

Row #	Origin	Proposed Questions	ADNDRC Response	FORUM Response	MFSD Response	Additional Notes
	Legend	Questions Sent to URS Providers	Responses Include Attachments	Pending Responses from FORUM	Follow Up Questions	Divergent Responses
3	<b>Communications</b>					
4	URS Rule 2(c)	Please provide us with information regarding the means by which you communicate with complainants and respondents, including relevant provisions of your Supplemental Rules.	<p>All communications with URS Parties, Registries, and Registrars are conducted electronically (i.e., email); fax or letter types of postal mail are not provided.</p> <p><b>Privacy/Proxy</b> As an additional safeguard and a design process, the relevant office of ADNDRC would request the Registry Operator to identify the true identity of the Respondent.</p> <p>Based on its experiences dealing with the UDRP cases, this method is an additional safeguards to ensure that the Respondent receives the notice, as long as some information is correct.</p> <p><b>Supplemental Rules: Article 3. Communications</b> 1. Any submission that may or is required to be made to the Centre pursuant to the Procedure, the Rules, and the Supplemental Rules shall be made electronically via the Internet in accordance with the Guidelines for URS Submission (the "Guidelines") which can be found at <a href="https://www.adndrc.org/urs/guide">https://www.adndrc.org/urs/guide</a>. 2. Any communications to the Examiner by either Party shall be made through the Relevant Office of the Centre which the Complainant has selected to administer the proceedings. 3. Communication between the Examiner and the Parties shall be coordinated through the Case Administrator.</p>	<p>Registry Email sent with Complaint requesting verification and lock</p> <p>Registrar - Email sent attaching notice and Complaint</p> <p>Respondent (commencement of the case) - Email containing notice (translated if necessary) Complaint and link to online portal for filing Response - Notice sent by fax and mail</p> <p>Complainant All communications via email</p> <p>Other Methods Accept phone calls from any parties in the process to answer procedural questions if necessary. A case coordinator is assigned to each case and will reply either via email or phone call.</p> <p>Privacy/Proxy - Some Registrars will provide Respondent information – if so, the notice and Complaint are sent to the contact information provided by the Registrar - In the event that a Registrar cannot provide that information, which is not typical, FORUM proceeds with the information that it has</p> <p>Supplemental Rules: 3. Communications All communications must be directed to the FORUM and not to the Examiner.</p>	<p>Registries and Registrars - By e-mail to the e-mail address(es) made available by ICANN</p> <p>Complainant By e-mail to the e-mail address provided in the Complaint (Complainant itself or authorized representative)</p> <p>Respondent - Notice of Complaint and Notice of Default by e-mail, courier and fax (if any) to all email addresses, postal mail and facsimile addresses shown in Whois confirmed by the Registry and to any e-mail addresses provided by the Complainant in the Complaint - Other communications: by email</p> <p>Privacy/Proxy - If the Registrar is not communicating any underlying information regarding the Registrant, MFSD just proceeds using the information available in WHOIS.</p> <p><b>Supplemental Rules: 3. Submissions</b> Complaint, Response, Appeal, Response to an Appeal, request of extension to file Response, request of challenge of the Examiner, request of termination, request of suspension or withdrawal or any other communications shall be submitted to MFSD (and not to the Examiner) through MFSD's online dispute management platform <a href="https://urs.mfsd.it">https://urs.mfsd.it</a> by using the relevant online model form(s) or by sending the same (except for Complaint) by e-mail to <a href="mailto:urs@mfsd.it">urs@mfsd.it</a>.</p> <p>Submissions shall be accompanied by the payment of the relevant filing fee as set out in paragraph 17 of these Supplemental Rules.</p> <p>Complaint, Response, Appeal, Response to an Appeal, request of extension to file Response, request of challenge of the Examiner, request of termination, request of suspension or withdrawal or any other communications shall contain all elements, attestations and statements specified in URS Procedure, URS Rule and these Supplemental Rules.</p> <p>Submitted Complaint shall not be amended at any time.</p> <p>Complaint shall respect the 500-word limit specified in paragraph 1.2.7 of the URS Procedure.</p> <p>Response shall respect the 2500-word limit set forth in paragraph 5.4 of URS Procedure.</p> <p>Parties shall annex adequate evidence to support their assertions and claims.</p> <p>The file formats of the annexes may be the following: .pdf; .doc; .smd (for Trademark Clearinghouse proof of use); .jpg; .tiff; .rtf; .xls; .htm/ .html.</p> <p>No individual file may exceed 16MB and the overall files annexed by a party per dispute may not exceed 64MB.</p>	

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5	URS Rule 2(a)(i) URS Procedure 4.3 ADNDRC Supplemental Rule 3	(To ADNDRC) Please explain why ADNDRC rely solely on email as the mode for issuing a Notice Complaint? In your view, is this communications method in compliance with the URS Rule Clause 2 (a)(i) and Procedure Clause 4.3?	ADNDRC has basically accommodated this under Article 3 of the supplemental rules. In order to implement the URS procedure, everything shall be made electronically via the Internet in accordance with guidelines for URS submission. The system has been designed in a way that has ensured the compliance.			
6	URS Rule 2(f)(i)(ii)(iii)	What percentage, if any, of communications to Complainants and Registrants are done in ways other than electronically/via the Internet? What alternative means are utilized?	In URS proceedings except as provided in Rule 2 (a) communications to Complainants and Registrants are not done in ways other than electronically.	All initial communications with Complainants and Registrants are done electronically with the Notice sent by U.S. Mail and fax as described more fully in response to Row 7 below. If there is follow up needed or clarification requested on procedural issues from either of the parties, FORUM will then communicate by phone if appropriate. However, the vast majority of correspondence with parties is done by email.	1. to the Complainant all communications (100%) are sent by e-mail.  2. To the Respondent: - all communications (100%) are sent by e-mail to all e-mail addresses available in Whois, to additional e-mail addresses provided by the Complainant in the Complaint and by the Registry Operator in response to the Notice of Lock (if different from the ones shown in Whois) and to e-mail addresses (if any) shown at the website to which the domain name resolves;  - the Notice of Complaint and the Notice of Default are sent by e-mail to all e-mail addresses available in Whois, to additional e-mail addresses provided by the Complainant in the Complaint and by the Registry Operator in response to the Notice of Lock (if different from the ones shown in Whois) and to e-mail addresses (if any) shown at the website to which the domain name resolves, as well as by courier (except for P.O. Box addresses to which couriers do not deliver) or registered letter with return receipt and by fax (if fax no. is available in Whois).	

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7	URS Rule 2(a)  URS Procedure 4.2	Which of the two cited methods in URS Rule 2(a) do you use to deliver the Notice of Complaint, including both the hard and electronic copy? What mechanism(s) do you have in place in either method to track actual delivery to or receipt by the Respondent? Do you utilize any means to confirm receipt?	ADNDRC has not engaged with the practice of delivering the Notice of Complaint in hard copy. In the future and in view of the GDPR when it is more difficult to access the registrant's data from WHOIS, it will be more difficult for the ADNDRC to engage in means to deliver notices in hard copies.  <b>Follow Up Q: Why you do not deliver the Notice of Complaint in hard copy?</b>	To be clear, 2(a)(i) relates to the sending of the Notice of Complaint and 2(a)(ii) relates to the sending of the actual Complaint and annexes. FORUM sends the Notice of Complaint as set forth in 2(a)(i) utilizing U.S. Mail.  The Complaint is sent via email only to all available email addresses described in 2(a)(i). The Complaint annexes are available on FORUM's online portal via a link emailed with the Complaint. The use of the emailed link is also required to file a response.  If at any point FORUM is notified as to alternate information for Respondent (such as in the case of a privacy shield lifted by a Registrar), FORUM emails the Notice of Complaint and Complaint to the email address obtained. This additional email also contains the link required to file a response.  FORUM does not utilize any additional means to confirm receipt. FORUM saves all rejected emails (which are archived after 2 years) a log of failed faxes, and scans all returned mail to the file upon receipt.	An <b>electronic copy</b> of the Notice of Complaint is sent to the Respondent by e-mail to all e-mail addresses shown in Whois, to additional e-mail addresses provided by the Complainant in the Complaint and by the Registry Operator in response to the Notice of Lock (if different from the ones shown in Whois) and to e-mail addresses (if any) shown at the website to which the domain name resolves; a <b>hard copy</b> is sent by courier (except for P.O. Box addresses to which couriers do not deliver) or registered letter with return receipt and by fax (if fax no. is available in Whois).  The <b>methods of tracking</b> actual delivery to or receipt by the Respondent are: - return receipt for e-mails - online tracking available at couriers' website for couriers - return receipt for registered letters - transmission verification report for fax.  The Complaint and its annexures are only sent as <b>electronic copy</b> by e-mail to all e-mail addresses resulting from Whois, to additional e-mail addresses provided by the Complainant in the Complaint and by the Registry Operator in response to the Notice of Lock (if different from the ones shown in Whois) and to e-mail addresses (if any) shown at the website to which the domain name resolves.  The Notice of Complaint explains that if the Respondent would like to receive the Complaint, including annexes, and other communications in the administrative proceeding to an <b>alternate</b> e-mail address, he/she is requested to contact MFSD and provide such e-mail address.  If the Notice of Complaint is sent also in language different from English (pursuant to paragraph 4(b) of the URS Rules) an electronic and a hard copy of the model Response translated in such language is also sent to the Respondent along with the Notice of Complaint.	<b>Sub Team Comment (13 June 2018):</b> Discuss potential difficulties created by GDPR.
8	URS Rule 2(g)	Do you conform to the communications timeline in accordance with URS Rule 2(g)?	Yes.	Yes, FORUM conforms to the rules relating to time period calculations. With respect to additional contact information made available for Respondent after the Notice of Complaint email is sent, FORUM calculates the Response due date from the date of the initial email, but informs Respondent of the Response due date in the subsequent correspondence.	Yes.	
9	URS Technical Requirements - Registry Requirement 5	Do you receive notifications from Registry Operators via email regarding the completion of URS actions on a domain name?	Yes, usually Registry Operators return inquiries quickly, but there are cases that it takes much longer for Registry Operators to get back.	Yes. FORUM receives notifications from Registry Operators with verification and locking confirmation. FORUM sometimes receives confirmation from Registry Operators on the suspension of a domain name.	Yes, we receive notifications from Registry Operators regarding the completion of the URS Lock and the implementation of the URS Determination (URS Suspension or URS Rollback) regularly.  In very few cases we did not receive notifications regarding the completion of the URS actions within 24 hours from our communication. In those cases we sent reminder e-mails to seek confirmation from the Registry Operators of the completion of the requested URS actions.  URS Providers have also the possibility to submit a report to ICANN for the lack of completion of the requested URS action on the domain name by the Registry Operator at <a href="https://forms.icann.org/en/resources/compliance/registries/urs/form">https://forms.icann.org/en/resources/compliance/registries/urs/form</a> . MFSD have submitted very few reports to ICANN after having attempted several times to receive modifications from the Registry Operator on the completion of the requested URS actions.	

