

Staff Summary: Implementation of RPM PDP Phase 1 - URS Recommendation 1

Background

There are currently diverging views within the Implementation Review Team (IRT) concerning the implementation of the Uniform Rapid Suspension System (URS) Final Recommendation 1 in the RPM PDP Phase 1 Final Report. Specifically, there is disagreement regarding the scope of amendments to a complaint filed under the URS after the complainant receives the contact information from the URS Provider. As stated in URS Recommendation 1:

The Working Group recommends that URS Rule 3(b), and, where necessary, a URS Provider's Supplemental Rules be amended to clarify that a Complainant must only be required to insert the publicly-available WHOIS/Registration Data Directory Service (RDDS) data for the domain name(s) at issue in its initial Complaint.

Furthermore, the Working Group recommends that URS Procedure paragraph 3.3 be amended to allow the Complainant to update the Complaint within 2-3 calendar days after the URS Provider provides updated registration data related to the disputed domain name(s).

The draft language currently proposed by some IRT members to [URS Rule 3\(b\)](#), which has sparked disagreement within the IRT, pertains to the text in red below:

*"Pursuant to URS Procedure Section 3.3, Complainant shall have the opportunity to file an amended Complaint **limited to adding additional contact details about the Registrant** following disclosure of the relevant contact details of the Respondent."*

Inputs from RPM IRT

According to some members of the IRT, the scope of amendments to a complaint should be "limited to adding additional contact details about the Registrant" as this is what was intended by URS Recommendation 1, and as such, this should be stated in the proposed amendment to URS Rule 3(b)(iii). These IRT members also pointed out that, as indicated in the context section of URS Recommendation 1, "this recommendation maintains consistency with the EPDP Team's Phase 1 recommendations, affirming that a Complaint will not be deemed administratively deficient for failure to provide the name of the Respondent and all other relevant contact information if such information of the Respondent is not available in registration data publicly available in RDDS or not otherwise known to Complainant."

Accordingly, these IRT members believe that the amended filing should be limited to including redacted data about the Registrant in the complaint, as this aligns with the expedited nature of the proceeding. No additional changes or amendments to the complaint should be allowed. In addition, these IRT members stated that the URS is meant to be quick, inexpensive and caters

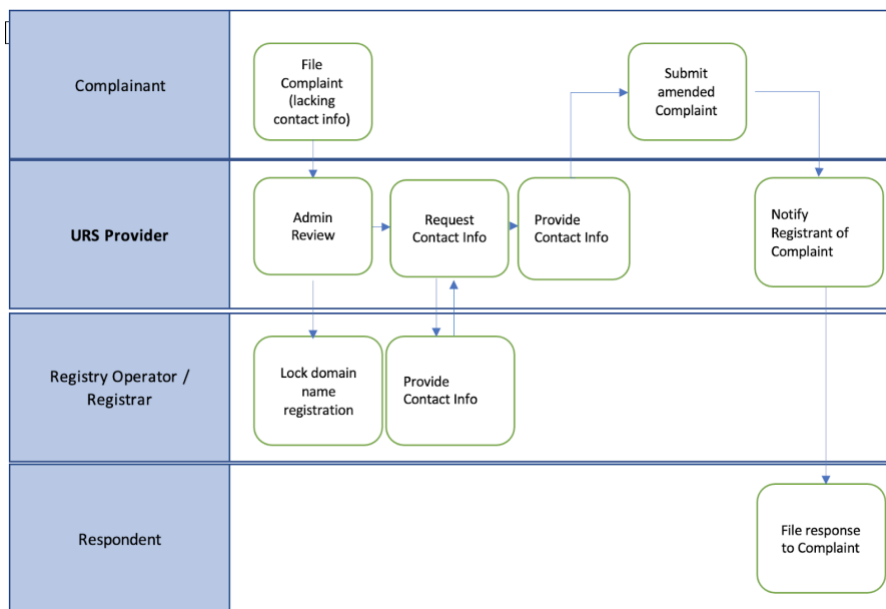
to those who have slam-dunk cases, thus it should not allow the possibility of amendment of the arguments in the complaint as this would introduce delay and confusion to the URS proceeding.

However, other IRT members raised concerns about the current text in red, noting that URS Recommendation 1 does not impose a limit on the scope of possible amendments to the complaint. These IRT members pointed out that if new information providing greater clarity to a claim becomes available after the party's identity is revealed, the complainant should be permitted to amend the Complaint to include this information. These IRT members believe that there doesn't seem to be any substantial harm in allowing the complainant to amend the Complaint beyond just putting in the contact details of the registrant.

