

## UNIFORM RAPID SUSPENSION SYSTEM (“URS”)

1 March 2013

On 29 August 2023, an updated version of this Policy was published to reflect changes required to implement the Registration Data Policy and will be effective on 11 February 2025. During the period of 13 February 2024 through 10 February 2025, the contracted party may continue to implement measures consistent with this version or the [previous version](#), or elements of both.

### 1. Complaint

#### 1.1 Filing the Complaint

1.1.1 Proceedings are initiated by electronically filing with a URS Provider a Complaint outlining the trademark rights and the actions complained of entitling the trademark holder to relief.

1.1.2 Each Complaint must be accompanied by the appropriate fee. The fees are non-refundable.

1.1.3 One Complaint is acceptable for multiple related companies against one Registrant. Multiple Registrants can be named in one Complaint only if it can be shown that they are in some way related.

#### 1.2 Contents of the Complaint

The Complaint will be submitted using a form made available by the Provider. The Form Complaint shall include space for the following:

1.2.1 Name, email address and other contact information for the Complainant.

1.2.2 Name, email address and contact information for any person authorized to act on behalf of the Complainant.

1.2.3 Name of Registrant (i.e. relevant information available from Registration Data Directory Service hereinafter “RDDS”) and RDDS listed available contact information for the relevant domain name(s).

1.2.4 The specific domain name(s) that are the subject of the Complaint. For each domain name, the Complainant shall include a copy of the currently available RDDS information and a description and copy, if available, of the offending portion of the website content associated with each domain name that is the subject of the Complaint.

1.2.5 The specific trademark/service marks upon which the Complaint is based and pursuant to which the Complaining Parties are asserting their rights to them, for which goods and in connection with what services.

1.2.6 An indication of the grounds upon which the Complaint is based setting forth facts showing that the Complaining Party is entitled to relief, namely:

- 1.2.6.1. that the registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is

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Commented [1]: Dates / text to be updated

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<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>

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Commented [3]: PUBLIC COMMENT - WIPO "At 1.1.3 "but only if the companies complaining are related" is redundant and should be removed."

<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>

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Commented [4]: PUBLIC COMMENT - WIPO "At 1.2.1 and 1.2.2 it should say "Complaint" instead of "Complaining Party (Parties)."

<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>

Commented [5]: (1/24) IPT QUESTION: Is this also meant to capture information in 1.1.3 "multiple related companies"? If yes, would changing it to "Complaint" make it clear to the complaining party (parties) what is required?

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specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

a. Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use in commerce – was submitted to, and validated by, the Trademark Clearinghouse)

b. Proof of use may also be submitted directly with the URS Complaint. and

1.2.6.2. that the Registrant has ~~no rights or legitimate interest~~ to the domain name; and

1.2.6.3. that the domain was registered and is being used in bad faith. A non-exclusive list of circumstances that demonstrate bad faith registration and use by the Registrant include:

a. Registrant has registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; or

b. Registrant has registered the domain name in order to prevent the trademark holder or service mark from reflecting the mark in a corresponding domain name, provided that Registrant has engaged in a pattern of such conduct; or

c. Registrant registered the domain name primarily for the purpose of disrupting the business of a competitor; or

d. By using the domain name Registrant has intentionally attempted to attract for commercial gain, Internet users to Registrant's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of Registrant's web site or location or of a product or service on that web site or location.

1.2.7. A box in which the Complainant may submit up to 500 words of explanatory free form text.

1.2.8. An attestation that the Complaint is not being filed for any improper basis and that there is a sufficient good faith basis for filing the Complaint.

## 2. Fees

2.1 Fees as set for in the Provider's fee schedule shall be submitted with the filed Complaint.

2.2 Complaints listing fifteen (15) or more disputed domain names registered by the same registrant will be subject to a Response Fee which will be refundable to the prevailing party. Under no circumstances shall the Response Fee exceed the fee charged to the Complainant.

## 3. Administrative Review

3.1 Complaints will be subjected to an initial administrative review by the URS Provider for compliance with the filing requirements. This is a review to determine that the Complaint contains all of the necessary information, and is not a determination as to whether a *prima facie* case has been established.

3.2 The Administrative Review shall be conducted within two (2) business days of submission of the Complaint to the URS Provider.

Commented [6]: (1/24) PROPOSED CHANGE: IPT revised language here to match para 8.1.2: "The Registrant has no rights or legitimate interest to the domain name; and"

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3.3 The Complainant will have the opportunity to amend the complaint within three (3) calendar days after the URS Provider provides updated Registration Data related to the disputed domain name(s).

