the Sunrise Period be maintained, including for 30-day minimum period for a Start Date Sunrise and the 60-day minimum period for an End Date Sunrise.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>
<p>Sunrise Recommendation #6 In the absence of wide support for a change to the status quo, the Working Group recommends that the mandatory Sunrise Period should be maintained.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>
<p>Sunrise Recommendation #7 The Working Group recommends that the next version of the Applicant Guidebook (AGB) for future new gTLDs be amended as follows:</p> <ol style="list-style-type: none"> 1) The new version of the AGB should include the TMCH dispute resolution procedure for challenging the validity of trademark records entered into the TMCH. This procedure is currently published at: https://www.trademark-clearinghouse.com/dispute#3.3. ICANN org should ensure that its contract for the provision of TMCH services makes the operation of the TMCH dispute resolution procedure a requirement for the TMCH Validation Service Provider. 2) Section 6.2.4 of the current Trademark Clearinghouse Model of Module 5 of the AGB must be amended to remove grounds (i) and (iii). 3) The Trademark Clearinghouse Model of Module 5 of the AGB must be amended to include a new Section 6.2.6 – “The Registry Operator will, upon receipt from the TMCH of a finding that a Sunrise registration was based upon an invalid TMCH record (pursuant to a TMCH dispute resolution procedure), immediately delete the domain name registration. Registry Operators in their applicable SDRPs will describe the nature and purpose of the TMCH challenge process and provide a link to the TMCH for reference.” <p>Note: Registry Operators should continue to have the option to offer a broader SDRP to include optional/additional Sunrise criteria as desired.</p>	<p>Support Recommendation as written. These are process improvements that will allow policies to work as intended and improve transparency and comprehension by all involved.</p>
<p>Sunrise Recommendation #8 In the absence of wide support for a change to the status quo, the Working Group does not recommend that the scope of Sunrise Registrations be limited to the categories of goods and services for which the trademark is actually registered and put in the Clearinghouse.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>

Sunrise Service Community Questions

Question Seeking Community Input	Proposed ALAC Response
<p>Sunrise Question #1 What remedy(ies) would you propose for any unintended effects of the Sunrise Period that you have identified in your public comment?</p>	<p>N/A</p>
<p>Sunrise Question #2 2a. Have you identified abuses of the Sunrise Period? 2b. To the extent that you have identified abuses of the Sunrise Period, if any, please describe them and specify any documentation to substantiate the identified abuses.</p>	<p>No N/A</p>

Sunrise Service Community Questions

Question Seeking Community Input	Proposed ALAC Response
<p>Sunrise Question #3</p> <p>The Working Group recommends that public comment be sought on <u>questions #3a-d</u> from <u>Registry Operators</u>. The Working Group asks Registry Operators to be specific about which program(s) (i.e., ALP, QLP, and/or LRP) they are referring to in their responses to all questions and what the shortcomings of each of those mechanisms are. These questions are related to Sunrise Question #4.</p> <p>3a-1. If you did not attempt an ALP, QLP, or LRP, was the reason for not taking advantage of those programs related to how they integrate with Sunrise?</p> <p>3a-2. Were you able to achieve your goals in a different way (such as by combining any or all of these programs)?</p> <p>3b-1. If you did attempt an ALP, QLP, or LRP (or combination) but didn't successfully <u>use</u> any, was the reason you did not take advantage of those programs related to how they integrate with Sunrise?</p> <p>3b-2. Were you able to achieve your goals in a different way? For instance, some Registry Operators may have used the QLP 100 (Section 3.2 of Registry Agreement Specification 5) (plus IDN variants) in combination with registry-reserved names to obtain the names they needed. Did you do this?</p> <p>3b-3. If so, were you able to reserve or allocate all the names you needed to?</p> <p>3c. If you used an ALP, QLP, or LRP (or combination), did you experience any unanticipated trouble with integrating the Sunrise Period into your launch? Specifically, were you able to allocate all of the names you needed to allocate under those programs before the Sunrise Period?</p> <p>3d-1. For each issue you have identified in your responses to questions #3a-c, please also include a suggested mitigation path. What do you suggest the RPM Working Group consider to help alleviate the pain points and make those programs more useful and functional, while still respecting the trademark protection goals of the Sunrise Period?</p> <p>3d-2. How important is it to make changes to these programs before another round of new gTLDs (that is, are these issues worth "holding up" another round for, or are the work-arounds tolerable)?</p> <p>The Working Group also recommends that public comment be sought on <u>question #3e</u> from <u>non-Registry Operators</u>:</p> <p>3e. Did you experience struggles with the way ALP, QLP, or LRPs (or a combination) integrated with Sunrise, either as registrar, as a brand owner, or as a domain name registrant?</p>	<p>N/A (applies to Registry Operators only)</p>

