



IPC Comments on the
Proposed Implementation of GNSO PDP Recommendations on
Locking of a Domain Name Subject to UDRP Proceedings - Revised UDRP Rules

June 18, 2014

The Intellectual Property Constituency (IPC) of the Generic Names Supporting Organization (GNSO) welcomes the opportunity to comment on revised Uniform Domain Name Dispute Resolution Policy (UDRP) Rules regarding the locking of a domain name subject to UDRP proceedings.

- 1) In order to preserve and improve the administrative functionality of UDRP proceedings, it is important to delineate clear and fixed time limits for all necessary steps within the proceedings that affect all parties involved, including Registrars, Complainants, Respondents, and Panelists.

In this respect, IPC notes that the proposed UDRP Rules, presented at www.icann.org/en/system/files/files/udrp-rules-proposed-amendment-29apr14-en.pdf, unfortunately do not clarify “days” in an effective way.

Paragraph 4 (b) relates to “business days”; 4(c) and 4(d) to “calendar days”; 4(e) to “business day”; 5(a) and 5(b) to “days” in general; 6(b), 6(d) and 6(e) to “calendar days”; 15(b) just to “days”; 16(a) and 17(a)(v) to “business days”; and finally 19(c) refers to “calendar days”.

IPC recommends that a common term be used throughout, and we suggest “calendar days” for clarity.

While the existing UDRP defines “business days” as “observed in the location of our [registrar’s] principal office”, IPC notes that this can create confusion because it is not always clear where the principal office is located or what business days are observed there. It is IPC’s opinion that “calendar days” is a clearer definition that eliminates any ambiguity and potential confusion.

IPC further recommends that “calendar days” be added to Paragraph 1, “Definitions” in case there should be any doubt as to what is considered as “calendar” in this respect.

- 2) IPC also recommends that the definition of “Lock” in Paragraph 1 be modified to prevent changes to any of the contacts in the Whois record.

- 3) IPC notes that the reference to “the time the UDRP decision has been implemented” in the definition of “Pendency” in Paragraph 1 seems inappropriate in the event of a decision in favor of a Respondent (that is, a dismissal of the complaint). It may not be accurate to state that a dismissal is a decision that can be “implemented.” IPC therefore suggests that this definition should also state that Pendency could expire “upon publication of a decision dismissing the Complaint.”
- 4) Paragraph 4(a) does not specify when the Provider must submit a verification request to the Registrar. IPC suggests that the Provider be required to do so “within one calendar day.”
- 5) Paragraph 4(b) should prohibit the Registrar from disclosing the Complaint not only to the Registrant. IPC suggests that Paragraph 4(b) be changed to:

(b) Within two (2) *calendar* days of receiving the Provider’s verification request, the Registrar shall provide the information requested in the verification request and confirm that a Lock of the domain name has been applied. The Registrar shall not notify the Respondent or *any other entity* of the proceeding until the Lock status has been applied. If the Registrar, *or any entity under common control or ownership with the Registrar, provides proxy or privacy service for the domain name, the Lock shall be applied immediately upon receiving the Provider’s verification request.* The Lock shall remain in place through the remaining Pendency of the UDRP proceeding. Any updates to the Respondent’s data, such as through the result of a request by a privacy or proxy provider to reveal the underlying customer data, must be made before the two (2) *calendar* day period concludes or before the Registrar verifies the information requested and confirms the Lock to the UDRP Provider, whichever occurs first. Any modification(s) of the Respondent’s data following the two (2) *calendar* day period maybe addressed by the Panel in its decision.

The text “*any entity under common control or ownership with the Registrar*” may be replaced by “Affiliate” with the word “Affiliate” being defined under Paragraph 1.

- 6) IPC questions the proposed new Paragraph 5(b), automatically allowing the Respondent, upon request, a four day extension to respond. This extension is unnecessary, arbitrary, and unrelated to the issue of locking a domain name. Moreover, it is unclear whether the automatic four day extension would be calculated in business or calendar days.
- 7) It is the opinion of IPC that Paragraph 16(b) should specify when the Provider must publish the decision, and preferably also require the Provider to maintain publication of the decision perpetually.

- 8) Finally, IPC suggests Paragraph 17(a)(iii) to be clarified as: “If the Parties reach a settlement, they shall inform the Provider in writing as required by the Provider’s supplemental rules, if applicable.”

Thank you for considering our views on this important issue.

Respectfully submitted,

A handwritten signature in purple ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Petter Rindforth

On behalf of
Intellectual Property Constituency (IPC)