3.4 If a Complaint is deemed non-compliant with filing requirements, the Complaint will be dismissed without prejudice to the Complainant filing a new complaint. The initial filing fee shall not be refunded in these circumstances. The Complainant's Complaint must not be deemed defective for failure to provide the name of the Respondent and all other relevant contact information required by Section 3 of the URS Rules if such contact information of the Respondent is not available in Registration Data publicly available in RDDS or not otherwise known to Complainant. 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 Registrant after being presented with a complaint against an unidentified Respondent.

#### 4. Notice and Locking of Domain

4.1 Upon completion of the Administrative Review, the URS Provider must immediately notify the Registry Operator (via email) after the Complaint has been deemed compliant with the filing requirements. Registry Operator notice shall include a copy of the Complaint. Within 24 hours of receipt of the Notice of Complaint from the URS Provider, the Registry Operator shall "lock" the domain, meaning the registry shall restrict all changes to the Registration Data, including transfer and deletion of the domain names, but the name will continue to resolve. The Registry Operator will notify the URS Provider immediately upon locking the domain name ("Notice of Lock") and provide the URS Provider with the full Registration Data<sup>1</sup> in its possession for each of the specified domain names or participate in another mechanism to provide the full Registration Data to the Provider as specified by ICANN. The Notice of Complaint shall be in English and translated by the Provider into the language of the registration agreement predominant language used in the Registrant's country or territory. The Registrar MUST provide the language of the registration agreement to the URS Provider within no more than one (1) business day. Should the one (1) business day include weekends, holidays or other office closures, the response time MUST NOT exceed three (3) calendar days.

4.2 Within 24 hours after receiving Notice of Lock from the Registry Operator, the URS Provider shall notify the Registrant of the Complaint ("Notice of Complaint"), sending a hard copy of the Notice of Complaint to the addresses listed in the RDDS contact information, or to the addresses listed in the Registration Data provided by the Registrar or Registry Operator when the Registration Data is redacted in the RDDS, and providing an electronic copy of the Complaint, advising of the locked status, as well as the potential effects if the Registrant fails to respond and defend against the Complaint. Notices must be clear and understandable to Registrants located globally. The Notice of Complaint shall be in English and translated by the Provider into the language of the registration agreement predominant language used in the Registrant's country or territory. The Registrar MUST provide the language of the registration agreement to the URS Provider within no more than one (1) business day. Should the one (1) business day include weekends, holidays or other office closures, the response time MUST NOT exceed three (3) calendar days.

4.3 The Notice of Complaint to the Registrant shall be sent through email and fax (where available). The Complaint and accompanying exhibits, if any, shall be served electronically.

4.4 The URS Provider shall also electronically notify the Registrar of Record for the domain name at issue via the addresses the registrar has on file with ICANN. If the URS Provider is unable to obtain the full

<sup>1</sup> The term "Registration Data" as used in this policy SHALL have the meaning given to it in the Registration Data Policy.

**Commented [7]:** URS Final 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. The Working Group recommends that URS Procedure paragraph 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).  
<https://gns0.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

**Commented [8]:** PUBLIC COMMENT - WIPO "At 3.3 the opportunity to amend a pleading following registrar disclosure of registrant information should be reworded so as avoid a misunderstanding that it is a compliance deficiency ("inadequacy" as written); it is not an administrative deficiency."

<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>

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**Commented [9]:** In line with URS Final Recommendation #4, proposed language has been added to clarify that the Registrar MUST provide th... [1]

**Commented [10]:** PUBLIC COMMENT - WIPO "At 4.2 the registrar provision of the language of the registration agreement should be moved up to 4.1 to be bundl... [2]

**Commented [11]:** (1/24) IPT COMMENT: moving the translation requirement to 4.1 would appear to stipulate the translation should occur prior to notifying the R... [3]

**Commented [12]:** URS Final Recommendation #4: The Working Group recommends that the URS Rule 4(b) and URS Procedure paragraph 4.2 be amended to... [4]

**Commented [13]:** (1/24) IPT COMMENT: Conflict with 3 calendar days given to the registrar. If the PDP requires URS provider must translate the Notice of Compla... [5]

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**Commented [14]:** PUBLIC COMMENT - WIPO "At 4.3 given the intended rapid nature of the URS, postal mail should not be required." ... [6]

**Commented [15]:** (1/24) IPT COMMENT - This suggestion appears to conflict with the WG recommendation, which specifies postal mail. ... [7]

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Registration Data from the Registry Operator (or appointed BERO) because the Registration Data is not available at the Registry Operator, the Registrar MUST provide the full Registration Data to the URS Provider upon notification of the complaint.

