

# Overview of Uniform Rapid Suspension (URS) Providers on their practices

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# Agenda

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- ⦿ **About us**
- ⦿ **Communications**
- ⦿ **Administrative Review**
- ⦿ **Examiners and Appeal Panels**
- ⦿ **Abusive Complaints**
- ⦿ **Responses**
- ⦿ **Determinations**
- ⦿ **Appeal**

# About us – FORUM

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- ⦿ URL: [www.adrforum.com](http://www.adrforum.com)
  - [www.adrforum.com/urs](http://www.adrforum.com/urs)
    - Instructions on Filing a URS Complaint
    - Instructions for Filing a URS Response
    - Demo-Portal
    - Demo-Complaint Filing
    - Demo-Response Filing
    - Demo-URS Requests
    - Demo – URS Appeals
  
- ⦿ Administers domain name disputes
  - UDRP since 1999
  - URS since 2013
  - Also CDRP, TDRP, SDRP and other custom programs

# About us – MFSD

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- ◉ URL: <https://urs.mfsd.it>
- ◉ Intellectual Property (IP) Dispute Resolution Center based in Milan (Italy) established in 2000
- ◉ Administers disputes related to: trademarks, patents, employees' inventions, designs, geographical indications, copyright, advertising, domain names, know-how, unfair competition, art and cultural heritage
- ◉ Since:
  - 2001 - .it Domain Dispute Resolution Provider
  - 2012/2013 – IP Mediation and Training Center
  - 2015 – URS Provider

# About us – ADNDRC

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- ◎ URL: <https://www.adndrc.org/mten/index.php>
- ◎ ADNDRC was jointly established by the China International Economic and Trade Arbitration Commission (CIETAC) and the Hong Kong International Arbitration Centre (HKIAC) in 2002. It was established as a charitable institution in Hong Kong and remains today the same status. Seoul office and Kuala Lumpur office opened in 2006 and 2009
- ◎ The Centre administers domain name dispute resolution proceedings under the Uniform Dispute Resolution Policy (UDRP), Uniform Rapid Suspension System (URS), Trademark Post Delegation Dispute Resolution Procedure (TM-PDDRP), Registrar Transfer Dispute Resolution Policy (TDRP), Sunrise Dispute Resolution Policy (SDRP), and Charter Eligibility Dispute Resolution Policy (CEDRP)

# Communications

	FORUM	MFSD	ADNDRC
Communications with parties to a URS proceeding	<p>Email and online portal</p> <p>Respondent notices are provided by email, postal mail and fax with all other communication via email and portal</p>	<p>Complainant: e-mail</p> <p>Respondent: Notice of Complaint &amp; Notice of Default: e-mail, courier, fax; other communications: e-mail</p>	E-mail
Communications with Registries and Registrars throughout the duration of a URS proceeding	E-mail	E-mail	E-mail

# Communications – FORUM

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- ⦿ **Registry**
  - Email sent with complaint requesting verification and lock
  
- ⦿ **Respondent** (commencement of the case)
  - Email containing notice (translated if necessary) complaint and link to online portal for filing response
  - Notice sent by fax and mail
  
- ⦿ **Registrar**
  - Email sent attaching notice and complaint
  - If there is a privacy shield, some registrars will provide respondent information – if so, the notice and complaint are sent to the contact information provided by the registrar
  
- ⦿ **Complainant**
  - All communications via email

# Communications – MFSD

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- ⦿ **Parties:**

- Complainant: by e-mail to the e-mail address provided in the Complaint (Complainant itself or authorized representative)
- Respondent:
  - Notice of Complaint and Notice of Default by e-mail, courier and fax (if any) to all e-mail addresses, postal mail and facsimile addresses shown in Whois confirmed by the Registry and to any e-mail addresses provided by the Complainant in the Complaint
  - Other communications: by e-mail

- ⦿ **Registries and Registrars:** by e-mail to the e-mail address(es) made available by ICANN



# Communications – ADNDRC

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- ⦿ ADNDRC communications with URS parties, Registries and Registrars are conducted via emails
- ⦿ ADNDRC's communications with parties, Registries and Registrars during URS proceedings are relatively smooth

# Administrative Review

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	FORUM	MFSD	ADNDRC
Administrative review of the Complaints	Electronic with the exception of filing fees	Checklist	Conducting administrative reviews in accordance with URS Article 3
Total cases dismissed due to administrative deficiencies	17	3	0

