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| ROPOSED MOTION ON REVIEW OF THE UDRP  Made by: Mary Wong (Non-Commercial SG)  Seconded by:       WHEREAS, on 3 February 2011 the GNSO Council adopted a resolution requesting an Issue Report on the current state of the Uniform Dispute Resolution Policy (UDRP) from ICANN staff, to include consideration of: (1) how the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process; (2) whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated; and (3) suggestions for how a possible PDP on this issue might be managed;       WHEREAS, a Preliminary Issue Report was prepared by ICANN staff and released for public comment from 27 May 2011 to 22 July 2011, for which 24 community comments were received;       WHEREAS, further feedback was received in the form of responses by various UDRP providers to a questionnaire issued by ICANN staff, a Webinar conducted by ICANN staff, and two UDRP-related sessions held at the 41st ICANN meeting in Singapore;       WHEREAS, a Final Issue Report taking into account the community comments and public feedback received was prepared by ICANN staff and published on 3 October 2011;       WHEREAS, the Final Issue Report illustrates a diversity of views among the ICANN community as to a number of UDRP-related issues, such as: (1) the advisability of commencing a PDP at this time rather than when the new rights-protection mechanisms (RPMs) mandated by the new gTLD program (e.g. the Uniform Rapid Suspension (URS) system) are reviewed; (2) whether the UDRP, although improved over time in terms of consistency of application and streamlining of processes, is fair; and (3) other matters such as whether to launch a PDP or form an experts’ panel, and whether more formal accreditation or contracts between ICANN and UDRP providers is desirable;       WHEREAS, a PDP provides the best means for assessing how to respond to this diversity of views, in particular because a PDP can be designed to address concerns about the size and complexity of the UDRP review, such as: (1) by identifying short-term issues that can be worked on during the launch of the new gTLD program and up to the first review of the URS, and other issues that may require a longer time frame for work, including any process-related or current implementation problems; (2) the formation of Sub-Teams within the Working Group to handle different issues, tasks and timelines; and (3) the division of the PDP into work phases, including possible issues and time frames corresponding to the new gTLD program, if appropriate;       WHEREAS, the UDRP is the oldest GNSO policy that has yet to be reviewed, and the further postponement of a PDP is unlikely to improve or correct some of the flaws and problems with the current UDRP that were identified by the ICANN community during the process of preparation of the Final Issue Report; and       WHEREAS, the issue of community bandwidth and resource allocation may not diminish even after the launch of the new gTLD program and the new RPMs, and reviewing such a complex policy as the UDRP together with the URS is likely to exert even more pressure on community bandwidth and resources;       Be it RESOLVED, that the GNSO Council approves the initiation of a PDP on the UDRP and the establishment of a Working Group on UDRP Review;       RESOLVED, further, that the drafting team that will be formed and charged with developing a charter for the Working Group on UDRP Review take into account the diverse possibilities for Working Group modalities and work phasing; and       RESOLVED, further, that the charter for the Working Group specifically task the Working Group with considering: (1) related issues and recommendations raised by the Post-Expiration Domain Name Recovery (PEDNR) PDP Working Group, which were adopted by the GNSO Council as recommendations to the ICANN Board of Directors at its meeting on 21 July 2011; and (2) recommendation #7 of the IRTP Part B Working Group, which the GNSO Council at its meeting on 22 June 2011 received and agreed to consider when it takes up consideration of the Final Issue Report on the Current State of the UDRP; and (3) such  other similar issues and recommendations as it considers appropriate.  --------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------- | Competing Proposed Motion on the UDRP PDP  Made by: Jeff Neuman (Registries SG)  Seconded by:  Whereas the Registration Abuse Policies Working Group submitted a final report the GNSO Council on 29 May 2010 (see <http://gnso.icann.org/issues/rap/rap-wg-final-report-29may10-en.pdf>), recommending an issue report on the current state of the UDRP considering both (a) How the UDRP has addressed the problem of cybersquatting to date, and any insufficiencies/inequalities associated with the process, and (b) Whether the definition of cybersquatting inherent within the existing UDRP language needs to be reviewed or updated, and  Whereas, on February 3, 2011, the GNSO Council requested an Issues Report in accordance with the recommendations of the Registration Abuse Policies Working Group [LINK], and  Whereas, a Preliminary Issue Report was published on 27 May 2011 [LINK] and series of webinars and workshops were held soliciting public comment to allow for the ICANN community to provide feedback on the analysis and recommendations contained therein, and  Whereas, a Final Issue Report was published on 3 October 2011 [LINK] in which ICANN staff recommended the GNSO Council consider the “perspective of the majority of the ICANN community, and the advice of the Government Advisory Committee (GAC), and the At-Large Advisory Committee” and that “a PDP be delayed until after the New gTLD Uniform Rapid Suspension System (URS) has been in operation for at least eighteen months. . . [to] allow the policy process to be informed by data regarding the effectiveness of the URS, which was modeled on the UDRP, to address the problem of cybersquatting.”  RESOLVED, that the GNSO approved the initiation of a PDP and the establishment of a Working Group on recommendation #7 of the IRTP Part B Working Group concerning the requirement to lock a domain name subject to UDRP proceedings, which the GNSO Council at its meeting on 22 June 2011 received and agreed to consider when it takes up consideration of the Final Issue Report on the Current State of the UDRP.  RESOLVED further, the GNSO Council requests a new a new Issue Report on the current state of all rights protection mechanisms implemented for both existing and new gTLDs, including but not limited to, the UDRP and URS, should be delivered to the GNSO Council by no later than eighteen (18) months following the delegation and launch of the first new gTLD. |
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