## 5. The Response

5.1 A Registrant will have 14 Calendar Days from the date the URS Provider sent its Notice of Complaint to the Registrant to electronically file a Response with the URS Provider. Upon receipt, the Provider will electronically send a copy of the Response, and accompanying exhibits, if any, to the Complainant.

5.2 Respondent shall pay a Response Fee as set forth in section 2.2 above if the Complaint lists fifteen (15) or more disputed domain names against the same Registrant. In the case of fifteen (15) or more disputed domain names, the Response Fee will be refundable to the prevailing party. No additional filing fee will be charged if the Registrant files its Response prior to being declared in default or not more than thirty (30) Calendar Days following a Default Determination. For Responses filed more than thirty (30) Calendar Days after a Default Determination, regardless of the number of domain names in the Complaint, shall pay a reasonable non-refundable fee set forth in the Provider Supplemental Rules for re-examination (in addition to any applicable Response Fee required in URS Procedure 2.2).

5.3 Upon request by the Registrant, a limited extension of time to respond may be granted by the URS Provider if there is a good faith basis for doing so and if the request is received during the Response period, after Default, or not more than thirty (30) Calendar Days after Determination. In no event shall the extension be for more than seven (7) Calendar Days.

5.4 The Response shall be no longer than 500 words, excluding attachments, and the content of the Response should include the following:

5.4.1 Confirmation of Registrant data.

5.4.2 Specific admission or denial of each of the grounds upon which the Complaint is based.

5.4.3 Any defense which contradicts the Complainant's claims.

5.4.4 A statement that the contents are true and accurate.

5.5 In keeping with the intended expedited nature of the URS and the remedy afforded to a successful Complainant, affirmative claims for relief by the Registrant will not be permitted except for an allegation that the Complainant has filed an abusive Complaint.

5.6 Once the Response is filed, and the URS Provider determines that the Response is compliant with the filing requirements of a Response (which shall be on the same day), the Complaint, Response and supporting materials will immediately be sent to a qualified Examiner, selected by the URS Provider, for review and Determination. All materials submitted are considered by the Examiner.

5.7 The Response can contain any facts refuting the claim of bad faith registration by setting out any of the following circumstances:

5.7.1 Before any notice to Registrant of the dispute, Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

5.7.2 Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if Registrant has acquired no trademark or service mark rights; or

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Commented [16]: PUBLIC COMMENT - WIPO "At 5.4 both given the intended rapid nature of the URS and for parity with the complaint, the word limit should be 500 (not 2,500)."

<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>

Commented [17]: Per URS Final Recommendation #3 - IMPLEMENTATION GUIDANCE - the Working Group recommends that the IRT consider the following: "Preliminary submissions by either side to the Panel regarding the language of the proceeding should be limited to 250 words, and not be counted against the existing URS word limits".

We reached out to Providers regarding the feasibility of implementing the guidance and Providers noted the following:

ADNDRC "During its discussions, the ADNDRC Standards and Practices Committee had concerns about whether such a 250-word limit would unduly constrain parties in their submissions such as to cause unfairness in the proceedings."

FORUM "This will not be an issue. Currently, our online filing form for complaints and responses have text boxes which tallies the word count. We can insert a second box for the language arguments on each form with the tallying capability to allow a maximum of 250 words. The preference would be to implement such a change once all of the recommendations have been addressed as our URS filing system is almost entirely automated and making changes to individual steps still requires extensive testing of the entire system. However, creating the new forms and adding them to the system independent of any other changes would likely take 2-3 weeks."

See:  
<https://docs.google.com/spreadsheets/d/1pxWEmYWIZOrv1YBv3OyTl-NVJgJhbFTWGNzN6o1BWUU/edit#gid=584176015>

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5.7.3 Registrant is making a legitimate or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Such claims, if found by the Examiner to be proved based on its evaluation of all evidence, shall result in a finding in favor of the Registrant.

5.8 The Registrant may also assert Defenses to the Complaint to demonstrate that the Registrant's use of the domain name is not in bad faith by showing, for example, one of the following:

5.8.1 The domain name is generic or descriptive and the Registrant is making fair use of it.

5.8.2 The domain name sites are operated solely in tribute to or in criticism of a person or business that is found by the Examiner to be fair use.

5.8.3 Registrant's holding of the domain name is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.

5.8.4 The domain name is not part of a wider pattern or series of abusive registrations because the Domain Name is of a significantly different type or character to other domain names registered by the Registrant.

5.9 Other factors for the Examiner to consider:

5.9.1 Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves not indicia of bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner must review each case on its merits.

