

PDDRP Rule

These Rules are in effect for all PDDRP proceedings.

Administrative proceedings for the resolution of disputes under the Trademark Post Delegation Dispute Resolution Procedure shall be governed by these Rules and also the Supplemental Rules of the Provider administering the proceedings, as posted on its web site. To the extent that the Supplemental Rules of any Provider conflict with these Rules, these Rules supersede.

1. Definitions

In these Rules:

Business Day: means a working day as defined by the Provider in its Supplemental Rules.

Calendar Day: means that all days, including weekends and international and national holidays, shall be counted in determining deadlines and due dates. Provider Supplemental Rules may further define this term.

Complainant: means the party initiating a PDDRP complaint concerning a domain name registration or the operation of a Top-Level Domain (TLD).

Expert Determination: means the written outcome of a PDDRP proceeding. The **Appeal Determination** is the written outcome of a PDDRP Appeal proceeding.

Expert Panel: means one or three individuals appointed by a Provider to make an Expert Determination.

ICANN: refers to the Internet Corporation for Assigned Names and Numbers.

New gTLD: generic top-level domains introduced in the root after 1 January 2013

PDDRP or Procedure refers to the Trademark Post-Delegation Dispute Resolution Procedure (currently found at <hyperlink>), which these Rules and the Provider's Supplemental Rules enhance and explain.

Provider: means a dispute resolution service provider approved by ICANN for handling PDDRP cases. A list of such Providers appears at <TBD >

Registry Operator: means the entity responsible for operating the top level domain in dispute. See PDDRP Section 6 for further definition.

Deleted: **Note:** The relevant RPM PDP recommendations pertaining to the proposed changes in this document are referenced in the comment section.

Commented [1]: PUBLIC COMMENT - WIPO "The Definition of Complainant should also refer to the operation of a Top Level Domain (TLD) (see PDDRP section 6.1 – "Standards Top Level" - <https://newgtlds.icann.org/sites/default/files/pddrp-04jun12-en.pdf>)."

<https://www.icann.org/en/public-comment/proceeding/proposed-updates-to-existing-rights-protection-mechanisms-documentation-24-08-2023/submissions/wipo-arbitration-and-mediation-center-03-10-2023>

Registrar: means the entity through which the Registry Operator sells domain name registrations to Registrants.

Registrant: means the holder of a domain name.

Repository Provider: refers to the (keeper of the) database of Complainants under temporary or permanent filing bans under PDDRP Section 18.5.

Respondent: means the Registry Operator against which a PDDRP complaint is initiated.

Supplemental Rules means the rules adopted by the Provider administering a PDDRP proceeding to supplement these Rules. Supplemental Rules shall not be inconsistent with the PDDRP text or these Rules and shall cover such topics as fees, word and page limits and guidelines, file size and format modalities, the means for communicating with the Provider and the Expert Panel, and the form of cover sheets.

The Providers' Supplemental Rules may offer a process for reasonably extending any time period called for under the PDDRP or these Rules, in exceptional circumstances.

2. Communications

- (a) When forwarding a Complaint, including any annexes, electronically to the Respondent, it shall be the Provider's responsibility to serve Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:
 - (i) sending the Notice of Complaint to all email, postal mail and facsimile addresses as listed in the Registry Agreement, as well as to any email addresses for the Respondent provided by the Complainant; and
 - (ii) providing the Complaint, including any annexes, in electronic form, either via email to the email addresses mentioned in (i) above, or via a link to an online platform requiring users to create an account that shall be emailed to all email addresses mentioned in (i) above.
- (b) Except as provided in Rule 2(a), any written communication to Complainant or Respondent provided for under these Rules shall be made electronically via the Internet (a record of its transmission being available).
- (c) Any communication to the Provider or the Expert Panel shall be made by the means and in the manner (including, where applicable, the number of copies) stated in the Provider's Supplemental Rules.
- (d) Communications shall be made in English, as specified in PDDRP Section 3.

