

Issue	URS Strawman Proposal	ICANN Default Proposal	Notes
<b>Mandatory</b>	Mandatory for all New gTLDs	Best Practice for new TLDs, with scoring for participation	Consensus
<b>Elements of the Complaint</b>	Same elements as found in the UDRP text (such elements will be under review per recommended mandatory URS/UDRP review below)	Domain name is identical or confusingly similar to a mark in which Complainant holds a valid registration issued by a jurisdiction that conducts a substantive examination of trademark applications prior to registration and The Registrant has no legitimate right or interest to the domain name; and/or the the domain was registered and is being used in bad faith	Consensus, but need examples
<b>Format of Complaint</b>	Simple and as formulaic as possible; Limits on the length of complaint and answer, <b>but should allow space for some explanation, should not be solely a check box</b>	n/a	Consensus
<b>Standard for Evaluation</b>	No genuine issue of material fact -- similar to Rule 56 of U.S. Fed. Rule of Civil Procedure.	Clear and Convincing Evidence	Consensus
<b>Mode of Notice</b>	E-mail, fax, hardcopy	same	Consensus
<b>Notice Contents</b>	Notices should be clear to the registrant. Staff to evaluate options to implement this, including language issues, in an efficient manner, without requiring changes to WHOIS. <b>Implementation Issue for Staff to make sure that registrant understands notice;</b>	n/a	Consensus

<b>Effect of Filing Complaint</b>	Upon passing initial examination, an Initial Freeze -- no Transfers, no WHOIS changes, but domain name still resolves and other features would function (e.g. e-mail)	same	Consensus
<b>Time to Answer</b>	20 days with no answer fee	14 days with a limited extension of 7 days with no answer fee	Consensus? Concern about individuals who may not respond at all/concern that some may need full interval to receive the notice. If respondent fails to answer - removing a website/or redirecting a domain name would prevent other features from functioning, such as email. May be appropriate for example in cases of phishing - redirection for beneficial purposes.
<b>Commencement of Evaluation</b>	Immediately upon expiration of 20 days, to be completed on an expedited basis (goal - around 3 business days, but implementation detail for Staff to determine based on provider's need)	n/a	Consensus
<b>Number of Examiners</b>	Examination to be done by one Examiner with legal background on an expedited basis	n/a	Consensus

**Assignment of Examiners**

Random within a provider, but not random among providers (staff to examine implementation option to have a pool of **examiners** shared by multiple providers)

n/a

**Evaluation on the Merits**

Unless withdrawn by complainant, the **examiner** will evaluate the claim on the merits in every case -- regardless if the registrant defaults or answers.

same

No Consensus;  
discussion of  
"Examiner  
Randomization  
Proposal" - subject to  
accreditation, random  
assignment to achieve  
fairness goal.  
Concern: Can  
complainant choose  
examiners: 1) provider  
could choose not to  
work with a particular  
examiner, should they  
be required to? 2) full  
randomness may not  
make sense

Consensus

<p><b>Remedy if Successful on the Merits</b></p>	<p>Domain Name suspended for the balance of the registration Period (does not resolve to original website); WHOIS to reflect domain name is on hold and cannot be transferred. Option for successful complainant to pay to extend the registration period for one additional year for at commercial rates.</p>	<p>Same, but no option to extend the registration period for one year</p>	<p>Consensus? Should successful complainant be able to extend for an additional year? Could be difficult for Ry to implement. Should complainant be able to auction? Or should name transfer immediately? Concern about successful complainant automatically being allowed to re-register. "Hold" status would need to be released manually at the RR level. Distinction between RR hold and RY hold - RY hold requires more work to implement.</p>
<p><b>Effect of Filing Answer After Default</b></p>	<p>If respondent fails to file an answer withing 20 days and the panelist rules in favor of complainant, respondent could seek de novo review by filing an answer at any time. If filed within 30 days of default decision, no answer fee. If filed after 30 days, respondent to pay a reasonable answer fee. In either case, filing an answer causes the Domain Name to be resolve to original website.</p>	<p>n/a</p>	<p>Consensus, but needs clarification in implementation</p>

<b>Appeal of Decision</b>	After a decision in <b>any case (default or contested)</b> , either party has a right to seek a de novo appeal for a reasonable fee to cover the costs of the appeal. In all cases, either party has right to de novo review on the merits in the UDRP <b>(not applicable to the registrant)</b> or court of competent jurisdiction.	Appeal to an ombudsman on arbitrary and capricious grounds or an abuse of discretion by Examiner or appeal into a court of competent jurisdiction	<b>Consensus</b>
			No Consensus for describing types of experts for panel; No use for ombudsman, but discussion of a "standing review panel" where the panelists are identified in advance with one panelist identified by the IPC/NCSG/?
<b>Evaluation of Appeal</b>	3 member panel, consisting of expert in trademark law, fair use, and Academic in this field. (Note: this would be much more expensive to appellant than the ombudmen approach)	Appeal to an ombudsman	
<b>Abuse of Process</b>	2 abusive complaints or one finding of perjury-barred for 1 year from URS; 3 or more complaints against panelist that are overturned by Appeal, loses accreditation to serve as a panelist. Staff to implement guidelines for what constitutes abuse.	If Complainant held to have filed abusive complaints on 3 occasions, barred from using the URS for one year	
<b>Review of URS and UDRP</b>	Mandatory Review one year after URS first date of operation; Review of UDRP at the same time; No sunset of URS.	none	