5.9.2 Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will take into account:

5.9.2.1. the nature of the domain name;

5.9.2.2. the nature of the advertising links on any parking page associated with the domain name; and

5.9.2.3. that the use of the domain name is ultimately the Registrant's responsibility.

5.9.3 Changing content found on the website associated with a domain name does not in and of itself constitute bad faith under the URS. Such conduct, however, may be evidence of bad faith, depending on the circumstances of the particular dispute.

## 6. Default

6.1 If at the expiration of the 14 Calendar Day Response period (or extended period if granted), the Registrant does not submit an answer, the Complaint proceeds to Default Determination.

6.2 In either case, the Provider shall provide Notice of Default via email to the Complainant and Registrant, and via mail and fax (where available) to the Registrant. The Default Period starts when the Provider sends Notice of Default and ends when the Examiner issues a Default Determination. During the Default Period, the Registrant shall not change the public and non-public Registration Data elements related to the

**Commented [18]:** URS Final Recommendation #5: The Working Group further recommends deleting the text "the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use" from URS Procedure paragraph 6.2, and incorporating it in other appropriate section(s) in the URS Procedure as factors which an Examiner may take into account in determining whether there was registration and use in bad faith.

Implementation Guidance: For consideration of the IRT, the Working Group suggests that the deleted text may be incorporated in URS Procedure paragraph 5.9 and/or 8.1.

As part of the context, the Working Group agreed that a registrant's action of changing website content can be taken into consideration by the Examiner, as to whether it might be further evidence of bad faith. Some Working Group members noted there may be legitimate or legal reasons for the registrant to update the content of a website, and some websites embed dynamically generated ads and social media feeds. Therefore, the Working Group recommends moving the prohibition against changing website content for domain name

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**Commented [19]:** PUBLIC COMMENT - WIPO "At 6.1 the word "Determination" should be added after "Default".

**Commented [20]:** URS Final Recommendation #5: The Working Group recommends that the URS Procedure paragraph 6.2 be amended to: (i) clearly define w

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**Commented [21]:** PUBLIC COMMENT - WIPO "At 4.3 given the intended rapid nature of the URS, postal mail should not be required."

**Commented [22]:** (1/24) IPT COMMENT - propose adding "(where available)" after "fax"

**Commented [23]:** As part of the context for URS Final Recommendation #5, the WG found that there is no definition of the phrase "Default Period" in its sole

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**Commented [24]:** As part of the context for URS Final Recommendation #5, the Working Group also recommends replacing the use of the passive voi

**Commented [25]:** As part of the context for URS Final Recommendation #5, the current language of URS Procedure paragraph 6.2 includes the phrase "W"

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disputed domain name(s).

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6.3 All Default cases proceed to Examination for review on the merits of the claim.

6.4 If after Examination in Default cases, the Examiner rules in favor of Complainant, Registrant shall have the right to seek relief from Default via de novo review by filing a Response at any time up to six months after the date of the Notice of Default. The Registrant will also be entitled to request an extension of an additional six months if the extension is requested before the expiration of the initial six-month period.

6.5 If a Response is filed after: (i) the Respondent was in Default (so long as the Response is filed in accordance with 6.4 above); and (ii) proper notice is provided in accordance with the notice requirements set forth above, the domain name shall again resolve to the original IP address as soon as practical, but shall remain locked as if the Response had been filed in a timely manner before Default. The filing of a Response after Default is not an appeal; the case is considered as if responded to in a timely manner.

6.6 If after Examination in Default case, the Examiner rules in favor of Registrant, the Provider shall notify the Registry Operator to unlock the name and return full control of the domain name registration to the Registrant.

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## 7. Examiners

7.1 One Examiner selected by the Provider will preside over a URS proceeding.

7.2 Examiners should have demonstrable relevant legal background, such as in trademark law, and shall be trained and certified in URS proceedings. Specifically, Examiners shall be provided with instructions on the URS elements and defenses and how to conduct the examination of a URS proceeding.

7.3 Examiners used by any given URS Provider shall be rotated to the extent feasible to avoid forum or examiner shopping. URS Providers are strongly encouraged to work equally with all certified Examiners, with reasonable exceptions (such as language needs, non performance, or malfeasance) to be determined on a case by case analysis.

7.4 Each URS Provider shall publish their roster of Examiners who are retained to preside over URS cases, including identifying how often each one has been appointed together with a link to their respective decisions.