- (e) Either Party may update its contact details by notifying the Provider.
- (f) Except as otherwise provided in these Rules, or decided by an Expert Panel, all communications provided for under these Rules shall be deemed to have been made:
 - (i) if via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable; or, where applicable
 - (ii) if delivered by telecopy or facsimile transmission, on the date shown on the confirmation of transmission; or:
 - (iii) if by postal or courier service, on the date marked on the receipt.
- (g) Except as otherwise provided in these Rules, all time periods calculated under these Rules to begin when a communication is made shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Rule 2(f).
- (h) Any communication subsequent to the Notice of Complaint as defined in Rule 2(a) by
 - (i) an Expert Panel via the Provider to any Party shall be copied by the Provider to the other Party;
 - (ii) the Provider to any Party shall be copied to the other Party; and
 - (iii) a Party shall be copied to the other Party, to the Provider and by the Provider to the Expert Panel, as the case may be.
- (i) It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes. This includes the Provider in sending Notice of Complaint to the Respondent by post and/or facsimile under Rule 2(a)(i).
- (j) In the event a Party sending a communication receives notification of non-delivery of the communication, the Party shall promptly notify the Provider of the circumstances. Further proceedings concerning the communication and any response shall be as directed by the Provider.

3. The Complaint

- (a) Any person or entity having standing, as defined in PDDRP Section 5, may initiate an administrative proceeding by submitting a Complaint in accordance with the PDDRP and these Rules and the Provider's Supplemental Rules to any Provider approved by ICANN.

- (b) The Complaint shall be prepared using a form made available by the Provider and shall be submitted electronically (either via email or an online portal), including any annexes, and shall:
- (i) Request that the Complaint be submitted for decision in accordance with the PDDRP, these Rules and the Provider's Supplemental Rules;
 - (ii) Provide the name, contact person, postal and email addresses, and the telephone and telefax numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;
 - (iii) Provide the name of the Respondent/Registry Operator and all other relevant contact information from the Registry Agreement as well as all information known to Complainant regarding how to contact Respondent or any representative of Respondent, including contact information based on pre-complaint dealings, in sufficient detail to allow the Provider to notify the Respondent of the complaint as described in Rule 2(a);
 - (iv) Provide the name and address of the current owner of any at-issue domain name registration related to the dispute, to the best of Complainant's knowledge;
 - (v) Specify whether the dispute is a top level (PDDRP Section 6.1) or second level (PDDRP Section 6.2) dispute;
 - (vi) Provide a statement regarding Complainant's standing under PDDRP Section 5, including a statement of how the harm is the result of the Registry Operator's manner of operation or use of the gTLD;
 - (vii) Specify the nature of the dispute as articulated in PDDRP Section 7.2.3 (a-h);
 - (viii) Identify whether a single member or a three member panel is requested by the Complainant;
 - (ix) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the Complaint;
 - (x) State that Complainant will submit, with respect to any challenges to a decision in the administrative proceeding, to the jurisdiction of the courts where the Registry has its principle place of business;
 - (xi) Conclude with the agreement of Complainant or its authorized representative with the following statement:

Complainant agrees that its claims and remedies concerning the dispute proceedings, or the dispute's resolution shall be solely against the Respondent, and Complainant waives all such claims and remedies against; (a) the Provider and Expert Panel, except in the case of deliberate wrongdoing; and (b) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.;

- (c) The Complaint shall be accompanied by the filing fee, as set forth in the Provider's Supplemental Rules.
- (d) The Complaint shall be accompanied by supporting documentation, together with a description and/or index of that documentation.
- (e) The Complaint will be rejected if the Provider's check of the Repository (see Rule 17) finds the Complainant is temporarily or permanently barred from using the PDDRP.
- (f) PDDRP Complaints may only be filed against Registries operating a New gTLD.
- (g) If a PDDRP Complaint is filed against a Registry Operator against whom another PDDRP is active, the parties to both disputes may agree to consolidate. Should any unrelated entities wish to file Complaints to the same PDDRP Provider concerning a Registry Operator that has engaged in conduct that has affected the Complainants' rights in a similar fashion, at the top or the second level of the same gTLD for all Complaints, Complainants may initially submit such complaints as a joint Complaint or may, at the discretion of the Threshold Panel, consolidate such complaints upon request after the disputes were filed. PDDRP Providers

¹ TM-PDDRP Article 9.1: Provider shall establish a Threshold Review Panel, consisting of one panelist selected by the Provider, for each proceeding within five (5) business days after completion of Administrative Review and the Complaint has been deemed compliant with procedural rules.
<https://newgtlds.icann.org/sites/default/files/pddrp-04jun12-en.pdf>

Commented [2]: TM-PDDRP Final Recommendation: The WG recommends that Rule 3(g) of the TM-PDDRP Rules be modified, to provide expressly that multipledisputes 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.

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. 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. For the avoidance of doubt, the Working Group notes that:

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; and
2. 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.

As part of the context, this recommendation specifically concerns a proposed amendment to the TM-PDDRP Rule 3(g), and a reference to Article 9 of the TM-PDDRP.