Regarding the timing, URS Recommendation 1 recommends that updates to the complaint be limited to 2-3 calendar days after the URS Provider provides updated registration data related to the disputed domain name(s), which as pointed out by some IRT members, is in the spirit of an expedited process. Additionally, it was noted that curtailing the complainant's ability to only add registrant information is a policy matter, which falls outside the scope of this implementation group. Therefore, these IRT members suggest removing the text in red and retaining just the text of the original recommendation.

Inputs from URS Providers

To help inform the discussion, ICANN Staff reached out to URS Providers to seek input on the process for amending complaints after contact information is provided to the complainant as well as to confirm ICANN's understanding of how the process of amending complaints fits into the URS Complaint process. The following high level overview of the process was shared with and agreed to by URS Providers:



In addition, the input received from URS providers is summarized below:

- Complaints are filed using an online form which can be set up according to which fields can be updated in an amendment.
- An amendment that changes arguments in light of the registration details doesn't prejudice the Respondent in any way since they will have not yet been served the complaint. Allowing for amendment of the arguments may also be viewed as more efficient as a potential second complaint involving the same parties would not be required. This saves time for registries and registrars as well because the providers won't have to request verification for a second time.
- Worth clarifying that complainants can't add domain names to the complaint as an amendment – this would require providers to go back again for contact details and start the timeline for amendments over again.
- URS was intended for slam dunk cases of infringement and the true identity of the respondent is unlikely to require a change to the arguments contained within the complaint or the evidence submitted in support of the complaint.
- Given that this is an extra level of administrative work for the provider and the low level of case fees, the quick, cheap and straightforward differentiator of URS vs UDRP is eroded somewhat.

ICANN Assessment

Based on the information provided by the URS Providers, and the fact that the recommendation does not specify the extent of permissible changes, there appears to be no issues in the possibility of amendment of the arguments in the complaint.

As noted by providers, it doesn't further extend the timeline or introduce any unfairness, as neither the registrant nor the panel will see these changes until the full complaint is presented. While there might be concerns about the practical impact or burden of allowing changes to arguments, since an amendment to add contact information is already anticipated, the additional work for the providers seems minimal. As such, ICANN org proposes removing the text in red (see above) and retaining just the text of the original recommendation.

Proposed Next Steps

ICANN org will review the information above with the IRT. In consultation with the GNSO Council liaison, ICANN org will exercise all reasonable efforts to resolve the disagreement. Should the disagreement prove irreconcilable despite such efforts, the GNSO Council liaison is expected to make an assessment as to the level of consensus within the IRT on whether to raise the issue with the GNSO Council for consideration, using the standard decision making methodology outlined in the GNSO Working Group [Guidelines](#).

If the GNSO Council liaison makes the determination that there is consensus for such consideration, the liaison will inform the GNSO Council accordingly which will deliberate on the issue and then make a determination on how to proceed which could include, for example, the initiation of a GGP, a PDP or further guidance to the IRT and/or ICANN staff on how to proceed.¹

Summary of discussions from RPM IRT Meeting #11 ([Zoom recording](#))

During IRT meeting #11 on 22 October 2024, the RPM IRT discussed the information outlined above and initially agreed with ICANN's recommendation on this issue. However, upon reviewing input received from URS Providers, the third bullet point above sparked further discussion within the IRT regarding the ability to add additional domain names to a complaint once the registrant's identity has been disclosed.

Some members of the RPM IRT support the option to add domain names to a complaint that are linked to the same registrant, based on disclosed registration data, with the understanding that URS providers would need to verify that the domain names are indeed associated with the same registrant. These members noted that URS Recommendation 1 does not limit the scope of possible amendments to a complaint and allows for the inclusion of new information, which could include additional domain names. Once the relevant contact details of the Respondent are disclosed, further investigation can sometimes reveal connections to other domains owned by the same registrant.

Some IRT members also proposed that additional domain names be added to an existing complaint, rather than filing a new complaint, similar to the process in the UDRP, where complainants can include more domains once connections between registrants are revealed through disclosure. However, URS providers highlighted that this could extend the process, as gathering contact details often requires going to the registrar rather than the registry, making it more time-consuming. Providers suggested that filing a new complaint with all the domain names is administratively simpler and less burdensome than adding domains to an existing complaint. Additionally, URS providers noted that the URS was designed to be distinct from the UDRP, with quicker decision times and lower filing fees, and aligning the two systems could compromise these key differences.