Commented [26]: URS Final Recommendation #6: The Working Group recommends that the URS Rule 6(a) be amended to clarify that each URS Provider shall maintain and publish a publicly available list of Examiners and their qualifications through regular updating and publication of their Examiners' curriculum vitae (CV). The Working Group further recommends that the URS Procedure paragraph 7 be amended to add a requirement that each URS Provider shall publish their roster of Examiners who are retained to preside over URS cases, including identifying how often each one has been appointed together with a link to their respective decisions.  
<https://gnso.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

## 8. Examination Standards and Burden of Proof

8.1 The standards that the qualified Examiner shall apply when rendering its Determination are whether:

8.1.1 The registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty currently in effect and that was in effect at the time the URS Complaint is filed; and

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8.1.1.1 Use can be shown by demonstrating that evidence of use – which can be a declaration and one specimen of current use – was submitted to, and validated by, the Trademark Clearinghouse.

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8.1.1.2 Proof of use may also be submitted directly with the URS Complaint.

Commented [27]: PUBLIC COMMENT - WIPO "At 8.1.2 it should read "right or legitimate interest" (not "legitimate right or interest") (see URS section 8.3)."

<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>

8.1.2 The Registrant has no rights or legitimate interest to the domain name; and

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8.1.3 The domain was registered and is being used in a bad faith. As noted above in Section 5.9.3, changes to the content found on the website associated with a domain name does not in and of itself constitute bad faith under the URS, but such conduct may be evidence of bad faith depending on the circumstances of the particular dispute.

8.1.4 The content found on the site was changed to argue that it is now a legitimate use.

8.2 The burden of proof shall be clear and convincing evidence.

8.3 For a URS matter to conclude in favor of the Complainant, the Examiner shall render a Determination that there is no genuine issue of material fact. Such Determination may include that: (i) the Complainant has rights to the name; and (ii) the Registrant has no rights or legitimate interest in the name. This means that the Complainant must present adequate evidence to substantiate its trademark rights in the domain name (e.g., evidence of a trademark registration and evidence that the domain name was registered and is being used in bad faith in violation of the URS).

8.4 If the Examiner finds that the Complainant has not met its burden, or that genuine issues of material fact remain in regards to any of the elements, the Examiner will reject the Complaint under the relief available under the URS. That is, the Complaint shall be dismissed if the Examiner finds that evidence was presented or is available to the Examiner to indicate that the use of the domain name in question is a non-infringing use or fair use of the trademark.

8.5 Where there is any genuine contestable issue as to whether a domain name registration and use of a trademark are in bad faith, the Complaint will be denied and the URS proceeding will be terminated without prejudice, e.g., a URS Appeal, Uniform Domain Name Dispute Resolution Policy (UDRP), or a court proceeding may be utilized. The URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse.

8.6 To restate in another way, if the Examiner finds that all three standards are satisfied by clear and convincing evidence and that there is no genuine contestable issue, then the Examiner shall issue a Determination in favor of the Complainant. If the Examiner finds that any of the standards have not been satisfied, then the Examiner shall deny the relief requested, thereby terminating the URS proceeding without prejudice to the Complainant to proceed with an action in court of competent jurisdiction or under the UDRP.

## 9. Determination

9.1 There will be no discovery or hearing; the evidence will be the materials submitted with the Complaint and the Response, and those materials will serve as the entire record used by the Examiner to make a Determination.

9.2 If the Complainant satisfies the burden of proof, the Examiner will issue a Determination in favor of the Complainant. The Determination will be published on the URS Provider's website. However, there should be no other preclusive effect of the Determination other than the URS proceeding to which it is rendered.

9.3 If the Complainant does not satisfy the burden of proof, the URS proceeding is terminated and full control of the domain name registration shall be returned to the Registrant.

9.4 Determinations resulting from URS proceedings will be published by the URS Provider on the Provider's website in accordance with the Rules.

9.5 Determinations shall also be emailed by the URS Provider to the Registrant, the Complainant, the

**Commented [28]:** PUBLIC COMMENT - WIPO "At 8.1.4 this entire addition should be removed; it is already covered in 5.9.3, and it is moreover an illustration/consideration factor, not an examination standard."

<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>

**Commented [29]:** PUBLIC COMMENT - IPC "Under Section 8, "Examination Standards and Burden of Proof" we recommend the following modification in relation to current sub-paragraphs 8.1.3 and 8.1.4:

8.1.3 The domain was registered and is being used in a bad faith. As noted above in Section 5.9.3, changes to the content found on the website associated with a domain name does not in and of itself constitute bad faith under the URS, but such conduct may be evidence of bad faith depending on the circumstances of the particular dispute.

8.1.4 The content found on the site was changed to argue that it is now a legitimate use.

We believe this proposed change clarifies that the language concerning changes to associated content at the disputed domain name is part of the "bad faith registration and use" element and not its own independent element of the URS."