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10	URS Technical Requirements - Registry Requirement 6	Do you receive notification via email from Registry Operators: A) If a URS Locked or URS Suspended domain name has been either deleted or purged? B) If the registration of a URS Locked or URS Suspended domain name has expired? C) If a URS Suspended domain name has been renewed for an additional year?	Yes to A), B), and C)	As of May 18, 2018, FORUM has located 637 instances of Registry Operator correspondence in URS cases and is planning to take a closer look at the details of the correspondence. FORUM hopes to supplement this response prior to ICANN 62.	A) no, not any notification of deleted or purged URS Suspended domain name.  B) no, not any notification of expired URS Locked or URS Suspended domain name.  C) no, not any notification of renewal of URS Suspended domain name.	
11	URS Technical Requirements - Registry Requirement 7	Do you receive information from ICANN with regard to the point of contact of the Back End Registry Operator appointed by a Registry Operator?	To our knowledge, we do not receive information from ICANN with regard to the point of contact of the Back End Registry Operator appointed by a Registry Operator.	YES, FORUM receives a report from ICANN containing the following fields: TLD, RyO Contact Name, RyO Contact Email Address, RyO Contact Phone Number, RyO Contact Mobile Number, BERO Contact Name, BERO Contact Email Address, BERO Contact Phone Number, BERO Contact Mobile Number and RyO Account Name.	Since its approval as URS Provider MFSD has been provided with credentials to access ICANN's repository and download the Registry Operators' contacts periodically. Registrars' contacts are sent to MFSD monthly by e-mail.	
12	Question from Documents Sub Team	Have you experienced difficulties in communicating with Registry Operators in respect of their role in any part of a URS proceeding? If yes, please elaborate.	Usually no, but as mentioned above, it takes some Registry Operators longer back to ADNDRC inquires.	FORUM does encounter some difficulty and delay in getting responses to verification and lock requests from some Registries likely because there are so few URS cases in comparison to UDRP.  If the parties settle after commencement, there is some difficulty getting the Registry and the Registrar on the same page to implement a settlement which typically involves a transfer at the Registrar level.	Communications with Registry Operators are smooth, cordial and collaborative.  In very few cases we faced the following difficulties: 1. MFSD was appointed as URS Provider in December 2015. In 2016 some Registry Operators were not aware about MFSD's appointment as URS Provider and it was necessary to exchange several e-mails, before obtaining the requested actions (Lock / Suspension). After the start-up phase, this was not an issue any more.  2. Some Registry Operators communicate from e-mail addresses different from the contacts present in ICANN's repository. In that case, it is not possible to send them encrypted notifications signed with the PGP key.  3. In few cases we had to send reminder e-mails to obtain the activation of the URS Lock and in 1 case it was necessary to submit a report to ICANN for the lack of response from the Registry Operator to the Notice of Complaint ( <a href="https://forms.icann.org/en/resources/compliance/registries/urs/form">https://forms.icann.org/en/resources/compliance/registries/urs/form</a> ).  4. In few cases we had to send reminder e-mails to obtain the activation of the URS Suspension and in 2 cases it was necessary to submit a report to ICANN for the lack of implementation (suspension) by the Registry Operator ( <a href="https://forms.icann.org/en/resources/compliance/registries/urs/form">https://forms.icann.org/en/resources/compliance/registries/urs/form</a> ).	<b>Sub Team Comment (13 June 2018):</b> Note possible clerical issue concerning out of date email information. "1. Some Registry Operators communicate from email addresses different from the contacts present in ICANN's repository. In that case it is not possible to send them encrypted notifications with the PGP key."
13	The Complaint					

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14	URS Rule 3(a), 3(b)(i)-(x)  FORUM Supplemental Rule 4(b)	Do you accept Complaints that do not contain all the elements required in URS Rule 3(b)? Please provide your online forms for Complaint filing and identify any deviation from URS Rule 3(b).	Yes. One copy of the <b>ADNDRC URS Complaint Form</b> has been attached.  <b>Follow Up Q:</b> <b>1. What do you mean by "Yes"? (Incomplete complaints are not supposed to be accepted per URS Rules)</b> <b>2. Do you accept URS Complaints even if Complainant does not provide the contact details of the Respondent ("Doe Complaint"), in light of GDPR?</b>	No. FORUM's online filing portal will not accept a complaint that does not conform to 3(b). However, Complainants do have the ability to upload additional documents with or behind the required three documents (Proof of Use, Trademark Information, Site Screenshot) for each domain name if the size limitation allows. FORUM leaves it to the Examiner to either accept or ignore the additional documents.  See <b>Appendix A</b> for FORUM's online filing form or visit: <a href="http://www.adrFORUM.com/URS">http://www.adrFORUM.com/URS</a> . click on Download Now under Instructions and select Demo Complaint Filing.  <b>Follow Up Q: Do you accept URS Complaints even if Complainant does not provide the contact details of the Respondent ("Doe Complaint"), in light of GDPR?</b>	No. Our online <b>Complaint form</b> is accessible at <a href="https://urs.mfsd.it/urs-forms-complaint/new-dispute">https://urs.mfsd.it/urs-forms-complaint/new-dispute</a> upon creation of an account (please see sample enclosed hereto).  The form consists of 11 sections (I-X plus signature) subdivided in further sub-sections: I. Introduction (only informative, no data to be filled in)  II. The Parties divided into: A. The Complainant(s) and The Complainant's Authorized Representative B. The Respondent(s)  III. The Domain name(s), Registry Operator(s) and Registrar(s)  IV. Factual and Legal Grounds divided into: A. The trademark(s) or service mark(s) on which the Complainant is based B. Three requirements of the URS Procedure 1.2.6 1. The domain name(s) is(are) identical or confusingly similar to a word mark with 3 tick boxes 2. The Respondent has no legitimate right or interest to the domain name(s) with 1 tick box 3. The domain name(s) was/were registered and is/are being used in bad faith with 5 tick boxes C. Explanatory Statement with box with 500-word limit  V. Remedies Requested  VI. Other Legal Proceedings  VII. Mutual Jurisdiction with 2 tick boxes  VIII. Payment with 1 tick box  IX. Certification pursuant to URS Rules 3(b)(x)  X. List of Annexes  Signature  Starting from 25 May 2018, effective date of the GDPR and the Temporary Specification for gTLD Registration Data approved by ICANN's Board on 17 May 2018 ( <a href="https://www.icann.org/resources/pages/gtld-registration-data-specs-en">https://www.icann.org/resources/pages/gtld-registration-data-specs-en</a> ), MFSD accepts URS Complaints even if Complainant does not provide the contact details of the Respondent ("Doe Complaint"), because they are not available in the publicly accessible Whois or not otherwise known to the Complainant. Before 25 May 2018 in the online Complaint form the fields of Section II.B concerning the Respondent's data were mandatory and the online dispute management system did not allow to proceed with the payment of the fees and the submission of the Complaint without such data (error message). Starting from 25 May 2018 those fields (Section II.B) were rendered not mandatory and the online dispute management system allows proceeding with the payment of the fees and the submission of the Complaint even if such data is not filled in.  We also hereto enclose the <b>Checklist used for the Administrative Review of the URS Complaint</b> .	
15		Do you ask for any additional information in the Complaint beyond what is required in the URS Rules? If so, please provide the relevant provision (s) of your Supplemental Rules.	No.	No.	No. Please see our online <b>Complaint form</b> at <a href="https://urs.mfsd.it/urs-forms-complaint/new-dispute">https://urs.mfsd.it/urs-forms-complaint/new-dispute</a> (a sample is also enclosed hereto).	

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16	URS Rule 3(b)(v)  FORUM Supplemental Rule 4(a)(i)  MFSD Supplemental Rule 3	<p>A) (To FORUM) How does FORUM handle the submission (through its online Complaint filing site) of a relevant SMD proof of use from the TMCH, which is expressly provided for in URS Rule 3(b)(v)? Specifically, the RPM WG understands that the applicable categories of goods and services relating to the trademark is encoded in the SMD file. Are you able to access and read this encoded information? What part(s) of the information in the SMD file are made available to Examiners, Complainants and Respondents for the URS proceeding?</p> <p>B) (To ADNDRC) Does ADNDRC's electronic Complaint form (Form C_URS) also allow the uploading of SMD files in the same manner as MFSD?</p>	B) Yes, we allow the upload of SMD files.	<p>A) FORUM accepts SMD files as Proof of Use as the rules specifically state such files are sufficient evidence. SMD files are uploaded just as any other Proof of Use evidence would be on the filing portal by the Complainant and available for viewing by the Respondent and Examiner. From FORUM's portal, the SMD files automatically open as text files. On occasion, Examiners request that FORUM save the text file as a PDF and email to the Examiner.</p> <p>SMD files contain only 5 lines of readable text as follows:</p> <p>Marks: (Trademark) smdID: (unique number) U-labels: (Trademark labels) notBefore: (Date) notAfter: (Date)</p> <p>The remainder of the file is encoded and cannot be read. Very recently, April 6, 2018, FORUM was given credentials with the assistance of ICANN to confirm that the SMD files submitted as evidence are still valid. <a href="https://newgtlds.icann.org/en/about/trademark-clearinghouse/registries-registrars">https://newgtlds.icann.org/en/about/trademark-clearinghouse/registries-registrars</a>.</p> <p>B) (FORUM likely did not specifically reference SMD files in <b>Annex A</b>, because the URS rules specifically mention SMDs as an acceptable file type. FORUM has always accepted SMD files and in fact has received 252 SMD files in URS cases as of June 8, 2018.)</p>		<p><b>Sub Team Comment (13 June 2018):</b> FORUM seems to have confirmed that most of the data in the SMD file is difficult to read/remains encoded. Check further on jurisdiction of the trademark/ category of goods and services – whether the examiners have those data.</p>

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17	URS Procedure 1.2.6.3	What other circumstances – not included in the non-exclusive list in the URS Procedure 1.2.6.3 – have led your Examiners to determine that the domain name was registered and was being used in bad faith? Have there been cases where your Examiners have not expressly cited a circumstance as the basis of their finding of demonstrable bad faith registration and use?	No.	FORUM has reached out to examiners and is undertaking an independent review of decisions. FORUM hopes to supplement this response prior to ICANN 62.	Examiners take into consideration the totality of the circumstances in each case. Some Examiners have found that, in addition to the circumstances expressly mentioned in paragraph 1.2.6.3 of the URS Procedure, the followings were also to be considered as indicia of bad faith registration and use: - the Respondent's use of false contact details (Dispute no. 30AF44A1 sergiorossiooutlet.store; Dispute no. 800AA499 sergiorossie.store; Dispute no. 837FDF94 royalmail.space; Dispute no. 31D42E70 royalmail.xyz); - the Respondent's failure to provide any evidence of bona fide registration and use in its Response (Dispute no. 6DDAB859 le-clerc.shop and leclerc.shop); - the Respondent's failure to submit any Response and provide any evidence of bona fide registration and use (Dispute no. D70B9442 eleclerc.club); - the fact that Respondent has changed the website content associated with the disputed domain name after having received the letter of Complainant's lawyer and redirected the domain name to another website (Dispute no. F52833A5 orangemoney.cash); - the Respondent's passive holding of the domain name in combination with the fact that the Respondent has registered a vast number of domain names incorporating well-known trademarks under the same new gTLD (Dispute no. 429EC571 reinhausen.international); - the Respondent's constructive knowledge of the Complainant's trademarks (Dispute no. 7B10562D flossy.shoes; Dispute no. 8422F178 e-leclerc.paris); - adult content present at the website associated with the disputed domain name (Dispute no. 31D42E70 royalmail.xyz); - the Respondent's failure to reply to cease and desist letters of the Complainant (Dispute no. A75D6EBE royalmail.london). There are <b>no</b> cases where Examiners have not expressly cited a circumstance as the basis of their finding of demonstrable bad faith registration and use.	
18	URS Procedure 1.2.7	(To ADNDRC) Has any Complainant expressed any difficulty with regard to the 500-word limit set for the Complaint?	No.	Yes -- FORUM has received feedback on the word limitation from the Complainants. It is not enough.  Follow Up Q: What is your suggested word limit?	No	
19	URS Rule 3(g)	(To ADNDRC and FORUM) Do you check to determine whether a domain that is cited in a new URS Complaint is already subject to an open and active URS or UDRP proceeding? If so, how do you find this information?	Yes, by conducting cross-checks.  Follow Up Q: How do you conduct cross-checks? Please elaborate.	FORUM relies heavily upon the representations made by Complainant, but conducts searches if there is a suspicion that the domain name is subject to a pending URS or UDRP case.  Follow Up Q: What triggers such suspicion that the domain name is subject to a pending URS or UDRP case?	MFSD: during the Administrative Review of the Complaint (please see <b>Checklist used for the Administrative Review</b> enclosed hereto) we verify the Complainant's declaration in Section VI of the online Complaint form and we carry out manually an online research at the URS and UDRP Providers' website for URS and UDRP cases.  For URS cases at: <a href="http://www.adrFORUM.com/SearchDecisions">http://www.adrFORUM.com/SearchDecisions</a> <a href="http://www.adndrc.org/mten/URS_Decisions.php?st=4">http://www.adndrc.org/mten/URS_Decisions.php?st=4</a>  For UDRP cases at: <a href="http://www.adrFORUM.com/SearchDecisions">http://www.adrFORUM.com/SearchDecisions</a> <a href="http://www.adndrc.org/mten/UDRP_Decisions.php">http://www.adndrc.org/mten/UDRP_Decisions.php</a> <a href="http://www.wipo.int/amc/en/domains/search/">http://www.wipo.int/amc/en/domains/search/</a> <a href="http://udrp.adr.eu/adr/decisions/index.php">http://udrp.adr.eu/adr/decisions/index.php</a>	