# Administrative Review – FORUM

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- Administrative review is primarily addressed through filing portal. A complaint will not be accepted at the time of filing for a lack of any of the following:
  - Complainant contact information 3(b)(ii)
  - Respondent contact information 3(b)(iii)
  - Domain name 3(b)(iv)
    - Forum's system will run a Whois search and populate
  - Screenshot of website – to be uploaded as a document by Complainant 3(b)(iv)
  - Proof of use – to be uploaded as a document by Complainant 3(b)(v)
  - Evidence of trademark or service mark 3(b)(v)
  - URS Procedure elements are a series of tick boxes 3(b)(vi)

# Administrative Review – FORUM

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- Explanatory statement of 500 words is captured in a text box and the words are counted as they are typed 3(b)(vii)
- Other legal proceedings are captured in a text box 3(b)(viii)
- Mutual jurisdiction is a set of check boxes 3(b)(ix)
- Mandatory statement is a check box 3(b)(x)
- If more than one domain name is included there is a text box to provide an explanation of how they are linked 3(c)
- Coordinators track the filing fee – Forum has an electronic docketing system to keep track of outstanding fees 3(d)
- Abusive complaints – there are none to date 3(e)
- Forum’s portal will only allow qualified New gTLDs or other TLDs that have adopted the URS 3(f)
- Privacy shields – Respondent will be party named in Whois when case is filed. 3(h) and Supp. R. 4(c)

# Administrative Review – MFSD

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- ◎ **Checklist filled in by Case Manager by choosing between YES / NO and adding NOTES (in any) – references to URS Rules and Procedure, to Supplemental Rules and to URS links are provided as instructions**
  1. Does the Complainant contend for a New gTLD or a domain name to which URS proceeding applies?
  2. Is the Complaint in English?
  3. Does the Complaint include all information, indication and declaration required by paragraphs 1.2 of URS Procedure and 3(b) of URS Rules?
  4. Does the Complaint relate to more than one domain name and are those domain names registered by the same holder?
  5. Has the filing fee been paid properly together with the submission of the Complaint?

# Administrative Review – MFSD

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- ⦿ **Checklist filled in by Case Manager by choosing between YES / NO and adding NOTES (in any) – references to URS Rules and Procedure, to Supplemental Rules and to URS links are provided as instructions**
  - 6. Has the Complainant exceeded its quota of Abusive Complaints?
  - 7. Is/are the disputed domain name(s) part of an open and active URS or UDRP Case?
  
- ⦿ **If administrative deficiencies are found:**
  - No possibility to amend the Complaint
  - Dismissal without prejudice to the Complainant's right to file a new Complaint
  - No refund of filing fee
  
- ⦿ **Cases dismissed due to administrative deficiencies: 3**
  - Complaints contended for domain names (.com) to which URS proceeding does not apply

# Administrative Review – ADNDRC

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- ADNDRC conducts administrative reviews in accordance with URS Article 3
- In accordance with Paragraph 3(h) of the Rules and the ADNDRC Supplemental Rules, in cases where the domain name is registered with a privacy/proxy service, the Relevant Office of the Centre may request the Registry Operator to identify the Respondent when notifying the Registry Operator of the Complaint

# Examiners and Appeal Panels

	FORUM	MFSD	ADNDRC
Selection	Preference given to those with experience in IP, arbitration and domain name disputes	Criteria: highly qualified and globally diversified professionals experienced in IP law	Separate URS panel: <a href="https://www.adndrc.org/mten/ListOfPanelists.php">https://www.adndrc.org/mten/ListOfPanelists.php</a>
Assignment	Rotation with exceptions made for examiner availability and language	On case by case analysis: language needs, availability, rotation	Balance of factors
Training	Webinars and PowerPoint; Annual Domain Dispute in-person training offered	Training sessions (online, in-person)	Annual training sessions



# Examiners and Appeal Panels – FORUM

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- ⦿ **List of examiners is available on website:**  
[www.adrforum.com/SearchPanelists](http://www.adrforum.com/SearchPanelists)
- ⦿ **Selection:** preference given to examiners with IP or internet law, arbitration and other domain name dispute experience
- ⦿ **Assignment:** Rotation with 4 cases assigned at a time
  - Exceptions for examiner availability and language considerations
- ⦿ **Appeal panels:** Single or three member appeal panels available
  - From the list described above
- ⦿ **Training:** All examiners have received a descriptive PowerPoint Presentation and Webinar training with the Director
  - Yearly in-person domain name dispute training is offered annually

