

Proposed Wording of URS Providers Sub-Team Recommendations for Operational and Policy Modifications

This document is to help frame the sub-team discussion scheduled for 1200 UTC on Wednesday, August 29th.

This is only suggested final language for full WG consideration and is subject to sub-team discussion and modification.

As all recommendations from the August 24th version of the SUPER CONSOLIDATED URS TOPICS TABLE have been included, it is also in order to discuss whether a specific recommendation should not be referred to the full WG.

Operational Proposals

A. THE COMPLAINT

4. Administrative review

A URS provider should check the websites of other URS and UDRP providers to ensure that a disputed domain name is not already subject to an open/active URS/UDRP proceeding.

6. Amending the Complaint in light of GDPR/Temp Spec

Providers should modify their operational rules in terms of automatically populating the Complaint Form using WHOIS data.

GDD and RySG should develop a uniform system for interaction between the Providers and the Registries regarding registrant data that is unavailable in publicly accessible WHOIS

B. NOTICE

1. Receipt by Registrant - Notice (feedback from Complainant & Respondent)

ADNDRC should change its operational rules to comply with URS Procedure 4.2, requiring that notice of the Complaint be transmitted by the registrant via email, fax, and postal mail.

2. Effect on Registry Operator - Notice requirements for Registry Operators

ICANN's email addresses for Registry contacts (reached by Providers) should be kept up to date

GDD and RySG should develop a uniform system for interaction between the Providers and the Registries regarding Registry notice requirements

F. REMEDIES

3. Review of Implementation

There should be efforts undertaken to better inform and enhance the understanding by Registry Operators and Registrars of their role in the URS process

J. LANGUAGE ISSUES

1. Language issues, including current requirements for complaint, notice of complaint, response, determination

ICANN should enforce the URS Rules 9 and URS Procedure 4.2 with respect to Providers communicating with the Registrant in the predominant language of the Registrant. In particular, as the WG has found that ADNDRC is not in compliance with URS Procedure 4.2 and URS Rules 9, ICANN should request ADNDRC to change their operational rules and to translate the Notice of Complaint “into the predominant language used in the Registrant’s country or territory”.

M. URS PROVIDERS

1. Evaluation of URS providers and their respective processes (including training of panelists)

Provider compliance with URS Rule 6(a) should be enforced. ADNDRC, in particular, should be required to list the backgrounds of all of their Examiners so that Complainants and Respondents can check for conflicts of interest.

Policy Proposals

A. THE COMPLAINT

6. Amending the Complaint in light of GDPR/Temp Spec

URS Rule 3(b) should be amended in light of GDPR and the permissible filing of a “Doe Complaint”.

URS Procedure para 3.3 should be amended to enable modification of the Complaint within 2-3 days from disclosure of the full registration data by the URS Provider.

Outreach and education efforts should be undertaken via expert intermediaries to increase awareness and understanding of the common law concept of “Doe Complaint” in civil law jurisdictions, especially the EU.

B. NOTICE

1. Receipt by Registrant -Notice (feedback from Complainant & Respondent)

For “Doe Complaints”, Providers should send notice to respondents as soon as relevant WHOIS data is forwarded by the registry.

E. DEFENSES

1. Scope of Defenses

2. Unreasonable delay in filing a complaint (i.e. laches)

All Providers should provide similar types and forms of guidance to their examiners.

Examiners should document their rationale in all issued Determinations; in particular, when an Examiner finds that a registrant has registered and used a domain in bad faith supporting facts should be cited.

F. REMEDIES

2. Duration of Suspension Period

3. Review of Implementation

URS Technical Requirements 3 and Registry Requirement 10 should be amended to address problems with the implementation of the relief awarded following a URS decision; the implementation of a settlement (generally a domain transfer at the registrar level); and implementation of Complainant requests to extend a suspension.

K. ABUSE OF PROCESS

1. Misuse of the process, including by trademark owners, registrants and “repeat offenders”

Penalties for the abuse of the process by the Respondent should be added to the URS Rules; this proposal should be published to solicit public comment on what type of procedural abuse should be sanctioned, and in what manner.

L. EDUCATION & TRAINING

1. Responsibility for education and training of complainants, registrants, registry operators and registrars

ICANN develop easy-to-understand, multilingual, and linkable guidance (e.g. basic FAQs) for reference and informational purposes of both URS parties (Complainants and Respondents)

URS Providers should develop additional clear and concise reference and informational materials specific to their service, practice, and website for the use and benefit of both URS parties.

M. URS PROVIDERS

1. Evaluation of URS providers and their respective processes (including training of panelists)

Explicit standards for removal of Examiners based upon particular background and factors, such as continued representation of serial cybersquatters, or representation of parties found to have engaged in attempted reverse domain name hijacking, should be developed.