Policy Development Process: Review of All Rights Protection Mechanisms in All Generic Top-Level Domains

WHAT CAN I EXPECT AT ICANN64 IN RELATION TO THIS TOPIC?

The Policy Development Process (PDP) Working Group (WG) will be holding four open meetings on Sunday, 10 March 2019 (two 90-minute sessions) and Monday, 11 March 2019 (one 60-minute session and one 90-minute session). Please check the ICANN64 meeting schedule for actual times and meeting locations. All community members are welcome to attend all the WG's open sessions. The WG will be continuing its review of the Rights Protection Mechanisms (RPMs) covered by Phase One of this two-phased PDP.

WHAT IS THIS PDP ABOUT?

This PDP is being conducted in two phases. Phase 1 covers all the RPMs applicable to generic top-level domains (gTLDs) launched under the 2012 New gTLD Program. These RPMs include: the Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP); the Trademark Clearinghouse (TMCH); the Sunrise and Trademark Claims services that are offered through the TMCH; and the Uniform Rapid Suspension (URS) dispute resolution procedure. Phase 2 will focus on reviewing the Uniform Dispute Resolution Policy (UDRP), which has been an ICANN Consensus Policy since 1999. The WG is currently in Phase 1 and hopes to complete this stage of work by mid-2019.

WHY IS THIS IMPORTANT?

Community feedback on the RPMs developed for the 2012 New gTLD Program indicated a need to review their application and scope, especially if there is to be a further expansion of the gTLD space. The 2012 New gTLD Program RPMs are mechanisms that have now been in use for several years. The UDRP is a long-standing Consensus Policy that has never undergone any substantial review. By the conclusion of both phases of this PDP, the WG is expected to have considered the overarching issue as to whether all the RPMs collectively fulfill the purposes for which they were created, or whether additional policy recommendations are needed. The outcome of this PDP is also intended to create a coherent and uniform mechanism for future reviews of all RPMs.

WHAT IS THE CURRENT STATUS OF THE PROJECT?

The Generic Names Supporting Organization (GNSO) Council initiated the PDP on 18 February 2016 and chartered the WG in March 2016. The WG began its Phase 1 work with reviewing the TM-PDDRP, which was completed in late 2016. The WG has also largely completed an initial review of the structure and scope of the TMCH.

By the end of ICANN63 in October 2018, the WG has completed its review of the URS dispute resolution procedure. Based on feedback provided by URS providers and experienced URS practitioners, as well as analysis of URS cases, three sub teams proposed **operational fixes and policy recommendations** to enhance the URS mechanism. The WG completed initial deliberations on all sub team proposals, as well as proposals submitted by individual WG members. All URS proposals can be found **here**.

The WG has been focusing on the review of the Sunrise and Trademark Claims services that are offered through the TMCH. The WG recently completed a data collection exercise, involving professionally-designed surveys of targeted respondent groups, to obtain both quantitative and anecdotal evidence that can assist with its review of Sunrise and Trademark Claims. The ICANN organization (ICANN org) commissioned Analysis Group, an external consulting firm, to develop and administer the surveys in collaboration with the WG. The surveys were **launched** on 6 September 2018 and widely distributed inside and outside of the ICANN community. Analysis Group presented its **survey findings** at ICANN63.

In December 2019, two sub teams were formed to analyze all Sunrise and Trademark Claims related data with a view toward answering the agreed charter questions. The data the sub teams were tasked to review includes the results of Analysis Group's Sunrise and Trademark Claims surveys and the data collected prior to the launch of the surveys. In February 2019, WG members suggested additional sources to the sub teams, which may yield useful data the WG do not currently have or help shed light on the agreed charter questions. The sub teams are expected to complete their analysis of all data before ICANN64.

At Kobe, the sub teams are anticipated to begin developing proposals for preliminary recommendations pertaining to Sunrise and Trademark Claims. In parallel, individual WG members are able to submit proposals for the sub teams to review by late March 2019. The sub teams will conduct the initial vetting of the individual proposals and recommend to the full WG whether to include them in the Initial Report.

WHAT ARE THE EXPECTED NEXT STEPS?

The WG is aiming to complete the review of Sunrise and Trademark Claims services and complete discussions on all proposals before ICANN65 in June 2019. Following its review of the Sunrise and Trademark Claims, it will complete the review of the TMCH in general and finalize its preliminary recommendations for all the Phase 1 RPMs.

The WG is aiming to publish a Preliminary Report on Phase 1 recommendations for Public Comment by the end of October 2019. The WG will continue to coordinate its timelines and work with other related efforts, such as the New gTLD Subsequent Procedures PDP, and the Competition, Consumer Choice, and Consumer Trust Review.

HOW CAN I GET INVOLVED?

The WG is open to all. You may join as either a Member (with full posting rights to the mailing list and the ability to participate in all WG meetings) or as an Observer (with read-only status for the mailing list). Please email the GNSO Secretariat at **gnso-secs@icann.org** if you wish to join the group.

As the WG has operated for a substantial amount of time and progressed in its deliberations, newcomers are expected to catch up on the discussions to date and to not reopen previously closed topics unless new information is presented.

MORE INFORMATION

- PDP Webpage: **http://gnso.icann.org/en/group-activities/active/rpm**

- WG Workspace: **https://community.icann.org/x/wCWAAw**

- WG Charter: **https://gnso.icann.org/en/drafts/rpm-charter-15mar16-en.pdf**

- Final Issue Report: **https://go.icann.org/2BvPivt**

BACKGROUND

In October 2011, prior to the launch of the 2012 New gTLD Program, ICANN org published a Final Issue Report on the current state of the UDRP. The recommended course of action at the time was for the GNSO Council to hold off from initiating a PDP until after the new URS had been in operation for at least 18 months. The GNSO Council followed this recommended course of action and staff published a new Preliminary Issue Report in September 2015 that covered all existing RPMs. The Final Issue Report that led to this current PDP was published in January 2016 and outlined the two-phased approach that was eventually adopted by the GNSO Council.

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