



**IPC Reply Comments on the Preliminary Issue Report on Access by IGOs and INGOs
to the Curative Rights Protections of the UDRP and URS
May 6, 2014**

The Intellectual Property Constituency (“IPC”) of the Generic Names Supporting Organization (“GNSO”) welcomes the opportunity to provide reply comments on the Preliminary Issue Report on Amending the Uniform Dispute Resolution Policy (“UDRP”) and the Uniform Rapid Suspension Procedure (“URS”) for Access by Protected International Governmental Organizations (“IGOs”) and International Non-Governmental Organizations (“INGOs”) (the “Report”).

As noted in the Report,¹ the IPC is of the opinion that there are “several distinct reasons for creating a separate, UDRP-like dispute resolution mechanism for IGOs rather than modifying the current UDRP to take into account the specific characteristics and limitations faced by IGOs in attempting to utilize the UDRP.”

In response to public comment, the IPC believes the following items warrant further consideration in any potential PDP on this topic:

1. The PDP should explore whether access to curative rights protection mechanisms should be limited only to those IGOs and INGOs referred to in the GNSO Final Report on Protection of IGO and INGO Identifiers in all gTLDs, or should apply to all IGOs and INGOs, as defined by some other criteria.

In addition, any new policy or policies that may be developed should apply only to those IGOs and INGOs included in the Final Report on Protection of IGO and INGO Identifiers in all gTLDs. This limitation would ensure that only appropriately qualified entities could rely on amended or new curative rights protection mechanism (“RPM”) policies.

2. If the PDP first determines that special treatment is necessary to enable access to these RPMs, the PDP should result in a “new” policy or policies, applicable only to IGOs and/or INGOs.

The “new” policy or policies would be modified versions of the existing UDRP and URS, minimally adjusted and narrowly tailored to accommodate use by IGOs and/or INGOs, to account for the special circumstances of those categories of organizations. Thus, IPC does not recommend major changes to the basic elements of a claim brought under the

¹ Report, p. 19.

UDRP or URS in any new policy, other than, perhaps, the substitution of the word “or” instead of “and” in a “bad faith registration or use” element.²

3. The PDP should be narrowly-focused on considering and, if appropriate, drafting such a new policy or policies addressing the concerns of IGOs and INGOs under these circumstances. Issues generally outside of this purview should be considered out-of-scope, such as a new policy for geographic Top-Level Domains or revisiting the UDRP generally.

A narrow scope for this PDP is essential, if determined to be appropriate, for the timely development of a new policy or policies specific to IGOs and/or INGOs; speed in this context is important given the maxim that “justice delayed is justice denied.”

Thank you for considering our views on these important issues.

Respectfully submitted,

Intellectual Property Constituency (IPC)

² Compare to the current UDRP ¶ 4(b) and URS ¶ 1.2.6.3, both of which require a showing of registration AND use in bad faith. Changing the wording of such an element from “and” to “or” would bring any such new IGO/INGO policy or policies in line with more modern policies that have been adopted after the UDRP was promulgated, such as Nominet’s dispute resolution policy.