<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

Commented [3]: (1/24) IRT INPUT REQUESTED - IPT proposes rewording this text for clarity to:

"Complainants may initially submit such complaints as a joint Complaint or, at the discretion of the Threshold Panel, such complaints may be consolidated upon request after the disputes were filed."

must permit allow for such consolidation in their Supplemental Rules. See the Provider's Supplemental Rules regarding consolidation.

4. Threshold Review and Determination

- (a) Any submission of papers by Respondent to challenge Complainant's standing under PDDRP Section 9.3 shall be submitted electronically. Respondent's fee is due within 24 hours of the submission or it will be disregarded.
- (b) Any Complainant opposition to Respondents papers per PDDRP Section 9.4 shall be submitted electronically.
- (c) A Threshold Determination in favor of Complainant shall be accompanied by the Notice of Commencement to the parties. The Notice of Commencement will at least notify the parties of the deadline for a Response filing by Respondent.

5. The Response

- (a) The Response shall:
 - (i) Provide the name, postal and email addresses, and the telephone and telefax numbers of the Respondent and of any representative authorized to act for the Respondent in the administrative proceeding;
 - (ii) Respond specifically to each of the grounds upon which the Complaint is based and include any defense which contradicts the Complainant's claims;
 - (iii) Respondent may request a finding that the Complaint is without merit by affirmative and specific pleadings;
 - (iv) If Complainant has requested a single member Expert Panel, the Respondent may request a three member Expert Panel in the Response;
 - (v) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the Complaint;
 - (vi) Conclude with the following statement followed by the signature (in any electronic format) of the Respondent or its authorized representative:

"Respondent agrees that its claims and remedies concerning the dispute, or the dispute's resolution, shall be solely against the

Commented [4]: PUBLIC COMMENT - IPC "The IPC generally supports the proposed amendments to the TM-PDDRP Rules, with one proposed clarification to wording in the proposed amendment to Section 3(g): Should any unrelated entities wish to file Complaints to the same PDDRP Provider concerning a Registry Operator that has engaged in conduct that has affected the Complainants' rights in a similar fashion, at the top or the second level of the same gTLD for all Complaints, Complainants may initially submit such complaints as a joint Complaint or may, at the discretion of the Threshold Panel, consolidate such complaints upon request after the disputes were filed. PDDRP Providers must permit allow for such consolidation in their Supplemental Rules. See the Provider's Supplemental Rules regarding consolidation.

The above minor change is merely intended to help clarify that the Supplemental Rules must allow for this consolidation (it is still in the discretion of the Threshold Panel to grant or permit it)."

<https://www.icann.org/en/public-comment/proceeding/proposed-updates-to-existing-rights-protection-mechanisms-documentation-24-08-2023/submissions/intellectual-property-constituency-%E2%80%9Cipc%E2%80%9D-03-10-2023>

Commented [5]: Do we need to specify the second condition relating to equitable, efficient processing or okay leaving it as implied within the provider's rules?

Commented [6]: (1/24) IRT INPUT REQUESTED - Do we need to specify the second condition relating to equitable, efficient processing or okay leaving it as implied within the provider's rules?

Per TM-PDDRP Final Recommendation, "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. 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."
<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

Complainant and waives all such claims and remedies against: (a) the Provider and Expert Panel, except in the case of deliberate wrongdoing; and (b) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents. Respondent certifies that the information contained in this Response is, to the best of Respondent's knowledge, complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."; and

(vii) Annex any documentary or other evidence upon which the Respondent relies, together with a description or index of such evidence.

(b) No affirmative claims for relief by the Respondent will be permitted except for an allegation that the Complaint was filed "without merit."

(c) The Response shall be accompanied by the filing fee, as set forth in the Provider's Supplemental Rules.

(d) In case of default, PDDRP Section 12 will apply. The Provider shall set forth the rules and process for the limited right to set aside the finding of default in its Supplemental Rules.

6. The Reply

Section 11 of the PDDRP permits complainant to file a Reply in the event of a Response. The Provider's Supplemental Rules will govern the details of the Reply, including page limits and means of submission.

7. Expert Panel

(a) Each Provider shall maintain and publish a publicly available list of Expert Panelists and their qualifications.

(b) An Expert Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Expert Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Expert Panelist, the Expert Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Expert Panelist.

8. Communication Between Parties and the Expert Panel

No Party or anyone acting on its behalf may have any unilateral communication with the Expert Panel. All communications between a Party and the Expert Panel or the Provider shall be made to the Provider in the manner prescribed in the Provider's Supplemental Rules.

