

Issue	URS Strawman Proposal	ICANN Default Proposal	Notes
Mandatory	Mandatory for all New gTLDs	Best Practice for new TLDs, with scoring for participation	Consensus, but the NCSG consensus is dependent upon resolution of the elements of the complaint, and the fairness of the assignment of the examiners issue
Elements of the Complaint	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	Open Issue-discussion of use of Nominet model vs. maintaining UDRP elements and identifying safe harbor examples (Mark, Zahid and Kathy to discuss offline)
Format of Complaint	Simple and as formulaic as possible; Limits on the length of complaint and answer, but should allow space for some explanation, should not be solely a check box	n/a	Consensus

Standard for Evaluation	Complaint needs to be established by clear and convincing evidence. Standard of Review- No genuine issue of material fact requiring further consideration (explanatory language would be useful).	Clear and Convincing Evidence	Consensus , but need to work on explanatory language; Zahid to work on reviewing Wendy's suggested language
Mode of Notice	E-mail, fax, hardcopy	same	Consensus
Notice Contents	Notices should be clear to the registrant. Staff to evaluate options to implement this, including language issues, in an efficient manner. Implementation Issue for Staff to make sure that registrant understands notice;	n/a	Consensus
Effect of Filing Complaint	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
Time to Answer	20 days with no answer fee	14 days with a limited extension of 7 days with no answer fee	Consensus, but IPC consensus tied with maintainng expedited commencement of evaluation
Commencement of Evaluation	Immediately upon expiration of 20 days, or submission of answer, 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

Number of Examiners	Examination to be done by one Examiner with legal background on an expedited basis	n/a	Consensus
Assignment of Examiners	Rotation of examiners within a provider to avoid forum shopping, but not random among providers (staff to examine implementation option to have a pool of examiners shared by multiple providers); Examiners to be trained and certified, and Provider have right to drop nonperforming examiners; Principle: Provider required to work with all certified examiners, with reasonable exceptions (subject to Staff's examination of whether this is implementable) to avoid "cherry picking" of examiners that are likely to rule in a certain way	n/a	Consensus, but NCSG consensus tied to Staff response on last point
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	Consensus

Remedy if Successful on the Merits	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.	Same, but no option to extend the registration period for one year	No Consensus on excluding the transfer remedy; Paul to gather data on UDRPs to share that might explain how important the transfer remedy is to brand holders
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Effect of Filing Answer After Default	<p>If respondent fails to file an answer within 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 resolve immediately to original website.</p>	<p>n/a</p>	<p>Consensus</p>
Appeal of Decision	<p>After a decision in any case (default or contested), either party has a right to seek a de novo appeal within the URS process for a reasonable fee to cover the costs of the appeal. URS Remedy does not preclude any other remedies available to the appellant, such as UDRP or as may be available in a court of competent jurisdiction. A finding in URS for or against a party should not prejudice the party in UDRP; Use of an ombudsman for appeals is not appropriate. Filing of an appeal does not change the domain name's resolution except in the instance of a default related decision)- e.g., if the domain name was down because of a finding in favor of the complainant, it stays down; if the domain name is up because of a finding in favor of the registrant, it stays up.</p>	<p>Appeal to an ombudsman on arbitrary and capricious grounds or an abuse of discretion by Examiner or appeal into a court of competent jurisdiction</p>	<p>Consensus, but should clarify who pays for appeal. Suggestion that the parties split the fees (but no consensus on this yet).</p>
Evaluation of Appeal	<p>Standing 3 person panel or 3 panelists (one appointed by each of the parties and the panelists or the provider appoint the third panelist);</p>	<p>Appeal to an ombudsman</p>	<p>Consensus</p>

Abuse of Process	<p>2 abusive complaints or one finding of a "deliberate material falsehood" -barred for 1 year from URS; 2 findings of deliberate material falsehood bars the party from the URS forever; 3 or more findings of abuse of process/discretion per panelist loses accreditation to serve as a panelist. Multiple complaints must be from the same entity; Delete: [perjury to be defined as "deliberate material falsehood"]; Delete: [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.</p>	<p>If Complainant held to have filed abusive complaints on 3 occasions, barred f rom using the URS for one year</p>	<p>Consensus</p>
Review of URS and UDRP	<p>Mandatory Review one year after URS first date of operation; No sunset of URS. Requirement to publish examination statistics for use in the review of the URS.</p>	<p>none</p>	<p>Consensus?</p>