Other IRT members stated the scope of amendments to a URS complaint being discussed extended beyond the original intent of the RPM Working Group in URS Recommendation #1. Permitting the addition of more domain names to a complaint after the Respondent's contact details are disclosed raises concerns about potential abuse, where complainants could add numerous domains once they have access to the registrant's information. There are also concerns about "gaming" the system, where legitimate complaints are filed initially, only to have

¹ <https://www.icann.org/en/system/files/files/irt-principles-guidelines-23aug16-en.pdf>

more domains added after disclosure to uncover the registrant's identity. However, URS providers recognize that such issues are already present somewhat.

Given the lack of agreement in the IRT on the language to be included in the policy after considering all the information above, the next step per the [IRT Principles and Guidelines](#) is to raise the issue with the GNSO Council liaison, who will consider and provide updates as appropriate.

Section V.E of the Guidelines provides:

In the event of disagreement between ICANN Staff and the IRT or any of its members on the implementation approach proposed by ICANN Staff, the GDD Project Manager, in consultation with the GNSO Council liaison if appropriate, shall exercise all reasonable efforts to resolve the disagreement. Should the disagreement prove irreconcilable despite such efforts, the GNSO Council liaison in consultation with the IRT is expected to make an assessment as to the level of consensus within the IRT on whether to raise the issue with the GNSO Council for consideration, using the standard decision making methodology outlined in the GNSO Working Group Guidelines. If the GNSO Council liaison makes the determination that there is consensus for such consideration, the liaison will inform the GNSO Council accordingly which will deliberate on the issue and then make a determination on how to proceed which could include, for example, the initiation of a GGP, a PDP or further guidance to the IRT and/or GDD staff on how to proceed. This process also applies to cases in which there is agreement between the IRT and GDD staff concerning the need for further guidance from the GNSO Council and/or when issues arise that may require possible policy discussion.

Summary of WG Deliberations: Recommendation URS-1

Conclusion: In summary, URS Recommendation 1 was a non-controversial recommendation. Other than rejecting the third bullet on outreach and education, the WG agreed to the language in the Subteam's original proposal. (See [URS Subteam Proposals](#).) Despite concerns about the delay caused by allowing "...the Complainant to update the Complaint within 2-3 calendar days after the URS Provider provides updated registration data related to the disputed domain name(s)", the WG agreed it was important to allow the Complaint to be updated so that the underlying data would be up to date. **The WG did not deliberate on the issues of limiting or expanding the Complaint update. None of the comments noted in the Public Comment Review Tool raised any concerns about the scope of the update.** See the [URS Recommendations & Questions - Public Comment Review Tool \(PCRT\)](#) The language in the Final Report is unchanged.

Transcripts and brief summaries:

02 November 2019 ICANN66 Montreal – [RPMs PDP WG Session 1 of 3](#) – pp. 43-49

- A WG member noted that the first two bullets make sense: First, you need the name for the complainant but GDPR redacts that; and so, second, the rule change allows you to amend the complaint once the provider shares the respondent data.
- The WG agreed that they don't need the third bullet about outreach and education on Doe complaints.
- The WG agreed to revisit this recommendation in the context of the Initial Report.

02 November 2019 ICANN66 Montreal – [RPMs PDP WG Session 2 of 3](#) – pp. 1-2
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- Currently, provider practice is to publish the decision based on the information in the complaint, so that would be the pared down WHOIS information rather than the full registration information.
- If the complaint were to be amended, it would include the full registration information and thus that would be published as part of the decision.

20 November 2019 – [RPMs PDP WG Meeting](#) – pp. 45-49

- The WG agreed to delete the third bullet on outreach and education because it seems like overreach.
- A provider noted that it currently seeks verification from the registry and then serves that address with the notice of complaint.
- But the provider isn't currently requiring that the complaint be updated. Adding two to three days to amend adds time to the process.
- A WG member noted that if the complaint isn't updated then the underlying data isn't up to date.
- The WG agreed to finish this discussion in the next meeting.

04 December 2019 – [RPMs PDP WG meeting](#) – pp. 6-10

The WG agreed with the changes, including allowing the complaint to be updated, and will next see the recommendation in the context of the Initial Report.

29 January 2020 – [RPMs PDP WG Meeting](#) – pp. 42-44

The WG had no changes to [URS Recommendation 1](#) in the context of the Initial Report.