

**RPM PDP Working Group  
15 March 2018**

**Action Items:**

The Providers Sub Team will consider the answers from RPM providers and any subsequent adjustments to the list of questions for providers.

**Questions for RPM Providers:**

**Presentation** from and **dialogue with the three URS providers** (FORUM, MFSD, ADNDR) (Please note: FORUM participated in person; MFSD and ADNDR participated remotely)

Provider Representatives:

Ivett Paulovics, MFSD

Renee Fosum, FORUM

Carrie Shu Shang, ADNRC

Question: With respect to Slide 7 -- Renee mentioned that in the case where there is a privacy shield, some registrars will provide respondent information...what happens if a registrar does not provide respondent information? What do MFSD and ADNDR in similar circumstances?

Answers:

Forum: Don't get info from registrant, proceed with info that we have.

Yvette: Send to registry operator, copy registrar. Only the registrar has the information in the Whois.

Question: With respect to translations: How do you know the language of the RA?

Answers:

Forum: Physical location of the respondent dictates the language, not the RA.

Yvette: Same. Emails, notice of complain, default, etc. are all translated

Carrie: Translations in URS not as important as in UDRP.

Question: What effect does it have in selecting examiner?

Answers:

Translate to language of respondent, appoint examiner that speaks relevant language and provide translated documents to them.

Administrative Review

ADNDR: Privacy and proxy service, RO may not have knowledge of this. RO may not be able to determine which is privacy proxy versus jumbled characters. Seems like registrar has the adequate information. Given limited URS cases, no real-world experience with this type of case.

FORUM: While there is a check of past complaints, is that against the central database? Any evidence of URS abuse? FORUM hosts combined complaints database. Only provider that submit complaint can edit. No complainant shown to engage in URS abuse.

Question: Is check of that database a part of the standard process?

Answer from staff: No cases failed admin review, but two withdrawn (.com, .cn). There are cases that are not properly filed, more than two noted as withdrawn. Check web site for data.

Question for FORUM: In the 17 cases dismissed, what administrative deficiencies feature the most frequently? What factors can be identified on the part of the Complainants to explain these?

Answer: Details not ready, likely due to lack of payment. Will check into details.

Examiners and Appeal Panels:

Question: Appeal rate for providers (MSFD). Does that apply to other providers?

Answer:

Yvette: Why no appeals? Only able to assume. Satisfied with proceedings, doesn't preclude filing UDRP.

Carrie - no appeals.

Renee - 4 appeals over 16 domains. Generally just client decision not to proceed 4.

Questions for practitioners/attorneys: Do they know who the examiner is, potentially for identifying conflicts of interest?

Answers:

Renee - yes, in email/portal. Can do additional review of resume on web site

Yvette - parties, registry, registrar all informed. Any party can challenge examiner, unless result has been published. Decision of challenge is published on web site.

Carrie - Examiners must attest to impartiality and parties can also challenge.

Questions: 1) Might there be circumstances where examiner bios are not published on your respective websites? 2) Are appeal panel members always different from the examiner who decided the Complaint? Would it be the same for de novo reviews as opposed to de novo appeals? Or this is subject to parties' choice?

Answers:

Renee - 1) Should not be the case where CV/resume unavailable. 2) Only option is a 3-member panel. Try to select one panelist from each parties' list. Same for all providers.

Yvette - 1) All published.

Carrie - 1) All published.

Question: section 2b.3, each examiner has understanding of global internet IP expertise. Confirm?

Answers:

Renee - Not always as an element of their previous practice, but in experience.

## Abusive Complaints, Responses & Determinations:

Question: How do the providers ensure examiners comply with URS Rules rule 13(b) -- "The Examiner'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 Examiner" [*emphasis added to highlight the pertinent element*] (See slides 29, 30, 31, 32)

Re: Appeals -- Documents sub team: Will review 14 cases in more detail.

### Other questions:

(In response to George Kirikos) -- Forum ceased consumer arbitration voluntarily. Forum is trying to be very transparent, open. Will have to run question about ownership through counsel.

(In response to Claudio di Gangi, first question) -- If the evidence is attached to the complaint - examiner determines if allowable, relevant.

(In response to Claudio di Gangi, second question) -- Can scale, but would have to determine whether they want to serve as provider.

Note from staff: There are two cases in Forum for .pro. URS is available for some legacy TLDs already, but not a CP.