

Recommendation #4: Arbitral Review following a UDRP Proceeding

The EPDP team recommends that the following provisions be added to the UDRP to accommodate the possibility of binding arbitration to review an initial panel decision issued under the UDRP:

- i. When submitting its complaint, an IGO Complainant shall indicate that it agrees, in the event the registrant also agrees, to have the final determination of the outcome of the UDRP proceeding settled through binding arbitration.
- ii. In communicating a UDRP panel decision to the parties where the complainant is an IGO Complainant, the UDRP provider shall provide both parties with information regarding the applicable arbitral rules. The arbitral rules shall be determined by the Implementation Review Team which, in making its determination, shall consider existing arbitral rules such as those of the International Centre for Dispute Resolution (ICDR), the World Intellectual Property Organization (WIPO), the United Nations Commission for International Trade Law (UNCITRAL) and the Permanent Court of Arbitration (PCA).
- iii. In accordance with Paragraph 4(k) of the UDRP, the relevant registrar shall wait ten (10) business days (as observed in the location of its principal office) before implementing a UDRP panel decision rendered in the IGO Complainant's favor, and will stay implementation if, within that period, it receives official documentation that the registrant has initiated court proceedings in either its location or the location of the principal office of the relevant registrar or submitted a request for or notice of arbitration.
- iv. Where the relevant registrar has received a request for or notice of arbitration, it shall stay, or continue to stay (as applicable), implementation of the UDRP panel decision until it receives official documentation concerning the outcome of an arbitration or other satisfactory evidence of a settlement or other final resolution of the dispute.
- v. Where the registrant initiates court proceedings, with the result that the court declines to hear the merits of the case, the registrant may submit the dispute to binding arbitration within ten (10) business days from the court order declining to hear the merits of the case, by submitting a request for or notice of arbitration to the competent arbitral institution with a copy to the relevant registrar, UDRP provider and the IGO Complainant. Where the registrant initiated court proceedings in a venue other than the registrant's location or the location of the relevant registrar's principal office and the registrant does not submit a request for or notice of arbitration to the competent arbitral institution (with a copy to the registrar, UDRP provider and the IGO Complainant) within ten (10) business days from the court order declining to hear the merits of the case, the original UDRP decision will be implemented by the registrar.
- vi. In all cases where a registrant decides to initiate arbitration, it shall notify the relevant registrar of its agreement and intention to commence arbitration, prior to submitting the request or other required form to the arbitral tribunal. The registrar shall promptly notify the IGO Complainant of the registrant's agreement to arbitration.

Recommendation #5: Arbitral Review following a URS Proceeding

The EPDP team recommends that the following provisions be added to the URS to accommodate the possibility of binding arbitration to review a Determination made under the URS:

- i. When submitting its complaint, an IGO Complainant shall indicate that it agrees, in the event the registrant also agrees, to have the final determination of the outcome of the URS proceeding settled through binding arbitration.
- ii. In communicating a URS Determination to the parties where the complainant is an IGO Complainant, the URS provider shall provide both parties with information regarding the applicable arbitral rules. The arbitral rules shall be determined by the Implementation Review Team which, in making its determination, shall consider existing arbitral rules such as those of the International Centre for Dispute Resolution (ICDR), the World Intellectual Property Organization (WIPO), the United Nations Commission for International Trade Law (UNCITRAL) and the Permanent Court of Arbitration (PCA).
- iii. Where the registrant initiates court proceedings and the result is that the court declines to hear the merits of the case, the registrant may submit the dispute to binding arbitration within ten (10) business days from the date of the court order declining to hear the merits of the case, by submitting a request for or notice of arbitration to the competent arbitral institution, with a copy to the URS provider and IGO Complainant. The relevant domain name(s) will remain suspended throughout the pendency of any such arbitration proceeding.
- iv. Where the registrant files an appeal under URS Section 12 and does not prevail in the appeal, it may submit the dispute to binding arbitration within ten (10) business days from the date of the appeal panel's decision, by submitting a request for or notice of arbitration to the competent arbitral institution, with a copy to the URS provider and the IGO Complainant. The relevant domain name(s) will remain suspended throughout the pendency of any such arbitration proceeding.
- v. In all cases where a registrant decides to initiate arbitration, it shall notify the relevant URS provider of its agreement and intention to commence arbitration, prior to submitting the request or other required form to the arbitral tribunal. The provider shall promptly notify the IGO Complainant of the registrant's agreement to arbitration.
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