# Examiners and Appeal Panels – MFSD

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- ⦿ **List of Examiners publicly available with their bio:**  
<https://urs.mfsd.it/urs-examiners>
- ⦿ **Selection:** professionals of multiple jurisdictions with language skills experienced in cross-border IP disputes, ADR proceedings, neutrals and/or representatives in domain disputes (gTLDs – UDRP, ccTLDs, .eu, etc.)
- ⦿ **Assignment:** based on a case by case analysis, language skills (language of the Response), availability, rotation
- ⦿ **Appeal Panels:**
  - single-member or three-member panel
  - panel members different from the Examiner who decided the Complaint
  - 0 appeals so far
- ⦿ **Training:** online (webinars) and face-to-face (workshops) training sessions are organized regularly – <https://urs.mfsd.it/news-events>

# Examiners and Appeal Panels – ADNDRC

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- ⦿ ADNDRC maintains a separate panel of URS examiners pursuant to ADNDRC Supplemental Rule Article 7
- ⦿ ADNDRC appoints URS Examiners from the Panel in accordance with requirements put forward in the Rule

# Abusive Complaints

	FORUM	MFSD	ADNDRC
Submission of cases to the abuse case database	<ol style="list-style-type: none"> <li>1. Examiner flags electronically notifying Forum</li> <li>2. Communicate with other Providers</li> <li>3. Add to Abusive Filings Database</li> </ol>	<ol style="list-style-type: none"> <li>1. Publication at own URL</li> <li>2. E-mail to other 2 Providers</li> <li>3. Submission to Forum's Abusive Filings Database</li> </ol>	<ol style="list-style-type: none"> <li>1. Established an abusive filings database</li> <li>2. Communication with other 2 providers</li> </ol>
Procedure for flagging and tracking abusive case	Administrative Review	Administrative Review	Examination
Total cases of URS abuse	0	0	0

# Abusive Complaints – FORUM

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- ⦿ If an examiner finds a complaint abusive, the examiner will electronically flag it and Forum staff will be notified immediately
- ⦿ Forum will review the determination, inform the other Providers and add the decision to the abusive findings database shared by the Providers
- ⦿ The abusive complaint determination will also be available on Forum's website as a matter of course and easily found by clicking the box entitled: URS finding of abuse, on Forum's decision search template: [www.adrforum.com/SearchDecisions](http://www.adrforum.com/SearchDecisions)
- ⦿ To date there has not been an abuse finding

# Abusive Complaints – MFSD

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- **Submission to abuse case database**
  - Publication of the Determination containing a finding that a Complaint is abusive or contains deliberate material falsehoods among the Abusive of Proceedings at URL:  
<https://urs.mfsd.it/urs-disputes>
  - E-mailing the Determination and case details to the other two Providers (Forum and ADNDRC)
  - Submission to Forum’s Abusive Filing Database

# Abusive Complaints – MFSD

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- **Flagging and tracking abusive cases**

- During Administrative Review of the Complaint – Checklist #6 Has the Complainant exceeded its quota of Abusive Complaints? – If YES – Dismissal (see relevant part of the Checklist)

**6. ~~Has the Complainant exceeded its quota of Abusive Complaints?~~**

YES       NO      NOTES: \_\_\_\_\_

***URS Procedure para. 11.4 and 11.5:***

*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 issuance of a Determination finding a Complaint 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.*

Check at:

MFSD decisions - finding of abuse: <https://urs.mfsd.it/urs-disputes>

<http://www.adrforum.com/SearchDecisions>

[http://www.adndrc.org/mten/URS\\_Decisions.php?st=4](http://www.adndrc.org/mten/URS_Decisions.php?st=4)

# Abusive Complaints – ADNDRC

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- ⦿ ADNDRC has established an abusive filing data base but ADNDRC Examiner has never made any Determination of abusive complaint
- ⦿ ADNDRC is very happy to work with other service providers to establish a procedures for sharing of information of abusive complainants



# Responses

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	FORUM	MFSD	ADNDRC
Experiences with anecdotal feedback from Respondents	Some	None	None

# Responses – FORUM

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- ⦿ Forum has received relatively few Responses
- ⦿ Responses must be filed on the portal
  - Filing is very similar to complaint filing with a combination of check and text boxes
  - 2500 word limitation
  - Once a response is received or the response period ends, the parties are sent an email advising them that an examiner has been appointed
    - Parties may check the portal for the identity of the examiner
- ⦿ Forum has received communication from Respondents where the Respondent ultimately does not file a response
- ⦿ Forum has received feedback on the word limitation from both Complainants and Respondents
- ⦿ General complaints regarding online filing portal

# Responses – MFSD

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- Responses filed in URS disputes: in 1 dispute of 15 handled by MFSD
- Response submitted within the 14-day Response period
- No other Respondent has contacted MFSD with any feedback

