

#14

COMPLETE

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Page 1

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.

Marie Pattullo (AIM - European Brands Association)

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.

That repeat offenders should be sanctioned.

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

Repeat infringers meet little if any sanction. This should be defined as any registrant that has lost URS cases pertaining to, for example, three or more registrations. While of course this could be for many reasons and the registrant may be acting in good faith, sanctions such as a blocked guarantee being required for further registrations (which could be released after a new level of "clean" registrations is reached) will not be of concern to such a party. Other technical sanctions can be discussed for viability with the CPH, which of course is also keen to promote a clean DNS.

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

We refer the WG to the amount of repeat infringers cited in, e.g., the WIPO UDRP figures as well as the 98 cases cited in the staff compilation report that involved multiple domain names. Cybersquatting is not a product of the remedy: it is an infringement and absent effective sanction, it will continue.

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

Referenced in Super Consolidated URS Topics Table K(1) - abuse of process – and discussed in all Sub-Teams.

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)

As rights owners we would place this under the Documents Sub-Team's draft policy recommendation that "the question of adequacy and scope of remedies be deliberated among the full WG".

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)

See above.

Question: Please provide your proposed definition of “repeat offender”.

Answer: As set out in our proposal, we would suggest that this be defined as any Registrant that has lost URS cases pertaining to, for example, three or more registrations. We would be interested to hear from the entire WG on their workable proposals.

Question: Please provide some details regarding the types of proposed sanctions that you envision.

Answer: Again as we set out in the proposal, we would suggest sanctions such as a blocked guarantee being required for further registrations (which could be released after a new level of “clean” registrations is reached). Another possibility would be that repeat offenders be sanctioned by a reversal of the cost structure: so for example, if a Registrant were to lose three URS cases based on bad faith, all further URS cases against that Registrant would be granted automatically, at no cost, unless the Registrant requires the arbitration. And if it does, it should be at its own costs, with time limits - e.g. within one month of the URS decision. The repeat offender “flag” would be removed should an arbitration panel deem it appropriate, and/or automatically whenever the Registrant prevails. Other technical sanctions can be discussed for viability with the CPH (under the general scope of the Documents’ sub-team proposal that “the question of adequacy and scope of remedies be deliberated among the full WG”).