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20		Do you check to determine whether a domain name subject to a URS Complaint is also involved in an active court case in the event that a Respondent does not provide a Response? If so, how do you find this information?	It is usually not possible for us to get such information unless we are reminded by parties.	No, FORUM relies upon the representations made by Complainant.	<p>No, we rely on the Complainant's declaration in Section VI of the online Complaint form. On the other hand, in several jurisdictions it would be impossible to search and find online information about active court cases.</p> <p>Please note that paragraph 15 of MFSD's Supplemental Rules provides that: "If a party is aware of any proceedings that have been commenced or terminated in connection with or relating to the domain name subject of URS administrative proceeding, <b>the party shall promptly notify MFSD</b>, showing official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) of such proceedings.</p> <p>The Examiner might decide, at its sole discretion, whether to suspend or terminate the URS proceeding or to proceed to the Determination.</p> <p>If a party initiates any legal proceedings during the pendency of an URS administrative proceeding or after the issuance of the determination in connection with or relating to the domain name subject of URS administrative proceeding, <b>the party shall promptly notify MFSD</b>, showing official documentation (such as a copy of a complaint, file stamped by the clerk of the court) of the legal proceedings" (emphasis added by us).</p> <p>No such notification has ever been received by MFSD.</p>	
21	URS Procedure 1.1.3	Have you accepted any Complaints that multiple related companies brought against a single domain name Registrant?	Yes. Multiple related companies usually bring the same Complaint against a single domain name Registrant when 1) multiple related companies hold different trademarks that are involved in the same disputed domain name, or 2) one of the listing complaint is the proposed receiving entity of the disputed domain name.	Yes, as of May 18, 2018, FORUM accepted twenty-one cases with multiple related Complainants: Sixteen cases with two Complainants (two of which were withdrawn); four cases with three Complainants; and one case with four Complainants.	No cases of multiple related companies bringing a Complaint against a single domain name Registrant.	
22		Have you accepted any Complaints that were filed against multiple related Registrants in the same filing?	Yes, but only where there is a prima facie showing that the multiple Registrants are actually the same person or are held by the same controlling entity.	Yes, as of May 18, 2018, FORUM accepted five cases with multiple related Respondents. All five cases involved two Respondents and one of those cases was dismissed. Two of the remaining four cases had Responses.	No cases of Complaint filed against multiple related Registrants.	
23	URS Rule 3(c), 3(d)	How many Complaints have you accepted that listed fifteen or more disputed domain names registered by the same Registrant?	Not in any URS proceeding that ADNDRC has handled.	Six (16, 474, 85, 31, 202, and 32 domain names).	No cases listing fifteen or more disputed domain names registered by the same Registrant.	<b>Staff:</b> Six (6) Complaints listed 15 or more disputed domains registered by the same Registrant; all cases were handled by FORUM.
24	URS Rule 3(h) FORUM Supplemental Rule 4(c)	(To FORUM and MFSD) How many Complaints have been dismissed as a direct result of the incorrect domain name Registrant being named in the Complaint, regardless of whether the domain name(s) registered were subject to a privacy or proxy service? Are you able to determine whether the mistake was due to Complainant error, or a WHOIS inaccuracy? If so, please share with us your analysis.	ADNDRC has not had any experience in dealing with privacy/proxy service used by a Registrant.	None as of May 18, 2018. The WHOIS information is automatically pulled into the complaint once the Complainant enters the domain names in dispute in the complaint form, preventing Complainant error. With the implementation of GDPR and ICANN's Temporary Specification this may change.	<p>No cases of dismissal as a direct result of the incorrect domain name Registrant being named in the Complaint. Registrants were correctly named in all Complaints.</p> <p>Starting from 25 May 2018, effective date of the GDPR and the Temporary Specification for gTLD Registration Data approved by ICANN's Board on 17 May 2018 (<a href="https://www.icann.org/resources/pages/gtld-registration-data-specs-en">https://www.icann.org/resources/pages/gtld-registration-data-specs-en</a>), MFSD accepts URS Complaints even if Complainant does not provide the contact details of the Respondent ("Doe Complaint"), because they are not available in the publicly accessible Whois or not otherwise known to the Complainant.</p>	
25	Fees					



Row #	Origin	Proposed Questions	ADNDRC Response	FORUM Response	MFSD Response	Additional Notes
	Legend	Questions Sent to URS Providers	Responses Include Attachments	Pending Responses from FORUM	Follow Up Questions	Divergent Responses
26	Question from Documents Sub Team	Do you have any opinion regarding the design and feasibility of a "loser pays" model that could levy additional costs against a losing party to a URS?	We are not against a loser pays model. However, a better escrow payment system might be able to be utilized by dispute resolution providers to better manage the loser pays feel model.	Yes, FORUM does not believe a loser pays model would work unless the Respondent pays upon filing a Response. The majority of URS cases already receive no response and a loser pays model would likely result in a further reduction in the number of responses received. There would be no economical way to collect from a non-appearing Respondent.	<p>URS fees are relatively low and are wholly advanced by the Complainant (except for the case of Response to Complaint involving 15 or more domain names - Response Fee or Late Response - Re-examination Fee). Recovering URS fees in multiple jurisdictions through enforcement proceedings if the losing party (Respondent) does not pay voluntarily would be burdensome for the Parties (Complainant) and/or the URS Provider either in terms of time, costs and complexity. Moreover, some of the domain names are registered with privacy or proxy service without the possibility for the Complainant and the URS Provider to obtain underlying registration data of the registrant.</p> <p>Respondents usually do not file the Response to the Complaint and even if they file the Response they are not required to provide any banking (credit card) information (except for the case of filing Response to Complaint involving 15 or more domain names, but in that case the Rules already provide for a kind of "loser pays" model, i.e. the Response Fee is refunded to the prevailing party and the Re-examination Fee - non refundable). This is an additional difficulty for the Complainant and/or the URS Provider in recovering the URS fees if Respondent loses. On the other hand, making mandatory (as policy requirement) to provide credit card details when submitting a Response (cases involving less than 15 or more domain names) might be a deterrent to filing a Response.</p> <p>Even if it would be a very complex process the only solution for collecting the URS fees from the losing Respondents would be through the Registrars.</p>	
27	URS Procedure 2.2	Among the Complaints you received that each listed 15 or more disputed domain names registered by the same Registrant, how many Respondents filed a Responses and paid the required Response Fee?	N/A.	None. All cases with fifteen or more disputed domain names were defaults.	No cases of Complaints listing 15 or more disputed domain names registered by the same Registrant.	<b>Staff:</b> Based on staff's collected data and Professor Rebecca Tushnet's research, there have been no Responses filed to the six (6) Complaints in question, meaning that no Response Fee for those cases was paid

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28		Have you received feedback on whether your fees structure has been a major deterrent to the filing of Complaints or Responses?	We have not received feedback regarding our own fee structure in URS cases.	FORUM recalls no specific feedback.	<p>No, the major deterrent to the filing of Complaints or Response is not the URS fee structure. The URS fees are relatively low.</p> <p>Complainants informally expressed that, starting from the effective date of the GDRP of 25 May 2018, the major deterrent for Complainants to the filing of URS Complaint could be the difficulties to access to Whois data. Although the provisions of Appendix D paragraph 2 of the Temporary Specification for gTLD Registration Data adopted by ICANN on 17 May 2018 ("Complainant's complaint will not be deemed defective for failure to provide the name of the Respondent (Registered Name Holder) and all other relevant contact information required by Section 3 o the URS Rules if such contact information of the Respondent is not available in registration data publicly available in RDDS or not otherwise known to Complainant. In such an event, Complainant may file a "Doe" complaint and the Examiner shall provide the relevant contact details of the Registered Name Holder after being presented with a "Doe" complaint"), the Complainants will hardly file Doe Complaints, since the strict burden of proof of clear and convincing evidence on all the three URS elements is on them. Without access to the registration data before the submission of the Complaint and without the possibility (there is no policy provision) to amend the Complaint after the submission, they find it gruelling to meet such burden of proof (especially with reference to the second and third URS element). Their question is: how can we prove that the registrant lacks legitimate interest and right in the domain name and its bad faith if we are not aware of the registrant's identity? The solution, in our opinion, could be the review the URS Procedure paragraph 3.3 and enabling the Complainant to modify the Complaint within few days from the disclosure of the full registration data by the URS Provider. UDRP provides for a 5-day term to amend Complaint. Given the rapid nature of the URS, 2 or 3 days would be adequate to make the amendment. Otherwise, without such policy provision, they prefer filing a UDRP, which allows amendment.</p> <p>Moreover, the following factors are also deterrent to filing URS Complainants and contribute to the fact that the UDRP is a much more used RPM even if it has higher fees:</p> <ol style="list-style-type: none"> <li>1. limited applicability of the URS not being the same a consensus policy (applicable only to all new gTLDs and certain legacy gTLDs such as .cat, .jobs,.mobi, .pro, .travel, .xxx and some ccTLDs such as.pw, while UDRP is applicable to all gTLDs);</li> <li>2. the remedy available in the URS (temporary suspension for the registration period after which there is no 'right of first refusal' of the successful Complainant to register the domain name at its own name);</li> <li>3. due to the fact that there are more than 1,200 new gTLDs, most of the cybersquatting cases involve domains registered in which the second-level domain is identical to the Complainants' trademarks or confusingly similar to it because it incorporate the entire TM adding a generic term related to Complainant's business/geographic area. In such cases many Complainants prefer having the domain name corresponding to their mark in their domain name portfolio and file a UDRP instead of having them suspended through a URS without possibility to own, control, use or transfer such domain;</li> <li>4. strict burden of proof.</li> </ol>	