<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>

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Registrar, and the Registry Operator, and shall specify the remedy and required actions of the Registry Operator to comply with the Determination.

9.6 To conduct URS proceedings on an expedited basis, examination should begin immediately upon the earlier of the expiration of a fourteen (14) day Response period (or extended period if granted), or upon the submission of the Response. A Determination shall be rendered on an expedited basis, with the stated goal that it be rendered within three (3) Business Days from when Examination began. Absent extraordinary circumstances, however, Determinations must be issued no later than five (5) Business Days after the Response is filed.

## 10. Remedy

10.1 If the Determination is in favor of the Complainant, the decision shall be immediately transmitted to the Registry Operator, the Complainant, the Respondent and the Registrar.

10.2 If the Determination is in favor of the Complainant, immediately upon receipt of the Determination, the Registry Operator shall suspend the domain name, which shall remain suspended for the balance of the registration period and would not resolve to the original web site. The Registry Operator shall cause the nameservers to redirect to an informational web page provided by the URS Provider about the URS. The URS Provider shall not be allowed to offer any other services on such page, nor shall it directly or indirectly use the web page for advertising purposes (either for itself or any other third party). The Registration Data for the domain name shall continue to display all of the information of the original Registrant except for the redirection of the nameservers. In addition, the Registry Operator shall cause the RDDS to reflect that the domain name will not be able to be transferred, deleted or modified for the life of the registration unless both Complainant and Respondent mutually agree, in a written instrument signed by both parties, to a transfer of the domain name to Complainant. In such event, the domain name shall be unlocked solely for the purpose of completing the transfer and the suspension of the domain name shall be removed after the transfer has been completed.

10.3 If the Determination is in favor of the Complainant, there shall be an option for a successful Complainant to extend the registration period for one additional year at commercial rates.

10.4 No other remedies should be available in the event of a Determination in favor of the Complainant.

10.5 If the Examiner rules in favor of Respondent, the Provider shall notify the Registry Operator to unlock the name and return full control of the domain name registration to the Registrant.

## 11. Abusive Complaints

11.1 The URS shall incorporate penalties for abuse of the process by trademark holders.

11.2 A Complaint may be deemed abusive if the Examiner determines:

11.2.1 it was presented solely for improper purpose such as to harass, cause unnecessary delay, or needlessly increase the cost of doing business; and

11.2.2 (i) the claims or other assertions were not warranted by any existing law or the URS standards; or (ii) the factual contentions lacked any evidentiary support.

11.3 An Examiner may find that Complaint contained a deliberate material falsehood if it contained an assertion of fact, which at the time it was made, was made with the knowledge that it was false and which,

**Commented [30]:** PUBLIC COMMENT - WIPO "At 9.6 it should be clarified that the days referred to are business days."

<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>

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**Commented [31]:** PUBLIC COMMENT - WIPO "At 10, either the clause "If the Determination is in favor of the Complainant" should be set apart as a preamble for sections 10.1, 10.2, and 10.3, or it should be introduced at sections 10.2 and 10.3."

<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>

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**Commented [32]:** PUBLIC COMMENT - Steve Levy (Accent Law Group, Inc.) ""I support the current proposed changes but feel that one item should be added for consideration to account for the situation where URS parties are able to negotiate the transfer of a disputed domain name after the conclusion of a URS case: URS par. 10.2 should be revised to "...the domain name will not be able to be transferred, deleted or modified for the life of the registration unless both Complainant and Respondent mutually agree, in a written instrument signed by both parties, to a transfer of the domain name to Complainant. In such event, the domain name shall be unlocked solely for the purpose of completing the transfer and the suspension of the domain name shall be removed after the transfer has been completed."

<https://www.icann.org/en/public-comment/proceeding/proposed-updates-to-existing-rights-protection-mechanisms-documentation-24-08-2023/submissions/levy-steve-02-10-2023>

**Commented [33]:** (1/24) IPT COMMENT – 10.4 / the URS does not allow for transfer of the domain name. This appears to add a new requirement like the UDRP.

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if true, would have an impact on the outcome on the URS proceeding.

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.

11.6 URS Providers shall identify and track barred parties, and parties whom Examiners have determined submitted abusive complaints or deliberate material falsehoods.

11.7 The dismissal of a complaint for administrative reasons or a ruling on the merits, in itself, shall not be evidence of filing an abusive complaint.

11.8 A finding that filing of a complaint was abusive or contained a deliberate materially falsehood can be appealed solely on the grounds that an Examiner abused his/her discretion, or acted in an arbitrary or capricious manner.