Sunrise Service Community Questions

Question Seeking Community Input	Proposed ALAC Response
<p>Sunrise Question #4</p> <p>The Working Group recommends that the following guidance be sought from <u>Registry Operators</u>. These questions are related to Sunrise Question #3.</p> <p>4a-1. If you had/have a business model that was in some way restrained by the 100-name pre Sunrise limit for names registries can reserve under Section 3.2 of Registry Agreement Specification 5, or the practical problems with the ALP, please share your experience and suggested path to improvement. What was your work-around, if any?</p> <p>4a-2. For instance, if you withheld names from registration (“reserved” names), how well did that work?</p> <p>4b-1. If the Working Group were to identify specialized gTLDs as a key concern that required changes to the way the Sunrise Period operates, are there other TLDs, besides GeoTLDs that did or will encounter the same problem?</p> <p>4b-2. What suggestions do you have for work-arounds or solutions that will not diminish the protections available from the Sunrise Period (balanced with the need to finish this work in a timely manner)?</p> <p>4c-1. Did you initially intend (prior to the implementation of Sunrise rules in the original Applicant Guidebook) to offer a special Sunrise before the regular Sunrise that targeted local trademark owners?</p> <p>4c-2. For instance, would the ability to offer a special “pre-Sunrise” Sunrise solve any problems?</p> <p>4c-3. If so, would you have validated the marks in some way?</p> <p>4c-4. How would you have resolved conflicts between trademark holders that got their domains during the first Sunrise and trademark holders who had an identical trademark in the TMCH that was registered prior to Sunrise?</p>	<p>N/A (applies to Registry Operators only)</p>

Trademark Claims Service Preliminary Recommendations

Preliminary Recommendation	Proposed ALAC Response
<p>Trademark Claims Recommendation #1</p> <p>The Working Group recommends that the language of the Trademark Claims Notice be revised, in accordance with the Implementation Guidance outlined below. This recommendation aims to help enhance the intended effect of the Trademark Claims Notice by improving the understanding of recipients, while decreasing any unintended effects of deterring good-faith domain name applications.</p> <p>The Working Group recommends that the Trademark Claims Notice be revised to reflect more specific information about the trademark(s) for which it is being issued, and to more effectively communicate the meaning and implications of the Claims Notice (e.g., outlining possible legal consequences or describing what actions potential registrants may be able to take, following receipt of a notice).</p> <p>To assist the Implementation Review Team (IRT) that will be formed to implement recommendations from this PDP in redrafting the Claims Notice, the Working Group has developed the following Implementation Guidance:</p> <ul style="list-style-type: none"> • The Claims Notice must be clearly comprehensible to a layperson unfamiliar with trademark law; • The current version of the Claims Notice should be revised to maintain brevity, improve user-friendliness, and provide additional relevant information or links to multilingual external resources that can aid prospective registrants in understanding the Claims Notice and its implications; • The Working Group advises that ICANN org considers input from external resources. Some Working Group members suggested external resources including the American University Intellectual Property Clinic, INTA Internet Committee, Electronic Frontier Foundation, and Clinica Defensa Nombres de Dominio UCN 	<p>Support Recommendation as written</p> <p>Consistent with policies of transparency, clarity and comprehensibility for the broadest group of end-users and other participants. Also consistent with principles of turning to multiple points of experience in the global community.</p>