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29	<b>Administrative Review</b>					
30	URS Procedure 3.2	(To FORUM) Has there been any issue with regard to meeting the two (2) business days requirement of conducting the Administrative Review?	No - the Administrative Review of all cases has been conducted within two business days after acknowledging receipt of the Complaint	No.	No - MFSD carries out Administrative Review within two business days as requested by the rules	
31	URS Procedure 3.4	How many Complaints have been found non-compliant?	<b>More than 2 cases</b>  Complaints contended for legacy TLDs (e.g., .com, .cn) to which URS does not apply. Many of these cases' determination was listed as "withdrawn" on the ADNDRC website (7 cases - as of 06 March 2018). They actually failed the Administrative Review and were dismissed as they were not URS applicable.	<b>17 cases</b>  Cases likely dismissed for nonpayment; FORUM would check the reasons if it becomes a formal question.	<b>3 cases</b>  Complaints contended for domain names (.com) to which URS proceeding does not apply	
32	<b>Notice of Complaint and Locking of Domain</b>					
33	Question from Documents Sub Team  URS Procedure 4.1  URS Technical Requirements - Registry Requirement 2	Please provide feedback regarding your experiences in getting the disputed domain name (s) locked. In particular, have you experienced any difficulties having the URS Lock activated within 24 hours after sending the request to Registry Operators?	Usually this is not a problem, but it definitely takes some Registry Operators longer than others to perform the lock step.	FORUM has experienced difficulty with having the lock activated within 24 hours. With the implementation of GDPR this is a larger concern.	In most cases the URS Lock is activated in a few hours from the notification of our Notice of Complaint to the Registry Operator. In few cases we had to send reminder e-mails to obtain the activation of the URS Lock within 24 hours from our communication and in 1 case it was necessary to submit a report to ICANN for the lack of response from the Registry Operator to the Notice of Complaint ( <a href="https://forms.icann.org/en/resources/compliance/registries/urs/form">https://forms.icann.org/en/resources/compliance/registries/urs/form</a> ). However, all issues were resolved shortly after the receipt of our reminder e-mails by the Registry Operators and after submitting the report to ICANN.	
34	URS Rule 2(c)	Have you received any notification of delayed communications to the Registrant?	No.	FORUM recalls no such notification.	No, we have not received any notification of delayed communications to the Registrant.	
35	URS Rule 2(j)	(To FORUM and MFSD) Have you received any notification of non-delivery of communications? If Respondents did not receive notifications on the first attempt, how could they know of the Complaint? What steps do you take if you receive notifications of non-delivery?	ADNDRC has not received any Complaint regarding not receiving notice.	Yes, FORUM keeps, and ultimately archives, all undeliverable emails, a log containing all failed fax attempts and scans all returned mail to the case file. If additional information regarding the Registrant's contact information becomes available from the Registrar, FORUM sends the Notice of Complaint, the Complaint by email to the Registrant with the new information.  As of May 18, 2018, FORUM received returned pieces of mail on 151 URS cases. Out of those 151 cases, a response was received in twenty-nine of them. FORUM is currently unable to conduct similar analysis on undeliverable emails and faxes due to the format in which they are kept.	Yes, we have received notifications of non-delivery of communications sent by courier, postal mail or fax due to incorrect/false contact details provided by the Respondent, publicly accessible in Whois and confirmed by the Registry Operator. In cases of P.O. box as physical address of the Respondent couriers do not deliver to such addresses and return receipt of the registered letter does not return. In such cases we have to rely on the e-mail transmissions. No e-mails were returned undelivered to MFSD.	
36	URS Technical Requirements - Registrar Requirement 2	Do you have a view on the meaning of "a normal domain name lifecycle" (this phrase is used in Registrar Requirement 2 in the URS Technical Requirements)?	n/a	n/a	n/a	<b>Staff:</b> The infographic of "a normal domain name lifecycle" is published on <a href="https://archive.icann.org/en/registrar/gtld-lifecycle.jpg">icann.org</a> as a "fact": <a href="https://archive.icann.org/en/registrar/gtld-lifecycle.jpg">https://archive.icann.org/en/registrar/gtld-lifecycle.jpg</a> . It may also be more appropriate to ask registries and registrars for views on this question.
37	<b>The Response</b>					
38	URS Rule 5(a)(iii), 5(f)	(To FORUM and MFSD) Have your Examiners received any Responses alleging an abusive Complaint? If so, how did the Examiners act in determining the validity of the allegations in those cases? What decisions were rendered on that claim? Have your Examiners received any affirmative claims for relief from Respondents, for reasons beyond an allegation of an abusive Complaint? If so, what was the basis of the claim (s)?	ADNDRC/HKIAC has never got any Response alleging any abusive Complaint	<b>There have been no abusive complaint findings made in any URS Determination. FORUM has reached out to Examiners and is undertaking a review in an attempt to respond to the remaining parts of this question. FORUM hopes to supplement prior to ICANN 62.</b>	Neither any Responses alleging an abusive Complaint, nor affirmative claims for relief for reasons beyond an allegation of an abusive Complaint were received by us.	
39	URS Rule 5(a)(v)	Is this statement contained in URS Rule 5(a)(v) included in your Respondent forms?	Yes.	<b>Yes, see Appendix B.</b>	Yes, this statement is included in our <b>Response forms</b> . Our online Response form is accessible at <a href="https://urs.mfsd.it/urs-forms-complaint-response">https://urs.mfsd.it/urs-forms-complaint-response</a> upon creating an account at our online dispute management platform and a sample of such form is enclosed hereto.	

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40	URS Procedure 5.3 URS Rule 5(e)	Have you received any requests for an extension of time to respond? A) If yes, how many/what percentage of the Respondents asked for an extension of time? B) How many of these requests were received after Default (14 Calendar Days), or after Determination (no more than 30 Calendar Days)?	Not in URS cases. We have not received any URS filing that the Respondent has filed a Response.	A) As of May 18, 2018, FORUM's records indicate extension requests in thirty-six cases.  B) FORUM is currently reviewing the thirty-six cases mentioned above for the breakdown.	No, we have not received any requests of extension from Respondents.  A) n/a B) n/a	<b>Prof. Tushnet:</b> The coding didn't capture requests for extension. There definitely were late responses. I would find it hard to believe that no extensions were ever requested. I think it more likely that the Examiners did not communicate where there were extensions; there's no template or obvious place to indicate the existence of such a request. Because it wasn't captured in the opinions, I think extension info will have to come from providers.  <b>Staff:</b> It seems that the extension requests are not documented on the online cases.
41		Have you ever extended the period of time for the filing of a Response by a Respondent under exceptional cases per URS Rule 5(e)? If yes, what have you considered as "exceptional cases" in those instances?	N/A.	Yes, FORUM liberally grants extensions to Respondents if a reason is provided.	No, we have not received any requests of extension from Respondent, hence, we have never extended the period of time for the filing of a Response under exceptional cases per URS Rule 5(e).	
42	URS Rule 5(g)	Have you conducted a compliance check for a Respondent for factors beyond the two items stated in URS Rule 5(g)?	No.	FORUM's online filing portal screens all of the response compliance issues, including payment. See <b>Appendix B.</b>	Yes, we also check if Response was submitted timely pursuant to paragraphs 5.1-5.3 and 6.4 of URS Procedure. We hereto enclose the Checklist used for the Administrative Review of the Response.	
43		(To FORUM and MFSD) Who determines whether a Response is non-compliant – you or the appointed Examiner?	Beyond any superficial formatting and non-compliance issue that is up to the Provider to flag out, the Examiner reviews and determines whether a Response is non-compliant.	FORUM's online filing portal screens all of the response compliance issues. See <b>Appendix B.</b>	If MFSD in carrying out the Administrative Review of the Response finds that the Response is non-compliant for reasons:  1. of non-payment of the required fees - the Response will not be considered, meaning that the Response will not be sent by the Provider to the Examiner and the dispute will proceed as Default pursuant to paragraph 5(h) of the URS Rules;  2. other than non-payment, i.e. Response was not submitted within the deadline under paragraphs 5.1-5.3 and 6.4 of the URS Procedure, the Response was submitted in a language different from the language acceptable under the paragraph 9(b) of the URS Rules - the Provider will send the whole case file (including the Response) to the Examiner and the Examiner might make any reasonable inferences from the deficiency of the Response pursuant to paragraph 5(i) of the URS Rules.	
44	URS Rule 5(i)	How many/what percentage of Responses were determined to be non-compliant?	We have not received any Response in past URS cases.	None. FORUM's online filing portal screens all of the response compliance issues. See <b>Appendix B.</b>	None. Only 1 Response filed in 16 cases and it was found administratively compliant.	
45		How many Responses were filed but were not accompanied by payment of any required fees?	N/A.	None. A Response will not be accepted by the online filing portal without payment. See <b>Appendix B.</b>	None. Only 1 Response filed in 16 cases and it involved 2 domain names, hence, no payment of fees was required from the Respondent.	
46		Can you identify any case in which the Response was determined non-compliant for reasons other than the non-payment of the fees? If any, what was the reason(s)?	N/A.	No.	None. Only 1 Response filed in 16 cases and it was found administratively compliant.	
47	URS Procedure 5.1, 5.2	Do you believe the deadline for filing Responses is long enough? (Please provide your rationale and any feedback from Respondents that the time period is insufficient.) If not, what time period would you support (keeping in mind that the URS is supposed to operate with rapidity)?	Yes.	FORUM believes the deadline for filing a Response is long enough, given the default, final and appeal options available.	Given the rapid nature of the URS, we believe that the 14-day Response period is sufficient for filing the Response. In any case, the Respondent is informed in the Notice of Complaint of the possibility to request an extension of time to respond to the Complaint (not more than 7 days) if there is a good faith basis to doing so and the request is received by the Provider during the Response period, after Default, or not more than 30 days after Determination pursuant to the paragraphs 5(e) of the URS Procedure, 5.3 of the URS Rules, and 7 MFSD's Supplemental Rules.	
48		Have you received any late Responses?	No.	No. FORUM's online filing portal will not accept a late response.	No. The only Response received in 16 cases was submitted within the 14-day Response period.	

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49		What are the fees were associated with these any late Responses?	<b>Supplemental Rule: Article 14. Fees</b> Re-examination Fees (paid by Respondent, if applicable, non-refundable) - 1 to 5 domain names: US \$180 - 6 to 14 domain names: US \$200 - 15 to 29 domain names: US \$225 - 30 domain names or more: To be determined by the Relevant Office of ADNDRC	<b>Supplemental Rule: 18. Fees (U.S. Dollars)</b> Re-examination Fee (more than 30 days late) \$200 (paid by Respondent, non-refundable)  Re-examination Extension Fee \$100 (paid by Respondent, non-refundable)	<b>Supplemental Rule: 17. Fees and Payment</b> Re-examination Fees (If applicable, non-refundable), paid by the Respondent who is natural person/sole proprietorship/public body/non-profit entity - 1-15 domain names: 175 Euros - 16-50 domain names: 200 Euros - 50 domain names or more: To be decided with MFSD  Re-examination Fees (If applicable, non-refundable), paid by the Respondent who is partnership/corporation/public company/private limited/limited liability company - 1-15 domain names: 190 Euros - 16-50 domain names: 225 Euros - 50 domain names or more: To be decided with MFSD	
50	URS Procedure 5.4	(To ADNDRC and MFSD) A) Has any Respondent expressed any difficulty with regard to the 2,500-word limit set for the Response? B) Do you believe that the balance of the word limits for the Complaint (500 words) and the Response (2,500 words) is reasonable? If not, what adjusted balance would you suggest?	No.	FORUM has received feedback on the word limitation from both the Complainants and Respondents. It is not enough.	A) No.  B) Considering that the Complaint is partially a tick box form and the 500-word limit concerns only the explanatory statement box and not also the other boxes, such as TM rights, we retain that the balance is reasonable.	
51	URS Procedure 5.7	Where, to your knowledge, Responses were filed containing facts that sought to refute the claims of bad faith registration by setting out circumstances other than those in URS Procedure 5.7, were such facts persuasive? If so, should additional grounds be added to Procedure 5.7?	No.	FORUM is undertaking a review and hopes to supplement prior to ICANN 62.	No Responses containing facts that sought to refute the claims of bad faith registration by setting out circumstances other than those in URS Procedure 5.7 (1 Response only in 16 cases handled). Please note that our online <b>Response form</b> (enclosed hereto) contains reference to URS Procedure 5.8 (examples of defenses to demonstrate good faith use) and 5.9 (other factors considered by the Examiner) as well.	<b>Staff:</b> The Documents Sub Team will be discussing this question with Professor Rebecca Tushnet on Wed, 13 June. Prof. Tushnet had coded for this question and the Documents Sub Team would need her guidance to make sense of it.
52	FORUM Supplemental Rule 5(d)	(To FORUM) What is the purpose of FORUM Supplemental Rule 5(d)(ii)? In any cases in which this Rule has been employed: A) Has any other named Respondent sought to be separated out from the case? B) Have any Registrants asked to be dismissed from the case on the basis of not having registered or being in control of the domain? If so, have your Examiners granted or denied such requests?		The purpose of 5(d)(ii) was to provide a Respondent with some relief where the domain name may have been registered using fraudulent contact information. The rule has rarely been cited if ever. FORUM is undertaking further review on the use of this rule and hopes to supplement prior to ICANN 62.		
53	ICANN61 Presentation	What, if any, other anecdotal feedback have you received from Respondents regarding the URS Rule and Procedures or your administration of the same?	ADNDRC has six out of the 33 cases that Respondents have filed a Response.  ADNDRC has not received their feedback after the proceeding is complete.	FORUM has received relatively few Responses.  FORUM has received correspondence from Respondents where the Respondent ultimately did not file a Response as they did not know how to proceed. FORUM would provide assistance and re-forward the email that contains the link to the portal. The correspondence with Respondents is not included in the file.  There are general complaints regarding online filing portal.	There is only one Response filed in the URS disputes handled by MFSD. It was submitted within the 14 day Response period.  No other Respondent has contacted MFSD with any feedback, so MFSD has not received any questions either informally or by email.	
54	<b>Stay of the Administrative Proceeding</b>					
55	FORUM Supplemental Rule 7(a)(b)(c)	Have you received any joint requests for a Stay of the Administrative Proceeding? If yes, how many cases were reinstated or otherwise dismissed upon expiration of the Stay?	No.	Yes. Stays have been requested in fifty-eight cases. Of those fifty-eight requests, thirty-six were ultimately joined by the other party and an Order staying the proceeding was issued.	No.	
56		Have you received any requests for a Stay after the appointment of the Examiner? If so, how was this handled?	No.	Yes. The request for a stay is Ordered by the Examiner in those instances.	No.	
57	<b>Examiner</b>					

