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COMPLETE

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Q1 Proponent's Full Name* If this proposal is jointly developed by more than one Working Group member, please write the full names of all proponents involved.

Brian Winterfeldt; Christopher Thomas; Colin O'Brien; Griffin Barnett; Jeff Neuman; John McElwaine; Lori Schulman; Pascal Boehner; Paul McGrady; Susan Payne

Q2 What type of URS recommendation are you proposing? **Policy**

Q3 What URS recommendation are you proposing?* Please be succinct as well as substantially specific and not general in nature.* One proposal for one recommendation only.

The ability for defaulting respondents in URS cases to file a reply for an extended period (e.g. up to one year) after the default notice, or even after a default determination is issued, should be changed. Instead, the period in which a defaulting respondent can file a reply either immediately after defaulting or after a default determination is issued should be limited to 30 days after issuance of a decision and suspension/deactivation of the disputed domain name. Alternatively, given the availability of the "appeal" process under the URS, which is also a de novo review, the post-default de novo review process could be eliminated altogether.

Q4 What is your rationale for the proposal? (250 words max)

As domain name registrants often address URS cases on a pro se basis and sometimes view service of URS complaints as spam, they may not become fully aware of the dispute until after their domain and website are disabled. This counsels in favor of some grace period for submitting a reply but the current one year period is excessive. If a losing respondent doesn't notice that its domain has been suspended within 30 days one may safely assume that the domain is of little importance to the respondent and they have consciously foregone the opportunity to formally respond in the URS proceeding. Alternatively, given the availability of the "appeal" process under the URS, which is also a de novo review, the post-default de novo review process could be eliminated altogether.

Q5 What evidence do you have in support of your proposal? Please detail the source of your evidence. (250 words max)

There have been no URS cases in which a defaulting Respondent sought to reply / obtain a de novo review post-default determination outside of the initial 6 month period for doing so. There have only been 29 URS cases out of 827 counted between February 2014 and December 2017 in which a defaulting Respondent sought de novo review of a default determination – this represents only 3.5% of all cases. All 29 of these de novo review filings were brought within the initial 6 month period. In fact, in such cases, responses were filed, on average, just over 5 days after the respondent defaulted. This evidence supports the shortening of the de novo review period, and the proposed 30 day period is actually fairly generous, as the longest period of default in which a response was ultimately filed was 18 days and the average period was about 5 days. See Staff table on De Novo Review cases; Staff compilation report - updated URS data_v1.1 - 9 July 2018.docx.

Q6 Where and how has this issue been addressed (or not) by the Working Group or the Sub Teams to date? (250 words max)

This issue has been discussed within the Documents Sub-Team, which reviewed URS proceedings in which a de novo review was instituted as well as appeal cases. The consolidated URS Document provides “Based on Sub Team discussions relating to De Novo Review, full WG to discuss (and community input to be solicited for Initial Report) on policy question as to number of possible instances, and related time frames, where a defaulting respondent has the opportunity to file for a de novo review following default, before a possible appeal.” Concerning the appeal process, the consolidated URS Document provides, “RECOMMENDATION: Facilitate better clarity, precision and consistency of language and terminology by developing a template for Determinations. Full WG to discuss (and community input solicited for Initial Report) on the broader policy question.” See Consolidated URS Discussion Document - updated 31 July 2018v1.docx. The issue was also discussed within the Practitioners and Providers Sub-Teams. See id.

Q7 Does the data collected and reviewed by the Sub Teams show a need to address this issue and develop recommendations accordingly? (250 words max)

Yes – see proposal and rationale, and summary of Sub Team work on this issue.

Q8 If not already addressed above, on the basis of what information, gathered from what source or Sub Team, is this proposal based, if any? Please provide details. (250 words max)

This is already addressed above.