Trademark Claims Service Preliminary Recommendations and Community Questions

Preliminary Recommendation	Proposed ALAC Response
<p>Trademark Claims Recommendation #2</p> <p>The Working Group recommends that delivery of the Trademark Claims Notice be both in English as well as the language of the registration agreement. In this regard, the Working Group recommends:</p> <ul style="list-style-type: none"> • Changing the relevant language in the current Trademark Clearinghouse Rights Protection Mechanism Requirements on this topic (Section 3.3.1.2) to “...registrars MUST provide the Claims Notice in English and in the language of the registration agreement.” • The Claims Notice should include a link to a webpage on the ICANN org website containing translations of the Claims Notice in all six UN languages. 	<p>Support Recommendation as written.</p> <p>Consistent with principles of supporting uses of languages other than English and using primary languages of participants.</p>
<p>Trademark Claims Recommendation #3</p> <p>The Working Group recommends that the current requirement for only sending the Claims Notice before a registration is completed be maintained.</p> <p>The Working Group also recognizes that there may be operational issues with presenting the Claims Notice to registrants who pre-registered domain names, due to the current 48-hour expiration period of the Claims Notice.</p> <p>The Working Group therefore recommends that the Implementation Review Team consider ways in which ICANN org can work with registrars to address this implementation issue.</p>	<p>No opinion; technical issue.</p>
<p>Trademark Claims Recommendation #4</p> <p>The Working Group recommends, in general, that the current requirement for a mandatory Claims Period be maintained, including the minimum initial 90-day period when a TLD opens for general registration.</p>	<p>Support Recommendation as written.</p> <p>The current policies appear to be working as intended.</p>

Trademark Claims Service Preliminary Recommendations

Preliminary Recommendation	Proposed ALAC Response
<p>Trademark Claims Recommendation #5 The Working Group recommends that the current requirement for a mandatory Claims Period should continue to be uniform for all types of gTLDs in subsequent rounds, including for the minimum initial 90-day period when a TLD opens for general registration.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>
<p>Trademark Claims Recommendation #6 In the absence of wide support for a change to the status quo, the Working Group recommends that the current exact matching criteria for the Claims Notice be maintained.</p>	<p>Support Recommendation as written. The current policies appear to be working as intended.</p>

Trademark Claims Service Community Questions

Question Seeking Community Input	Proposed ALAC Response
<p>Trademark Claims Question #1</p> <p>1a-1. Have you identified any inadequacies or shortcomings of the Claims Notice?</p> <p>1a-2. If so, what are they?</p> <p>1b. Do you have suggestions on how to improve the Claims Notice in order to address the inadequacies or shortcomings?</p>	<p>No opinion; technical issue</p>
<p>Trademark Claims Question #2</p> <p>2a. Is there a use case for exempting a gTLD that is approved in subsequent expansion rounds from the requirement of a mandatory Claims Period due to the particular nature of that gTLD? Such type of gTLD might include: (i) “highly regulated” TLDs that have stringent requirements for registering entities, on the order of .bank; and/or (ii) “Dot Brand” TLDs whose proposed registration model demonstrates that the use of a Trademark Claims Service is unnecessary.</p> <p>2b. If the Working Group recommends exemption language, what are the appropriate guardrails ICANN should use when granting the exception (e.g. Single-registrant? Highly-regulated or manually hand-registered domains? Something else?)?</p>	<p>No opinion; technical issue</p>