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58	URS Rule 6(a)	How do you select Examiners and determine that their backgrounds comport with the URS Rule and procedures?	ADNDRC as established a URS panel specifically dealing with URS cases. Selection preference is given to experiences in IP, arbitration, domain name disputes, IT, and other relevant areas of law.  Most Examiners join the panel by applications, but ADNDRC also identifies experts and specialists in the area and invite them to apply.	Selection preference is given to Examiners with IP or internet law, arbitration and other domain name dispute experience.  Most of the current URS Examiners have been empaneled since the beginning, or at least within the first six months, of the URS program; they have had at least several years of URS experience.  Among the US Examiners, not all judges necessarily have Internet IP background and expertise as part of their practice, but they certainly have experience with intellectual property cases. Through the training that they're provided with, they would have an adequate basis to decide domain name disputes.	Examiners are selected among professionals of multiple jurisdictions, with different language skills, and experienced in cross-border IP disputes, ADR proceedings, and in particular domain disputes (gTLDs – UDRP, ccTLDs, .eu, etc.).	
59		What, if any, training or guidance do you provide for the selected Examiners?	ADNDRC provides examination guidelines to URS Examiners. In addition to that, ADNDRC also organizes annual training programs to keep Examiners informed of recent case trends, new laws at point, and other relevant practice trends.  ADNDRC has a lot of training materials available on its website for the Examiners.	All Examiners have received a descriptive PowerPoint Presentation and Webinar training with the Director.  In-person domain name dispute training is offered annually.	MFSD organizes regular online (webinars) and face-to-face (workshops) training sessions for the Examiners. More information: <a href="https://urs.mfsd.it/news-events">https://urs.mfsd.it/news-events</a> .	
60		What factors should we consider in regard to evaluating your processes and practices pertaining to Examiners' selection and training?	Domain name disputes is a niche practice area and relatively new in Asia. Therefore, although experiences in domain name areas are quite important pertaining to Examiner's selection and training, ADNDRC panel selection and training processes must be flexible and not rigorous.	Upon the inception of the URS FORUM sought out Examiners with dispute resolution experience, who could speak languages in addition to English and had some experience in IP or domain name disputes. The Examiners in turn had to be willing to get paid less than they do for UDRP cases (given the low filing fee for URS cases), had to be available immediately upon receiving a case and had to be able to turn cases around very quickly. FORUM has added few Examiners, if any, to the URS panel since 2014 and many are also UDRP Panelists or Examiners for other Providers.	1. Selection: MFSD seeks, selects and accredits in its Examiners list highly-qualified professionals of multiple jurisdictions with language skills experienced in cross-border IP disputes and ADR proceedings, in particular in domain name disputes. Experience is given by the fact that many of them are UDRP Panelists or Panelists in other TLDs (ccTLD or .eu) disputes which are UDRP-variants. Some of the Examiners were previously ccTLD dispute case managers, others have an extensive expertise in domain name disputes (including court litigation) as representative of Parties.  Paragraph 7.3 of URS Procedure expressly provides that: "Examiners used by any given URS Provider shall be rotated to the extent feasible to avoid FORUM or examiner shopping. URS Providers are strongly encouraged to work equally with all certified Examiners, with reasonable exceptions (such as language needs, non-performance, or malfeasance) to be determined on a case by case analysis". Some of our Examiners are also listed as Examiners at the other two URS Provider. This contributes to have a major consistency in Examiners' view and avoids FORUM shopping risks.  2. Appointment: the assignment of an Examiner to a dispute is determined on a case by case analysis, considering the necessary language skills (language of the Notice of Complaint/Response), the principle of rotation and the availability of the Examiner.  3. Education and training: MFSD continuously monitors the development of the URS and UDRP case law of other Dispute Resolution Providers and organizes training sessions and meetings regularly ( <a href="https://urs.mfsd.it/news-events">https://urs.mfsd.it/news-events</a> ). Informational e-mails are also sent to the Examiners with update on policy changes (e.g. impact of the Temporary Specification for gTLD Registration Data, in particular the Appendix D, on the URS proceeding).	
61		Have you maintained and made publicly available the list of your selected URS Examiners and their qualifications?	Qualifications of 19 out of 180 Examiners are <u>not</u> publicly available (As of 22 Feb 2018)	Qualifications of 2 out of 122 Examiners are <u>not</u> publicly available (As of 22 Feb 2018)	Qualifications of all 23 Examiners are publicly available (As of 22 Feb 2018)	<b>Staff:</b> <a href="https://community.icann.org/download/attachments/79436564/URS%20Rules%206a.pdf?">https://community.icann.org/download/attachments/79436564/URS%20Rules%206a.pdf?</a>

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62		(To ADNDRC and FORUM) Why have the qualifications of some of your Examiners not been published?	We maintain a database of all Examiners. We also provide CV of examiner to parties on request. We will put information of all examiners on the website soon subject to examiner's consent on how much information can be made publicly available.	All of FORUM's current Examiners are listed on FORUM's website. It is possible that some Examiners initially involved in URS cases have retired or are otherwise no longer on FORUM's roster. There may be very brief moments when a current Examiner's qualifications are not available because they are being updated. If an inquiry is made on FORUM's website and an Examiner's (or Panelist's) information is not available, an email notification is generated and sent to FORUM's Domain Dispute mailbox so the issue can be remedied.	All CVs complete of the Examiners' qualifications are published at our website: <a href="https://urs.mfsd.it/urs-examiners">https://urs.mfsd.it/urs-examiners</a>	version=1&modificationDate=1519357143000&api=v2
63	URS Rule 6(b) MoU 2b(v) FORUM Supplemental Rules 10(a), 10(b), 10(c)	(To MFSD) What is your conflict of interest policy for Examiners? How do you make the Examiners aware of their obligation to be impartial and independent?	<b>Supplemental Rule: Article 8. Impartiality and Independence of Examiner</b> 1. The Examiner shall be and remain at all times wholly impartial and independent, and shall not act as advocate for any Party during the URS proceedings. 2. Prior to the appointment of any proposed Examiner, the Examiner shall declare in writing to the Parties and the Relevant Office of the Centre any circumstances which are likely to create an impression of bias or prevent a prompt resolution of the dispute between the Parties. If, at any stage during the URS proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Examiner, the Examiner shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Examiner. 3. Except by consent of the Parties, no person shall serve as an Examiner in any dispute in which that person has any interest, which, if a Party knew of it, might lead him/her to think that the Examiner might be biased.	<b>Supplemental Rule: 10. Impartiality and Independence</b> (b) A Examiner will be disqualified if circumstances exist that create a conflict of interest or cause the Examiner to be unfair and biased, including but not limited to the following: (i) The Examiner has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts; (ii) The Examiner has served as an attorney to any party or the Examiner has been associated with an attorney who has represented a party during that association; (iii) The Examiner, individually or as a fiduciary, or the Examiner's spouse or minor child residing in the Examiner's household, has a direct financial interest in a matter before the Examiner; (iv) The Examiner or the Examiner's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: (1) Is a party to the proceeding, or an officer, director, or trustee of a Party; or (2) Is acting as a lawyer or representative in the proceeding.	The Examiners' obligation to be impartial and independent are contained in the URS Procedure, URS Rules and MFSD's Supplemental Rules and Examiners are bound by those policy and rules. URS Rules 6(b) sets forth that the "Examiner shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Examiner's impartiality or independence". Paragraph 9 of MFSD's Supplemental Rules sets forth that the "Examiner shall be impartial and independent and shall ensure that the Parties are treated with equality". In order to verify absence of conflict of interest of an Examiner, before the his/her appointment MFSD sends an e-mail communication to the Examiner disclosing to him/her the Parties' name and the disputed domain name and requesting the Examiner to communicate to MFSD if there is any conflict of interest. Upon confirmation of the absence of conflict of interest of the Examiner, he/she is appointed to the dispute. The online <b>Determination form</b> (a sample is hereto enclosed) also contains an acknowledgement and declaration that the Examiner has acted independently and impartially (tick box of Section IV: "the Examiner certifies that he/she has acted independently and impartially and to the best of his/her knowledge has no known conflict in serving as the Examiner in this administrative proceeding").	
64		(To MFSD) How do your Examiners confirm their impartiality and independence?	In accordance with ADNDRC Supplemental Rules, any appointed Examiner is required to disclose any ground giving rise to justifiable doubt of the independence/impartiality of an Examiner before the appointment, in writing to the Complaint intake ADNDRC office and the Parties.	Supplemental Rule: 10. Impartiality and Independence (a) All FORUM Examiners will take an oath to be neutral and independent.	Examiners confirm their availability to serve as Examiner in a certain dispute and the absence of conflict of interest by e-mail before their appointment. Once appointed, the Examiners shall declare in the online <b>Determination form</b> (see enclosure) by ticking the relevant box that "the Examiner certifies that he/she has acted independently and impartially and to the best of his/her knowledge has no known conflict in serving as the Examiner in this administrative proceeding".	
65		Can you provide a copy of any oath taken by your Examiners to affirm that they will be neutral and independent? Is the oath signed by the Examiners?	Please find below an example of Examiner's affirmatio of neutrality:  Dear Sir,  I confirm my availability and will remain independent and impartial during the course.  Best regards, In some but not all of the times, the oath is signed by the Examiners.	<b>See Appendix C.</b>	Before appointment the Examiners confirm through e-mail the absence of conflict of interest. Once appointed, upon filing the online <b>Determination form</b> (see enclosure) the Examiners shall declare by ticking the box that "the Examiner certifies that he/she has acted independently and impartially and to the best of his/her knowledge has no known conflict in serving as the Examiner in this administrative proceeding".	
66		Do you undertake any independent inquiries to adequately satisfy yourself of your Examiners' impartiality and independence? Or do you rely solely upon the oath or declaration made by each Examiner?	We do not do that on a case-by-case basis, but if we do know of factors that will potentially affect Examiners' impartiality and independence in determining cases, we will take that into consideration in the appointment phase. However, most of the times we rely on the declaration made by the Examiners on conflicts checks.	FORUM relies solely on the Examiner.	We rely on the declaration made by each Examiner. In most cases it would not be feasible to undertake independent inquires on the absence of conflict of interest. Ultimately, the Parties have the possibility to submit a request of challenge of the Examiner pursuant to the paragraph 9 of MFSD's Supplemental Rules.	