# Responses – ADNDRC

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- ⦿ So far ADNDRC has not received any anecdotal feedback in 33 decided URS cases from Respondents

# Determinations

	FORUM	MFSD	ADNDRC
Guidelines to Examiners	Determination template through portal	Online Determination form	...
Publication of Determinations	Determinations are issued upon completion; Determinations are made available on Forum's website and can be full text searched	Published in accordance with at URL: <a href="https://urs.mfsd.it/urs-disputes">https://urs.mfsd.it/urs-disputes</a> Dispute name, domain name, submission date, decision date, status (suspended/claim denied, etc.), PDF of Determination	Article 9 of the URS Rule, ADNDRC within 24 hours upon receipt of a Determination from the Examiner notify the Determination to the Parties, the Registrar, the Registry Operator, and ICANN, and publish the full Determination on the Centre's website

# Determinations – FORUM

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- ⦿ Determinations are submitted to the online portal and immediately issued to the parties
- ⦿ Determinations are made available on Forum's website and can be full text searched: [www.adrforum.com/SearchDecisions](http://www.adrforum.com/SearchDecisions)

# Determinations – MFSD

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- ⦿ Determinations are filed by the Examiner through his account at the online dispute management platform (in case of exceptional circumstances, e.g. technical problems, by e-mail)
- ⦿ Examiners are provided with instructions on the URS elements and defenses and how to conduct the examination of a URS proceeding – references to URS Procedure and Rules are contained in the online Determination form
- ⦿ Determination shall meet the requirements of paragraphs 8 and 9 of URS Procedure and 13 and 15 of URS Rules and is of the length that the Examiner deems appropriate
- ⦿ Determination is transmitted to Registry (Cc Registrar) with the specification of the remedy and the required actions to be taken by the Registry and to the parties
- ⦿ Determination is published at: <https://urs.mfsd.it/urs-disputes>

# Determinations – ADNDRC

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- Pursuant to Article 9 of the URS Rule, the Relevant Office of the Centre shall within 24 hours upon receipt of a Determination from the Examiner notify the Determination to the Parties, the Registrar, the Registry Operator, and ICANN, and publish the full Determination on the Centre's website:

[https://www.adndrc.org/mten/URS\\_Decisions.php](https://www.adndrc.org/mten/URS_Decisions.php)

- ADNDRC is in full compliance of this 24-hour publication rule



# Appeal

	FORUM	MFSD	ADNDRC
Procedures for processing appeal cases	Procedure is set forth in Supplemental Rule 16	Procedure in accordance with Supplemental Rules: <a href="https://urs.mfsd.it/urs-disputes">https://urs.mfsd.it/urs-disputes</a>	ADNDRC has established an Appeal procedure under its Supplemental Rules
Total appeal cases	14 cases/16 domains	0	0

# Appeal – FORUM

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- ⦿ Entire record will be available on the portal 19(a)
- ⦿ If 3 member panel is selected by one of the parties, each party will submit a list of 3 examiners
  - Forum will appoint one examiner from each list unless none are available or qualified due to language considerations Supp. R. 16(d)(ii)
  - Forum will appoint the presiding examiner Supp. R. 16(d)(ii)

# Appeal – MFSD

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- ⦿ Administrative Review of the Appeal
- ⦿ Forwarding the Notice of Appeal with a copy of the Appeal to Registry Operator and Registrar by e-mail
- ⦿ Verification of (re-)Lock of the domain name by Registry
- ⦿ Forwarding the Notice of Appeal to the Appellee by e-mail
- ⦿ Communication of the date of notice of Appellee and the due date of the Response to Appeal to the parties, Registry and Registrar
- ⦿ Administrative Review of the Response to Appeal (if any)
- ⦿ Appointment of the Appeal Panel, communication of the appointment of the Appeal Panel to the parties, Registry and Registrar, forwarding the case file to the Appeal Panel
- ⦿ Transmission of the Appeal Determination to Registry with instructions (Cc Registrar) and to the parties, publication at URL: <https://urs.mfsd.it/urs-disputes>
- ⦿ Total appeal cases: 0

# Appeal – ADNDRC

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- ⦿ ADNDRC has established an Appeal procedure under its Supplemental Rules
- ⦿ In accordance with Article 11 of the ADNDRC Supplemental Rules, upon receiving the Notice of Appeal, relevant Office of the Centre shall request the Registry Operator to re-lock the domain name
- ⦿ No party has appealed a URS Determination through the ADNDRC

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# Thank You and Questions