TM-PDDRP Preliminary Recommendation

Preliminary Recommendation	Proposed ALAC Response
<p>TM-PDDRP Recommendation #1</p> <p>The Working Group recommends that Rule 3(g) of the Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP) Rules be modified, to provide expressly that multiple disputes filed by unrelated entities against a Registry Operator may be initially submitted as a joint Complaint, or may, at the discretion of the Panel, be consolidated upon request.</p> <p>This recommendation is intended to clarify the fact that the TM-PDDRP permits the joint filing of a Complaint and the consolidation of Complaints by several trademark owners, even if these are unrelated entities, against a Registry Operator in the case where: (a) that Registry Operator has engaged in conduct that has affected the Complainants' rights in a similar fashion; and (b) it will be equitable and procedurally efficient to permit the consolidation.</p> <p>To the extent that a TM-PDDRP Provider's current Supplemental Rules may not permit the filing of a joint Complaint or the consolidation of several Complaints, the Working Group further recommends that those Providers amend their Supplemental Rules accordingly.</p> <p>For the avoidance of doubt, the Working Group notes that:</p> <ol style="list-style-type: none">1. The filing of a joint Complaint or consolidation is to be permitted only where: (i) the Complaints relate to the same conduct by the Registry Operator, at the top or the second level of the same gTLD for all Complaints; and (ii) all the trademark owners have satisfied the Threshold Review criteria specified in Article 9 of the TM-PDDRP; and2. This recommendation is intended to apply to two distinct situations: one where several trademark owners join together to file a single Complaint, and the other where several trademark owners each file a separate Complaint but request that these be consolidated into a single Complaint after filing.	<p>Support Recommendation as written.</p> <p>This is a process improvement that appears consistent with carrying out the intent of current policies.</p>

Overarching Charter Questions

- 182. General Overarching Charter #Q1. Do the RPMs collectively fulfil the objectives for their creation, namely “to provide trademark holders with either preventative or curative protections against cybersquatting and other abusive uses of their legally-recognized trademarks?” In other words, have all the RPMs, in the aggregate, been sufficient to meet their objectives or do new or additional mechanisms, or changes to existing RPMs, need to be developed?
- Proposed response: Overall, the RPMs have been sufficient to meet their objectives. We see no need for new or additional mechanisms, or changes beyond those proposed by the Working Group. Our primary concern is with preventing various forms of DNS Abuse, and with improving consumer trust and safety on the Internet.
- 183. General Overarching Charter #Q2a. Should any of the New gTLD Program RPMs (such as the URS), like the UDRP, be Consensus Policies applicable to all gTLDs?
- **Discussion: This primarily concerns URS. The ALAC view here should be consistent with prior views on the use of the 2013 Registry Agreement with legacy TLDs. Sunrise has no application to legacy gTLDs. The question of whether there should be Trademark Claims Notices in legacy gTLDs is a Pandora’s Box not worth opening.**

Overarching Charter Questions

- 184. General Overarching Charter #Q2b. If so, what are the transitional issues that would have to be dealt with as a consequence?
- Proposed Response. Addition of URS (which is largely complete) to all legacy gTLDs would not raise any significant transitional issues.
- 185. General Overarching Charter #Q3a. Will changes to one RPM need to be offset by concomitant changes to the others?
- Proposed Response. This is really far too abstract to explore at this juncture.
- 186. General Overarching Charter #Q3b. If so, to what extent?
- N/A

Overarching Charter Questions

- 187. Additional Overarching Charter #Q1. Do the RPMs adequately address issues of registrant protection (such as freedom of expression and fair use)?
- **Fascinating question, but is there a coherent narrative we could develop or a consistent position for ALAC to take here?**
- 188. Additional Overarching Charter #Q2. Is the recent and strong ICANN work seeking to understand and incorporate Human Rights into the policy considerations of ICANN relevant to the UDRP or any of the RPMs?
- **As a general matter, incorporating Human Rights consideration into ICANN policy development is relevant to all ICANN policies, including RPMs. The question of how that should be taken into account, both generally and with regard to any or all RPMs, is beyond the scope of these responses and deserving of a process unto itself.**
- 189. Additional Overarching Charter #Q3. How can costs be lowered so end users can easily access RPMs?
- **While this is phrased as a general “end user” question, it is primarily relevant to end users with trademarks – individuals, businesses, non-profits, bands, etc. Many individuals and smaller businesses, as well as brand-owners in developing economies, have the same concerns as larger or better-financed trademark holders but may not have the experience and wherewithal to make use of the RPMs. The facile answer is that there could be financial supports or subsidies to open the RPMs to these end-users. Beyond that, there are also non-financial supports that have the effect of lowering costs for these end-users, some of which are discussed in the Recommendations. These include increasing offerings of translations, translation services, educational materials, model submissions, helplines or chats, and even *pro bono* legal representation.**

Questions?