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67		(To FORUM and MFSD) Has any of your Examiners voluntarily disclosed any conflict of interest? If not, then what action was taken upon discovery of any conflict? If a conflict was disclosed, did the Examiner do this before and/or during the case proceeding?	If any ground is discovered that gives rise to justifiable doubt of the independence/impartiality of an Examiner after the appointment/during the case proceeding, the Examiner is required to disclose to the Complaint intake ADNDRC office and the parties immediately.	Examiners have voluntarily disclosed conflicts of interest. If a conflict is disclosed to a case coordinator, a notation is made regarding the Examiner and the case is assigned to the next Examiner in the rotation. FORUM does not recall any instances of a conflict presenting itself after an Examiner has accepted a case.	Yes, before the Examiner's appointment upon our e-mail request an Examiner disclosed possible conflict of interest with one of the Parties. Hence, no appointment of such Examiner has taken place in that dispute. Another Examiner declaring no conflict of interest was appointed to decide the dispute.	
68		Does the Respondent have the ability/opportunity to allege any conflict of interest/bias on the part of the Examiner assigned to its case? Can they do so in their Responses or by other means?	Yes -- Since ADNDRC requires its Examiners to disclose any potential conflict before the appointment, the Respondent has an opportunity to point to any potential conflict of interest and object to the appointment after an appointment is made. In that case, usually ADNDRC will switch to appoint another independent/impartial panelist.	Yes -- FORUM sends out an email to both URS Parties, indicating that an Examiner has been appointed and it's the responsibility of the Party to go to the portal and check the resume of that Examiner on the FORUM website.  <b>Supplemental Rule: 10. Impartiality and Independence</b> (c) A party may challenge the selection of a Examiner, provided that a decision has not already been published, by filing with the FORUM a written request stating the circumstances and specific reasons for the disqualification. (d) A request to challenge must be filed in writing with the FORUM within one (1) Business Day of the date of receipt of the notice of the selection.	Yes -- Upon appointment and acceptance of an Examiner, MFSD informs the parties by email, copying the Registry Operator and the Registrar, the name of the Examiner. The email contains the date, aside from exceptional circumstances, when the Examiner should render its Determination. Any party may challenge the appointment of the Examiner, provided that the Determination hasn't been rendered, by submitting a written request of challenge to MFSD, specifying the reason and within one business day from the receipt of the communication of the appointment.  So far there was no such challenge of the Examiner.  <b>Supplemental Rule: 9. Examiner</b> Any Party may challenge the appointment of the Examiner, provided that the Determination has not been already published, by Submitting a request of challenge in writing to MFSD, specifying the reasons, within 1 Business Day from the receipt of communication of appointment.	
69		Has there been any incident in which an allegation of partiality, non-independence, or bias of an Examiner was raised by any party to a URS proceeding either during the initial Determination process, or as ground for a review or Appeal? If so, how was the conflict of interest subsequently evaluated?	No.	FORUM is conducting a review and hopes to supplement this response prior to ICANN 62.	No such incident has ever occurred and no request of challenge under paragraph 9 of MFSD's Supplemental Rules have ever been received.	
70		(To FORUM and MFSD) When a conflict of interest has been confirmed, what remedial actions have been taken? Is any Examiner who failed to disclose a proven conflict permitted to preside in subsequent cases?	After the disclose of the conflict of interest, the case proceeding is suspended. The case intake ADNDRC office will appoint another independent/impartial Examiner within 24 hours of the written disclosure.  <b>Supplemental Rule: Article 8. Impartiality and Independence of Examiner</b> 4. Where an Examiner has been appointed but before rendering a Determination the appointed Examiner fails to act or refuses to act, the Relevant Office of the Centre may appoint a substitute Examiner upon request by the Parties or in its discretion.	This question assumes that the Examiner makes a determination and then it is discovered that a conflict of interest is present. FORUM does not recall any instances of this happening, and therefore, no Examiners have been barred from presiding in subsequent cases.	Before the Examiner's appointment upon our e-mail request an Examiner disclosed possible conflict of interest with one of the Parties. Hence, no appointment of such Examiner has taken place in that dispute. Another Examiner declaring no conflict of interest was appointed to decide the dispute.  The Examiner who upon our e-mail request declared possible conflict of interest before its appointment was not appointed in that dispute. Another Examiner declaring no conflict of interest was appointed to decide the dispute.	
71	FORUM Supplemental Rule 10(d)	(To FORUM) Why do you have a requirement that any request to challenge the selection of an Examiner must be filed within one (1) Business Day under FORUM Supplemental Rule 10(d)? Has any party filed a challenge after the end of the required time period? Have Respondents alleged any difficulties in meeting this deadline for filing a challenge?		FORUM does not assign an Examiner until the end of the initial response period. In order to keep the case moving along as quickly as possible, FORUM requires all challenges to the Examiner to be filed within one business day as the Examiner only has 3 days to make a determination. FORUM does not recall that a party has ever filed a challenge after the end of the time period or that any Respondents have alleged any difficulties in meeting this deadline.		
72	ADNDRC Supplemental Rule 8.4	(To ADNDRC) Has ADNDRC experienced any instance where an Examiner refused or failed to act per your Supplemental Rule 8.4? What motivated ADNDRC to adopt Rule 8.4?	To account unforeseeable circumstances. There may arise a situation where the examiner is not able to act or respond due to certain reasons (health, travel, untimely death etc.). To maintain the flow of the proceeding and to ensure timely delivery of determination Rule 8.4 was inserted.			
73	Question from the RPM PDP WG	How large is the pool of URS Examiners?	180 Examiners (as of 03 May 2018)	122 Examiners (as of 03 May 2018)	23 Examiners (as of 03 May 2018)	



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74	URS Procedure 7.3.	What procedures do you employ to rotate case assignments among your Examiners?	<p>Assignment of Examiners depends on the nature of the dispute, the availability of the Examiner (particularly important for URS proceedings considering its rapid nature), identity of the Parties, and nationality of the Parties (e.g. if an American trademark owner files a Complaint against a Chinese domain name holder, ADNDRC will not appoint an Examiner from either the US or China, but an Examiner with a neutral nationality).</p> <p>Assignment also depends on Examiners' independence and impartiality, their past experiences working with either URS Party, and the relevant legal background.</p>	Rotation with 4 cases assigned at a time, with exceptions made for Examiner's availability and language considerations.	<p>MFSD adopts the principle of the rotation.</p> <p>Assignment of Examiners is based on a case by case analysis. Examiner's language skills (in accordance with the language of the Response) are the most important factor.</p> <p>Another consideration is the availability of the Examiner due to the strict time frame of the proceeding.</p>	
75	Question from the RPM PDP WG	Has any Examiner ever been removed from the pool of Examiners for any reason? If so, why? What behaviors would disqualify/bar an Examiner from future cases?	No.	FORUM is currently unaware of any Examiner being removed from the roster for questionable behavior, but will supplement upon discovery if such an instance is discovered. FORUM may remove an Examiner for failing to comply with deadlines, failure to understand the Policy and Rules, or repeatedly not being available to take a case due to schedule or conflicts of interest. By its response, FORUM is not intending to limit the reasons it may bar an Examiner from future cases, and the above list is intended to set forth the most probable reasons FORUM may bar an Examiner from future cases.	<p>No Examiner has ever been removed from our list.</p> <p>A non-exclusive list of behaviors that would disqualify/bar an Examiner from future cases includes: non-compliance with the deadlines of the URS proceeding, repeated non-availability to being appointed as Examiner, non-declaration of conflict of interest, repeated non-participation at trainings, rendering Determinations contrary to the policies and rules or with insufficient and illogical reasoning.</p>	
76	Question from the RPM PDP WG	Do you permit one to continue being an Examiner if one represented a Complainant in a URS or UDRP proceeding where there was finding of Reverse Domain Name Hijacking?	Before confirming the Examiner, we send out a document containing preliminary information about the case (including parties details) to do a conflict-check. We have not experienced such instances but will not allow an Examiner to continue if it has been found out that the Examiner represented a Complainant in a URS or UDRP proceeding where there was a finding of Reverse Domain Name Hijacking.	FORUM is unaware of any of its Examiners representing a Complainant in a case of Reverse Domain Name Hijacking.	As per our knowledge no cases of abusive Complaint have ever occurred in the URS proceedings so far. Should there be any case of abuse of the URS proceeding involving an Examiner, the case would be carefully evaluated. There is no policy requirement for the URS Providers to monitor and keep track of UDRP proceedings with finding of RDNH. The only way to learn about an Examiner who represented a Complainant in a UDRP proceeding with finding of RDNH is if a Party submits a request of challenge. Should that happen, the case will be carefully evaluated.	

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77	Question from the RPM PDP WG	<p>A) What steps, if any, do you take to ensure that your Examiners have demonstrable relevant legal background?</p> <p>B) What steps, if any, do you take to ensure that your Examiners have a diversity of relevant experience (e.g., have experience representing Respondents as well as Complainants)? If so, please explain.</p>	<p>A) We look at their resumes and speak with a majority of them regarding their relevant backgrounds.</p> <p>B) We look at their resumes and identify these with a diversity of relevant experience, we also speak with a majority of them regarding their relevant backgrounds.</p>	FORUM will supplement with a response to this question prior to ICANN 62.	<p>A) We seek, select and accredit in our Examiners list highly-qualified professionals of multiple jurisdictions with language skills experienced in cross-border IP disputes and ADR proceedings, in particular in domain name disputes. Experience is given by the fact that many of them are UDRP Panelists or Panelists in other TLDs (ccTLD or .eu) disputes which are UDRP-variants. Some of the Examiners were previously ccTLD dispute case managers, others have an extensive expertise in domain name disputes (including court litigation) as representative of Parties. We review CVs received together with the requests of accreditation and we carefully evaluate the (legal) qualifications of each Examiner. If we retain necessary, we require letter of recommendation or have an interview with the Examiner.</p> <p>B) Our selection and accreditation process is open, transparent and non-discriminatory. Many of our Examiners are UDRP Panelists or URS Examiners listed at the other two URS Providers or they are Panelists in other TLD (ccTLD or .eu) disputes which are UDRP-variants. Some of the Examiners were previously ccTLD dispute case managers, others have an extensive expertise in domain name disputes (including court litigation) as representative of Parties. Considering that there is no specific URS policy requirement to list neutrals representing both Complainants and Respondents, it is not a reason for refusal to include in our list an Examiner who has experience in representing only Complainants or Respondents. On the other hand, Examiners who represent Parties usually do not disclose their clients name nor declare themselves as Complainant representative or Respondent representative only. We engage with various stakeholders of the Internet community, including domain owners' associations, and encourage professionals having language skills and thorough experience in domain name disputes to send us their CVs and requests of accreditation.</p>	
78	<b>Language</b>					
79	Q from Documents Sub Team	Have you experienced any difficulties or issues with the current URS language requirements? What steps have you taken to comply with and implement the current requirements?	<p>All communication with URS Parties, Registries, and Registrars are conducted in English. ADNDRC does not have a formal procedure of translating documents or communications to corresponding languages, but the case administrators are usually happy to answer questions from URS parties.</p> <p>At times, ADNDRC does receive inquiries, especially from the Respondent, regarding the language of the proceedings.</p>	<p>FORUM checks WHOIS information and information from the Registrar to obtain the physical location of the Respondent. Based on that information, FORUM researches what the dominant language is in Respondent's physical location in order to provide translations.</p> <p>FORUM translate all template documents.</p> <p>If there is a Response that comes in from a given region, FORUM appoints an Examiner that speaks the language of the Respondent. All the documents are prepared for that Examiner in the corresponding language.</p> <p>Many determinations on FORUM website are in the non English languages of the Respondents.</p>	<p>Communications to the Respondent, including the Notice of Complaint, Notice of default, and all emails, are translated to the language of the Respondent, in addition to English.</p>	
80	URS Rule 4(b)	Do you utilize WHOIS data in order to determine the proper language to be used in transmitting the Notice of Complaint?	No	Yes -- WHOIS as well as information obtained from Registrars.	Yes -- The translated language is determined by checking the predominant language of the Registrant country.	

