



01 Apr 2010

### **Draft Uniform Rapid Suspension System**

Please accept the following comments in response to the publication of the proposal for establishment of the Uniform Rapid Suspension System.<sup>1</sup> Go Daddy reserves the right to future comments on this issue and our positions include, but are not necessarily limited to, the text herein.

Go Daddy thanks the STI and appreciates their efforts to address the issues surrounding Rights Protection Mechanisms in New gTLDs. We look forward to the successful resolution of this and other Overarching Issues.

### **General Comments**

In the general case, we are concerned that New gTLDs will operate under additional and differing procedures than those applied to existing gTLDs. This could lead to a "chilling effect" on the adoption of new gTLDs by registrants and Internet users, making them even less competitive with incumbents, and more likely to be unviable after just a few years of operation.

Registrants of names in new gTLDs may perceive that incumbent gTLDs offer an environment that more appropriately balances their rights, versus those of marks holders. This could exacerbate the competitive disadvantage of new gTLDs.

Supporting the URS in addition to the UDRP will impose an additional cost and resource burden on registries and registrars, in the form of additional staff and training requirements. While new gTLD registries may successfully account for this in the development of their business plans, registrars may simply opt against offering the TLD.

And finally, we would express our concern that the ICANN Board of Directors approved the inclusion of URS in the next version of the Applicant Guidebook while this topic remained open for public comment. It is impossible to know if this action was a deterrent to additional comments or material contributions to the discussion, or if the Staff and Board will fully consider the comments that are made.

### **Specific Questions That Still Need to be Addressed**

1. Section 5.7 enumerates several "Defenses" that can or should be included in the filed response. Absent from this list is any consideration that the Respondent may assert competing or overlapping claims to the same mark.

Does the URS continue in this scenario, or convert to a UDRP or other proceeding? Moreover, if there is no response the decision is to be made based only on information submitted by the Claimant. As a result, we assert that the filed claim should include evidence that the Claimant has done due diligence in determining whether the Respondent has a competing or overlapping mark registration for the string in question.

2. Section 7.1 describes the role of URS Examiners. Will URS Examiners apply to and be approved by ICANN, and will this be as individuals, as representative groups, or both? Are current UDRP providers (WIPO, NAF, CAC, etc.) eligible to participate as examiners? If so, what provisions are there to avoid the potential conflicts that could be created?
3. Section 10 describes the remedial actions resulting from a URS decision. How does the registry offset the costs associated with maintaining and managing the suspended registration for up to one year?
4. Section 11.2 indicates that the group was unable to define the criteria for an "abusive" URS complaint. Given the expedited nature of the URS, along with the stated goal of its limited use in cases that clearly involve bad faith, we would consider any unsuccessful URS (i.e., decided in favor of the Respondent, or fails the Administrative Review) to be "abusive." This would ensure the URS mechanism is open only to those Complainants that establish their understanding of bad faith in a manner consistent with URS panelists.

## **Conclusion**

Again, we extend our appreciation to the IRT and STI for their efforts to develop the Draft URS, and look forward to the resolution of this Overarching Issue.

Sincerely,  
GoDaddy.com, Inc.



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1. <http://www.icann.org/en/announcements/announcement-4-15feb10-en.htm>