## **12. Appeal**

12.1 Either party shall have a right to seek a de novo appeal of the Determination based on the existing record within the URS proceeding for a reasonable fee to cover the costs of the appeal. An appellant must identify the specific grounds on which the party is appealing, including why the appellant claims the Examiner's Determination was incorrect.

12.2 The fees for an appeal shall be borne by the appellant. A limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint. The Appeal Panel, to be selected by the Provider, may request, in its sole discretion, further statements or documents from either of the Parties.

12.3 Filing an appeal shall not change the domain name's resolution. For example, if the domain name no longer resolves to the original nameservers because of a Determination in favor of the Complainant, the domain name shall continue to point to the informational page provided by the URS Provider. If the domain name resolves to the original nameservers because of a Determination in favor of the registrant, it shall continue to resolve during the appeal process.

12.4 An Appeal must be filed within fourteen (14) days after a Default or Final Determination is issued and any Response must be filed fourteen (14) days after an appeal is filed.

12.5 Notice of Appeal and findings by the Appeals Panel shall be sent by the URS Provider electronically to the Registrant, the Complainant, the Registrar, and the Registry Operator.

12.6 The Providers' rules and procedures for appeals, other than those stated above, shall apply.

## **13. Other Available Remedies**

The URS Determination shall not preclude any other remedies available to the appellant, such as UDRP (if appellant is the Complainant), or other remedies as may be available in a court of competent jurisdiction. A URS Determination for or against a party shall not prejudice the party in UDRP or any other proceedings.

## **14. Review of URS**

A review of the URS procedure will be initiated one year after the first Examiner Determination is issued. Upon completion of the review, a report shall be published regarding the usage of the procedure, including statistical information, and posted for public comment on the usefulness and effectiveness of the procedure.

***\*\*Note: Proposed changes to this document are based on the current version developed by the Registration Data Policy Implementation Review Team (IRT). A list of existing policies and procedures impacted by the Registration Data Policy were reviewed and redlined per Recommendation 27 of the EPDP Phase 1 Final [Report](#). The IRT working documents are available here:***  
<https://community.icann.org/display/RDPIRT/ReqDataPolicy+Implementation+Resource+Documents>

Page 3: [1] Commented [9] Antonietta Mangiacotti 21/10/2023 12:39:00

In line with URS Final Recommendation #4, proposed language has been added to clarify that the Registrar MUST provide the language of the registration agreement to the URS Provider within the proposed timeframe so that the Provider can comply with the translation of the Notice of Complaint requirement.

Note: The registration agreement is executed between the Registrant. The Registry Operator does not have to have a copy of it or know the language of the agreement.

Page 3: [2] Commented [10] Antonietta Mangiacotti 24/01/2024 19:25:00

PUBLIC COMMENT - WIPO "At 4.2 the registrar provision of the language of the registration agreement should be moved up to 4.1 to be bundled with the registrar lock."

<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>

Page 3: [3] Commented [11] Antonietta Mangiacotti 24/01/2024 19:25:00

(1/24) IPT COMMENT: moving the translation requirement to 4.1 would appear to stipulate the translation should occur prior to notifying the RO of the Complaint and I don't think that is what was intended by Rec 4. The WG clearly stated it should be in 4.2 because it makes sense for the notice to Registrant to be translated into the language of the registration agreement. Putting this in 4.1 may further muddle understanding of the requirements and processes. Also note that this refers to the registry lock not registrar lock.

Page 3: [4] Commented [12] Antonietta Mangiacotti 31/01/2022 01:06:00

URS Final Recommendation #4: The Working Group recommends that the URS Rule 4(b) and URS Procedure paragraph 4.2 be amended to require the Provider to transmit the Notice of Complaint to the Respondent in English and translate it into the language of the Registration Agreement. The Working Group further recommends that it be mandatory for URS Providers to comply with URS Procedure paragraph 4.3 and transmit the Notice of Complaint to the Respondent via email, fax, and postal mail.

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

Page 3: [5] Commented [13] Antonietta Mangiacotti 24/01/2024 19:50:00

(1/24) IPT COMMENT: Conflict with 3 calendar days given to the registrar. If the PDP requires URS provider must translate the Notice of Complaint and then send to the registrant, are there any leeway and downstream impacts in the URS Rules and Procedure for URS provider to send the Notice of Complaint on the 5th calendar day?

Page 3: [6] Commented [14] Antonietta Mangiacotti 24/01/2024 19:52:00

PUBLIC COMMENT - WIPO "At 4.3 given the intended rapid nature of the URS, postal mail should not be required."