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81		Do you think it would be feasible to mandate sending Registry and Registrar notices in the same language(s)?	We think this is not feasible and will be difficult to mandate.	No, when the Registry receives notice of the case and is requested to verify and lock the domain, the case has not yet officially commenced. The registration information, including language based on the location of the Registrant, has not yet been verified by the Registry at that point in the process. Providers would be wasting time and money on translating those requests into a language that has not yet been confirmed applicable.	We are not aware of such current practice in URS proceedings. Notices are sent to the Registry Operator in Cc to Registrar only in English. All URS actions requested by us (URS Lock and Implementation of the Determination) are directed to and taken by the Registry Operators in accordance with the provisions of policies and rules drafted and approved in English. Complying with such policies and rules is an obligation of the Registry Operators set forth in Registry Agreements with ICANN which, as far as we know, are in English. The reason of the language requirement regarding the notices and communications sent to the Respondents is to guarantee adequately the right of defense.	
82	URS Rule 9(c)	Are all of your Examiners fluent in English?	Yes.	Yes.	Yes. We select highly-qualified professionals of multiple jurisdictions with language skills experienced in cross-border IP disputes and ADR proceedings.	<b>Staff:</b> Not all Examiners have indicated fluency in English in their CVs/Bio on Provider's website, although all CVs/Bio are written in English.  <a href="https://community.icann.org/download/attachments/79436564/URS%20Rules%20Research%20-%20URS%20Rule%206%28a%29.pdf?version=1&amp;modificationDate=1522688440690&amp;api=v2">https://community.icann.org/download/attachments/79436564/URS%20Rules%20Research%20-%20URS%20Rule%206%28a%29.pdf?version=1&amp;modificationDate=1522688440690&amp;api=v2</a>
83		Are all of your assigned Examiners fluent in the non-English language of the Respondents?	Yes.	FORUM assigns Examiners after the initial response period ends. If a response is received and is in the Respondent's language, an Examiner fluent in that language is appointed. If no response is received, the next Examiner in the URS rotation is assigned regardless of fluency in the language of the Respondent. However, if a response is received after a Default Determination is made, and the Examiner originally appointed is not fluent in the language of the Response, a new Examiner is appointed, fluent in the language of the Response, to make the Final Determination.	To each case we assign an Examiner fluent both in English and in the language of the Notice of Complaint.	<b>Staff:</b> Professor Rebecca Tushnet's research data notes specific decisions published in languages other than English, as well as cases where it was specifically noted that an Examiner was fluent in other language(s). While this may not answer the question, it may be an interesting data point for the WG to review.  <b>Prof. Tushnet:</b> This is another thing that may not be clear from the opinions, but might have been captured in communications between respondents & the arbitral FORUM. It would be great if providers could give an idea of how many complaints were sent in the respondent's primary language and if any respondents responded requesting a different language.

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84	URS Rule 9(b)	Can you provide any information as to whether, and in how many instances, it has been demonstrated that a Respondent had the capability of understanding English in addition to their primary language?	We base that on a Respondent's communication records with the Provider. Sometimes we also look at evidence submitted by the Complainant to determine if a Respondent has the capacity of understanding English in addition to their primary language.	FORUM is undertaking a review to obtain the necessary information to respond to this question and will supplement this response prior to ICANN 62.	<p>- Dispute no. F52833A5 orangemoney.cash. Website content associated with the disputed domain name changed after having received the letter of the Complainant's lawyer. Both the original content and the modified content of the website were in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. D5C230DE planetwin365.paris. Website content associated with the disputed domain name was in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. D70B9442 eleclerc.club. Respondent replied to the cease and desist letter in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. 6DDAB859 le-clerc.shop, leclerc.shop. Language of the communications between the Complainant and the Respondent and the Respondent and the Provider were in English. Website content associated with the disputed domain name was also in English. Final Determination rendered in English.</p> <p>- Dispute no. 800AA499 sergiorossie.store. Website content associated with the disputed domain name was in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. 30AF44A1 sergiorossioutlet.store. Website content associated with the disputed domain name was in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. 369B0FE1 dpd.solutions. Website content associated with the disputed domain name was in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. 804D64F0 yonka.xyz. Communications between the Parties were in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p> <p>- Dispute no. 12835AFC pvpro.trade. Website content associated with the disputed domain name was in English. Default Determination rendered in English pursuant to paragraph 9(d) of the URS Rules.</p>	
85	<b>Further Statements</b>					
86	URS Rule 10	Have you acted in conformance with URS Rule 10 by not allowing an Examiner to request further statements or documents from either of the Parties?	Yes.	Yes.	Yes. No cases of Examiner's request for further statements or documents from the Parties.	
87	<b>Withdrawal</b>					
88	FORUM Supplemental Rule 12	(To FORUM) Do you have any explanation of the seeming inconsistency between the use of the phrase "without prejudice" in 12(a), versus "with or without prejudice" used in 12(b) of the FORUM Supplemental Rules?		Rule 12(a) allows the Complainant to withdraw without prejudice with the potential to refile to promote accurate case filings due to the rapidity of the process and potential privacy shield concerns. Rule 12(b) is in place to promote settlement between the parties.		
89	<b>Default</b>					

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90	URS Rule 12(b) URS Procedure 6.2	With reference to URS Procedure 6.2, to your knowledge, has any Registrant changed content on their sites during the Default period, possibly to support an argument that there has been a legitimate use? If so, do you know how the matter was handled?	No, we haven't come across any such situation.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	No cases of website content modification by the Respondent during the Default period.	<b>Staff:</b> After a URS Provider receives a Response for a default determination, the Provider will inform the Registry operator to "roll back" per section 6.5 of URS Procedure.  The RO needs to "roll back" the redirection of the nameserver so the domain name resolves as it did prior to the dispute. The RO must maintain the URS LOCK on the domain name.  The URS Provider will inform the RO of the final determination which may require the RO to (1) suspend the domain name again; or (2) perform a full rollback, allowing the registrant to regain control.
91	URS Rule 12(d) URS Procedure 6.4	In what percentage of cases, if any, has the Respondent submitted an answer within six (6) months after a Default Determination?				<b>Staff:</b> We already have this information from the case review for both within 6 months and after 6 months.  <b>ACTION ITEM:</b> Staff to check how the additional six months extension in URS Procedure 6.4 was originated, and what was changed between 2009 and 2013. (The definition of "extension" needs to be clarified – Extend what for six months? Why does a Registrant need an additional six months?)
92	URS Rule 12(f)	Has any of your Examiners drawn inferences per URS Rule 12(f) when a party is not in compliance with URS Rules, Procedures, and Supplemental Rules, in the absence of exceptional circumstances? If so, what inferences were made?	No.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	Yes. In Default Determinations Examiners concluded that: "Respondent's default does not automatically result in a decision in favor of the Complainant. Although, the Examiner may draw appropriate inferences from a Respondent's default, Paragraph 12 of the URS Rules requires the Examiner to review the Complaint for a prima facie case, including complete and appropriate evidence [...] The Examiner finds that in this case there are no such exceptional circumstances. Consequently, failure on the part of the Respondent to file a response to the Complaint permits an inference that the Complainant's reasonable allegations are true. It may also permit the Examiner to infer that the Respondent does not deny the facts that the Complainant asserted" (e.g. Dispute no. 8422F178 e-leclerc.paris; Dispute no. 429EC571 reinhausen.international).	
93	<b>Examiner Determination</b>					
94	URS Procedure 8.1.2	To your knowledge, has any Examiner rendered his/her Determination based upon wordmark factors beyond the three elements enumerated in URS Procedure 8.1.2?	No.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	No. All Determinations were based upon wordmark (s) under paragraph 8.1.2(i) of the URS Procedure ("for which the Complainant holds a valid national or regional registration and that is in current use").	
95	URS Rule 13(a)	Noting that URS Rule 13(a) provides that an Examiner may "make a Determination ...in accordance with ...any rules and principles of law that it deems applicable", are you aware of instances where an Examiner has invoked substantive criteria beyond those articulated in the URS Rules, Procedure, and Supplemental Rules?	URS Examiners usually look at past UDRP/URS to make a determination, in addition to URS Rules and Procedures.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	Not aware of any.	<b>Staff:</b> Professor Rebecca Tushnet's research includes data on the cases where Examiners invoked "other" substantive criteria beyond the URS Rules, Procedure, and Supplemental Rules.

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96	URS Rules 8 (a), 8(c), 13(b), 13(c)  Question from Documents Sub Team	<p>What guidance have you formally or informally given to the Examiners?</p> <p>What is your understanding of the "guidelines" referred in URS Rule 13(c)? Are they referring to Provider's Supplemental Rules? If not, can you provide a copy of any alternative guidelines that you have developed?</p>	<p>ADNDRC has a template for Examiners and has all past Determinations made available online for Examiners to reference. When examiners log onto the ADNDRC case determination system, they will be directed to an Online Determination Form with basic guidelines for structuring an URS determination. However, ADNDRC does not restrain the way that the examiners would like to write their decision.</p> <p>Within seven calendar days of receiving a Determination, any Party may send a notice to ADNDRC and any other Parties, requesting the Examiner to correct any computational, clerical, or typographical errors in the Determination. Such corrections shall be given in writing to the Parties and become part of the Determinations. ADNDRC has not dealt with such cases.</p> <p>ADNDRC adheres with its very strict publication rules. Within 24 hours upon receipt of that Determination, ADNDRC makes the decision available online and to the Parties, the Registry, and the Registrar.</p> <p>After receiving Determinations from Examiners, ADNDRC determines whether the Determination complies with the URS Rule. If a particular Examiner's writing of Determination does not meet the standards, there usually will be an internal reference so that this particular Examiner would unlikely be appointed in future URS proceedings.</p> <p><b>Supplemental Rules: Article 9. Examiner Determination</b></p> <p>1. An Examiner shall make its Determination in writing and shall state the reasons upon which the Determination is based. The Determination shall be of a length that the Examiner deems appropriate and shall meet all the requirements set forth in Article 13 of the Rules.</p> <p>2. The Examiner shall communicate its Determination to the Relevant Office of the Centre within three (3) Business Days of its appointment. In exceptional circumstances, the Relevant Office of the Centre may extend the time as required for the Examiner to communicate its Determination.</p> <p>3. The Relevant Office of the Centre shall within 24 hours upon receipt of a Determination from the Examiner notify the Determination to the Parties, the Registrar, the Registry Operator, and ICANN, and publish the full Determination on the Centre's website according to Article 9 of the Procedure and Article 15 of the Rules.</p>	<p>FORUM has a template for Determinations through its portal.</p> <p>There are text boxes that are required to be filled out for the reasoning.</p> <p>Determinations are issued upon completion to the Parties and are available on the website immediately. All of the decisions on the Website can be full text searched.</p>	<p>Determinations are filed by the Examiner through his/her account at the online dispute management platform (in case of exceptional circumstances, e.g. technical problems, by e-mail).</p> <p>Examiners are provided with instructions on the URS elements and defenses and how to conduct the Examination of a URS proceeding -- references to URS Procedure and Rules are contained in the online Determination form.</p> <p>Determination shall meet the requirements of paragraphs 8 and 9 of URS Procedure and 13 and 15 of URS Rule and is of the length that the Examiner deems appropriate (no limit).</p> <p>Determination is transmitted to Registry (cc Registrar) with the specification of the remedy and the required actions to be taken by the Registry and to the Parties. After that the Determination is published on the MFSD Website.</p> <p>After receiving the confirmation from the Registry that the remedy is carried out, MFSD checks in the WHOIS data whether such action is reflected.</p> <p><b>Supplemental Rules: 13. Examiner Decisions</b> Examiner decisions will meet the requirements set forth in Paragraphs 13 and 15 of the Rules and will be of a length that the Examiner deems appropriate.</p>	