9. General Powers of the Expert Panel

- (a) The Expert Panel shall conduct the administrative proceeding in a manner it considers appropriate in accordance with the PDDRP and these Rules.
- (b) In all cases, the Expert Panel shall ensure that the Parties are treated with equality to the extent feasible.
- (c) The Expert Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

10. In-Person Hearings

Disputes under the PDDRP will usually be resolved without a hearing. If the Expert Panel determines on its own initiative to allow for a hearing, the Provider's Supplemental Rules will govern the procedure for such a hearing.

11. Discovery/Additional Evidence

Generally discovery will not be permitted. In exceptional cases, the Expert Panel may require a party to provide additional evidence. The Provider's Supplemental Rules will govern the procedure for discovery if it is allowed, and for submitting additional evidence, if requested by the Expert Panel.

12. Expert Panel Determination

- (a) An Expert Panel shall make a Determination (Threshold, Final or Appeal) of a Complaint in accordance with the PDDRP Procedure, these Rules and any rules and principles of law that it deems applicable.
- (b) The Expert Panel's Determination shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered and identify the name of the Expert Panel.
- (c) Expert Panel Determinations shall normally comply with the guidelines as to length set forth in the Provider's Supplemental Rules. If the Expert Panel concludes that the dispute is not within the scope of the PDDRP Provider, it shall so state.

13. Remedies

- (a) The recommended remedies available to Complainant pursuant to any PDDRP proceeding before an Expert Panel shall be determined by the Expert Panel, but shall be guided by Section 18 of the PDDRP.
- (b) The Complainant may, in its Complaint suggest remedies to the Expert Panel for its consideration. In no case is the Expert Panel bound to accept the Complainant's suggestions, even if Complainant prevails.

14. Determinations and Publication

- (a) The Provider shall publish the Determination and the date of implementation on a publicly accessible web site, subject to the considerations in Rule 18(e) below. See PDDRP Section 19.2.
- (b) Determinations are subject to change only to correct typographical and clerical errors and shall not be subject to substantive change at the request of any party.

15. Settlement or Other Grounds for Termination

- (a) If, before the Expert Panel's decision, the Parties agree on a settlement, the Expert Panel shall terminate the administrative proceeding.
- (b) If, before the Expert Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Expert Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Expert Panel.

16. Effect of Court Proceedings

- (a) In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain-name dispute that is the subject of the Complaint, the Expert Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a Determination.
- (b) In the event that a Party initiates any legal proceedings during the pendency of an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, it shall promptly notify the Expert Panel and the Provider. See Rule 8 above.

17. Complaints Without Merit

- (a) Any Determinations by an Expert Panel to bar Complainants for bringing a Complaint without merit shall be accompanied by sufficient rationale to justify the finding to any potential Appeal Panel.
- (b) Any Provider making a “without merit” finding as described in the PDDRP Section 18.5 shall, within one (1) Business Day submit to a Repository maintained by a Provider appointed by ICANN as Repository Provider: the party name and case identifying information, as well as a copy of the Determination.
- (c) The Repository Provider shall make the Repository electronically accessible to all Providers.
- (d) Upon receipt of a Complaint, the Provider shall verify the admissibility of the Complaint against the Repository in line with applicable PDDRP Procedure provisions and dismiss the Complaint if not admissible.

18. Appeal

- (a) The Provider is responsible for providing the entire record in the underlying proceeding to the Appeal Panel.
- (b) Appellant shall have a limited right to introduce new admissible evidence that is material to the Determination subject to payment of an additional fee established by the Provider, provided the evidence clearly pre-dates the filing of the Complaint.
- (c) Appellee shall not be charged any additional fee and shall have the right to file a Reply to the Appellant’s additional statements within the time period identified in the Provider’s Supplemental Rules.
- (d) The remedies for an Appeal are limited to:
 - (i) Affirming or overruling the Final Determination.
 - (ii) Affirming, overruling, or modifying the recommended remedies.
 - (iii) Overruling an Expert Panel’s finding that a Complaint was without merit.
- (e) It shall be the exclusive right of the last Expert Panel to decide which Determinations shall be publicly posted on the Provider’s website and if any are to be removed.
- (f) The Providers’ Supplemental Rules for PDDRP Appeals, other than those stated above, shall apply.

19. Exclusion of Liability

Except in the case of deliberate wrongdoing, neither the Provider nor an Expert Panel shall be liable to a Party for any act or omission in connection with any administrative proceeding under these Rules.

20. Amendments

The version of these Rules in effect at the time of the submission of the Complaint to the Provider shall apply to the administrative proceeding commenced thereby. These Rules may not be amended without the express written approval of ICANN.