<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>

Page 3: [7] Commented [15] Antonietta Mangiacotti 24/01/2024 19:52:00

(1/24) IPT COMMENT - This suggestion appears to conflict with the WG recommendation, which specifies postal mail.

URS Final Recommendation #4 The Working Group recommends that the URS Rule 4(b) and URS Procedure paragraph 4.2 be amended to require the Provider to transmit the Notice of Complaint to the Respondent in English and translate it into the language of the

Registration Agreement. The Working Group further recommends that it be mandatory for URS Providers to comply with URS Procedure paragraph 4.3 and transmit the Notice of Complaint to the Respondent via email, fax, and postal mail

Page 5: [8] Commented [18] Antonietta Mangiacotti 31/01/2022 01:27:00

URS Final Recommendation #5: The Working Group further recommends deleting the text “the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use” from URS Procedure paragraph 6.2, and incorporating it in other appropriate section(s) in the URS Procedure as factors which an Examiner may take into account in determining whether there was registration and use in bad faith.

Implementation Guidance: For consideration of the IRT, the Working Group suggests that the deleted text may be incorporated in URS Procedure paragraph 5.9 and/or 8.1.

As part of the context, the Working Group agreed that a registrant’s action of changing website content can be taken into consideration by the Examiner, as to whether it might be further evidence of bad faith. Some Working Group members noted there may be legitimate or legal reasons for the registrant to update the content of a website, and some websites embed dynamically generated ads and social media feeds. Therefore, the Working Group recommends moving the prohibition against changing website content for domain names subject to URS proceedings to the appropriate section(s) in the URS Procedure as behaviors to be considered by the Examiners, who should make all reasonable inferences when finding bad faith.

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

Page 5: [9] Commented [19] Antonietta Mangiacotti 18/10/2023 22:53:00

PUBLIC COMMENT - WIPO "At 6.1 the word “Determination” should be added after “Default”.

<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>

Page 5: [10] Commented [20] Antonietta Mangiacotti 31/01/2022 01:18:00

URS Final Recommendation #5: The Working Group recommends that the URS Procedure paragraph 6.2 be amended to: (i) clearly define what “Default Period” means; and (ii) state that the registrant shall not change the public and non-public registration data elements related to the disputed domain name(s) during the Default Period. The Working Group further recommends deleting the text “the Registrant will be prohibited from changing content found on the site to argue that it is now a legitimate use” from URS Procedure paragraph 6.2, and incorporating it in other appropriate section(s) in the URS Procedure as factors which an Examiner may take into account in determining whether there was registration and use in bad faith.

Implementation Guidance: For consideration of the IRT, the Working Group suggests that the deleted text may be incorporated in URS Procedure paragraph 5.9 and/or 8.1.

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

Page 5: [11] Commented [21] Antonietta Mangiacotti 24/01/2024 19:57:00

PUBLIC COMMENT - WIPO "At 4.3 given the intended rapid nature of the URS, postal mail should not be required."

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

**Page 5: [12] Commented [23] Antonietta Mangiacotti 22/08/2023 23:11:00**

As part of the context for URS Final Recommendation #5, the WG found that there is no definition of the phrase “Default Period” in its sole occurrence in the URS Procedure paragraph 6.2; and this term is not defined anywhere else in the URS Rules, URS Procedure, or other URS related documentations. Based on the definition of the word “Default” pursuant to URS Rule 12(a), the Working Group understood that the Default Period starts when a URS case enters Default and ends when the Examiner issues a Default Determination.  
<https://gns0.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

**Page 5: [13] Commented [24] Antonietta Mangiacotti 23/01/2023 22:12:00**

As part of the context for URS Final Recommendation #5, the Working Group also recommends replacing the use of the passive voice in the phrase “will be prohibited” in URS Procedure paragraph 6.2 with the active voice, to provide direct instruction to the registrant, as no one but the registrant and its webhost can change the public and non-public registration data elements.  
<https://gns0.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>

**Page 5: [14] Commented [25] Antonietta Mangiacotti 23/01/2023 22:08:00**

As part of the context for URS Final Recommendation #5, the current language of URS Procedure paragraph 6.2 includes the phrase “Whois information”. ICANN Org’s EPDP Phase 1 Recommendation #27 Wave 1 Report suggests that the Working Group consider recommending an update to URS Procedure paragraph 6.2 to clarify that a registrant shall not change the public and non-public registration data elements subject to URS proceedings during the Default Period. The Working Group agreed with this suggestion and is making a recommendation accordingly.  
<https://gns0.icann.org/sites/default/files/file/field-file-attach/rpm-phase-1-proposed-24nov20-en.pdf>