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97		How do you compel your Examiners to comply with your templates in writing their Determinations or guidelines? Do you intervene in an administrative capacity to ensure your Examiners provide the most comprehensive written Determinations they possibly can? How do you strive to standardize the completeness or quality of your Examiners' written Determinations beyond the use of your online Determination template or form?	We provide them with a Determination guideline but we usually do not intervene in other parts of the administrative proceeding. We routinely go through Examiners decisions to ensure standards of decisions, and will note down Examiners who we think have not adhered with the standards or qualities of URS awards, and will not appoint them.	FORUM does not intervene in an administrative capacity to review and revisit an Examiner's Determination unless there is a Determination or series of Determinations by the same Examiner that are in some way questionable. The history behind the URS supports the idea that the Determinations were intended to be more summary in format.	<p><b>1. Selection:</b> MFSD seeks, selects and accredits in its Examiners list highly-qualified professionals of multiple jurisdictions with language skills experienced in cross-border IP disputes and ADR proceedings, in particular in domain name disputes. Many of them are UDRP Panelists, listed as URS Examiner at the other two URS Provider or experienced (as Panelist or representatives) in other TLD dispute (ccTLD or .eu) which are UDRP-variants and, hence, have an extensive expertise in domain name disputes.</p> <p><b>2. Instructions and guidelines:</b> our online <b>Determination form</b> (hereto annexed) provides the Examiners with instructions and guidelines concerning the URS, please see in particular Section VII E. Reasoning. In the latest cases the Examiners were encouraged by MFSD to refer to WIPO Overview of WIPO Panels Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3.0).</p> <p><b>3. Ex-post quality check:</b> MFSD adopts the best practice of well-known international Dispute Resolution Providers (e.g. WIPO and CAC), known also as ex-post quality check, i.e. upon receipt of the Determination's final draft MFSD does not enter into the merits of the case, but limits its verification to the abstract and formal conformity, consistency, homogeneity, balance and consonance in an absolute (and not relative) sense of the Determination with the applicable policies and rules and, if necessary, discusses it with the Examiner in order to improve the quality of the Determination, recalling his/her attention to any logical leap, shortcoming in the reasoning which undermines the decision-making path or the consensus view of the case law developed on a certain question. If an Examiner confirms his/her decision without any amendment, MFSD will not influence the Examiner or restrict in any way his/her decisional autonomy, remaining the latter free to adopt the solution or interpretation he/she considers to most substantiated by logical-judicial reasoning for the dispute in question. The only sanction applicable by MFSD, if the case may be, is the de-accreditation and de-listing of an Examiner.</p> <p><b>4. Monitoring and education:</b> MFSD continuously monitors the development of the URS and UDRP case law of other Dispute Resolution Providers and organizes training sessions and meetings regularly (<a href="https://urs.mfsd.it/news-events">https://urs.mfsd.it/news-events</a>). Informational e-mails are also sent to the Examiners with update on policy changes (e.g. impact of the Temporary Specification for gTLD Registration Data, in particular the Appendix D, on the URS proceeding).</p>	
98		The URS Documents Sub Team has suggested that a Guide for URS Examiners be developed, to assist them with understanding the distinction between clear-cut and more difficult cases. Do you agree? If so, who should develop this guide – ICANN, each Provider separately, or should all Providers collaborate to develop a uniform guide?	We think a uniform Guide for URS Examiners should be developed. On that, all providers should collaborate to develop a uniform guideline together with ICANN.	FORUM believes that it may be difficult to explain the distinction between clear-cut and not clear-cut without providing examples. Examples then lead to the desire to find exact matches in fact patterns to the examples, which then may lead to undesired results. FORUM Examiners have been trained and believes that the Examiners on FORUM's roster (most of whom have been on the roster since the beginning of the URS) have the experience to know a clear-cut case when they see it. However, if it is concluded that a guide would be helpful, FORUM will be there to assist in its development, likely in collaboration with the other Providers.	Please see our response provided under the question above (row 97). We retain that Examiners selected on the basis of their qualification, language skills and thorough expertise in domain name disputes have sufficient experience to make the distinction between clear-cut and more difficult cases. However, we would be happy to collaborate with the other Providers to develop a uniform guide if that might be of assistance for the Examiners and the Parties and contribute to a more consistent case law.	

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99		How do your Examiners apply the "clear and convincing evidence" standard of proof required in URS cases?	It is acknowledged by our Examiners that "clear and convincing evidence" is a higher standard comparing to the burden of proof used under UDRP proceeding, and therefore requires a high showing of the Complainant. Our Examiners understand such standard of proof and have tried to incorporate such standard when deciding cases, but it is not so clear to us how they did so.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	<p>Please see our response provided under the question above (row 97). Section VII of our online Determination form (hereto annexed) requires the Examiners to reassume the position and defenses of the Parties (A and B), the procedural findings (C), the findings of facts (D), the reasoning with reference to the three URS requirements (paragraph 1.2.6 of the URS Procedure), providing them with instructions and guidelines on the URS elements and defenses.</p> <p>The Examiner decides the case based on the submissions and the evidence presented by the Parties. The Examiner verifies and evaluates whether the Complainant has met its burden of proof by satisfying all the three URS requirements, i.e. a) the Complainant has rights to the domain name (by verifying if the Complainant has presented adequate evidence to substantiate its trademark rights in the domain name); b) the Registrant has no rights and legitimate interest in the domain name; c) the domain name was registered and is being used in bad faith). If the Examiner finds that: all three standards are satisfied by clear and convincing evidence submitted by the Complainant, the Respondent has not rebutted to the Complaint, providing sufficient proof of its rights or legitimate interest to the domain name and good faith registration and use of the same, and there is no evidence available to Examiner to indicate that the use of the domain name in question is a non-infringing use or fair use of the trademark, then the Examiner accepts the Complaint by issuing a Determination in favor of the Complainant. If the Examiner finds that any of the standards have not been satisfied (Complainant has not met its burden of proof or genuine issues of material fact remain in regards to any of the three URS elements), then the Examiner shall reject the Complaint.</p>	<p><b>Staff:</b> Professor Rebecca Tushnet's research includes data on the case Determinations where Examiners did not provide details or invoked "other" substantive criteria.</p>
100		How do you ensure that Examiners actually provide some explanation of the facts and reasoning in support of their Determinations? If you do not do so, please explain why.	The Supplemental rules (Article 9) mandates the examiner to state the reasons upon which the determination is made. We provide them with an online Guideline which requires them to provide some explanations of facts and reasoning in support of their Determinations.	FORUM does not undertake to review each Determination for an explanation of the facts and reasoning. First, the time required to complete such a review is counter to the idea of a "rapid" process. Second, the history behind the URS makes it clear that there was never the intent nor requirement that the Determination include a certain threshold level of reasoning.	Please see our response provided under the question above (row 97). Section VII of our online <b>Determination form</b> (hereto annexed) requires the Examiners to reassume the position and defenses of the Parties (A and B), the procedural findings (C), the findings of facts (D), the reasoning with reference to the three URS requirements (paragraph 1.2.6 of the URS Procedure), providing them with instructions and guidelines on the URS elements and defenses.	
101	URS Rule 13(b)	Among your Examiner's Determinations, how many did not provide the reasons on which the Determination is based but simply stated that the URS elements have been established?	None.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement this response prior to ICANN 62.	None. All Determinations contain sufficient reasoning of the Examiners on the URS elements.	<p><b>Staff:</b> Staff's initial review of Professor Rebecca Tushnet's research suggests that the numerical answer to this question can be derived from the data.</p> <p><b>Prof. Tushnet:</b> Only one provider has decisions without any reasons whatsoever (ADR FORUM).</p>
102	URS Rule 13(d)	How often has URS Rule 13(d) been invoked? What factors have been cited by Examiners in making that Determination?	We have never experienced an occasion that URS Rule 13(d) was invoked.	FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	No cases of abuse of URS proceeding.	<p><b>Staff:</b> There has been zero (0) findings of abusive Complaints, meaning that URS Rule 13(d) has not been invoked.</p>



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103	Question from the RPM PDP WG	(A) Do you supply the Examiners with information, analysis, or research concerning a Complaint or Response that is not to be found within the Complaint or Response itself? If so, please explain. (B) Do you provide drafts or exemplars to the Examiners? If so, please explain.	A) No.  B) No. If Examiners have difficulties drafting an award, we direct them to online decisions that they can use as examples.	A) No. The Examiner is able to view the party submissions and a decision template in the portal. FORUM does not prepare any additional documents or edit any of the mentioned documents in any manner.  B) No. The Examiner receives a decision template available in the online portal. The case caption is the only item that is automatically generated in the decision template. The Examiner must fill-in the rest of the information in the template. FORUM staff does not edit or even view the template before the Examiner makes a determination.	A) In forwarding the case file to the Examiner appointed to the dispute we provide information regarding the case management (procedural matters).  B) Only the Examiner appointed to a dispute has the access to the <b>Determination form</b> of such dispute. Upon the appointment the Determination form is partially filled with some data (identification of Parties, domain name, Registry Operator and Registrar, procedural history and Examiner's name) captured automatically by the online dispute management system. The Examiners fill in the <b>Determination form</b> starting from ticking the box of the declaration of independence and impartiality and absence of conflict in serving as Examiner in the case. The Examiners is encouraged to refer to WIPO Overview of WIPO Panels Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3.0) and to cite URS and UDRP case law they retain significant for the decision of the dispute.	
104	<b>Remedies</b>					
105	Question from Documents Sub Team	Please provide feedback regarding any difficulties encountered in the implementation of the suspension remedy.	N/A.	FORUM does receive reports from successful Complainants regarding non-implementation. In those instances FORUM immediately contacts the Registry and requests implementation.	Usually no difficulties in the implementation of the suspension remedy. In few cases we had to send reminder e-mails to obtain the activation of the URS Suspension within 24 hours from our communication and in 2 cases it was necessary to submit a report to ICANN for the lack of implementation (URS Suspension) by the Registry Operator ( <a href="https://forms.icann.org/enl/resources/compliance/registries/urs/form">https://forms.icann.org/enl/resources/compliance/registries/urs/form</a> ).	
106	URS Procedure 10.3  URS Technical Requirements - Registry Requirement 10	Are you aware of any instances where a successful Complainant has requested the extension of the registration period of the URS Suspended domain name for one additional year? If so, do you know if any of them encountered difficulties extending the registration period of a URS Suspended domain name for the additional year? If so, do you know how the matter was handled?	We haven't come across any such situation.	FORUM is aware of instances where a successful Complainant has requested the extension of the registration period. FORUM is also aware of difficulties in the extension request as the roles of Registry and Registrar may not have been understood by one or the other in the process.	In one case successful Complainant requested us to extend/renew the suspension period. We informed the Complainant about the relevant policy provisions (URS Procedure 10.3; URS Rules 14(b) and Technical Requirements 3. Domain Name Life-Cycle - Registry Requirement 10) and that it should have contacted the Registry Operator/Registrar directly. We have had no further information if extension was obtained through the Registry Operator/Registrar in that case. No other information in other cases.	
107		During the one additional year of URS Suspension available to the successful Complainant, the domain name must remain registered to the original Registrant. Should the registration information be altered in such circumstances?	No.	FORUM does not have an opinion on this issue.	We are not handling the extension of the URS Suspension for an additional year. As far as our knowledge, from the Technical Requirement 3. Domain Name Life-Cycle Registry Requirement 10 it seems that the suspended domain name is renewed by the successful Complainant at the name of the original registrant. Renewal fees are paid by the successful Complainant and the registration information (except for the expiry date) should not be altered.	
108	Question from the RPM PDP WG	Have you received any notices or queries from any party regarding procedural and/or implementation anomalies or mistakes following the issuance of a Determination (e.g., resolution of a domain name to particular Name Servers following issuance of a Determination)? If yes, what action did you take on receiving the notice or to resolving the query?	No.	FORUM has no record or collective recollection of a party reporting an anomaly or mistake regarding the resolution of the domain name following the issuance of a Determination.	No notice or queries received from any party. After sending the Notice of Determination to the Registry Operator we monitor if the actions required are taken in 24 hours. Upon receipt of Registry Operator's notification, we check if actions were taken, i.e. if Whois reflects the action that the Registry Operator affirms to have taken. Hence, we check if the original nameservers were substituted with our nameservers (otherwise the domain name does not resolve to the suspension page). We check correct redirection of the domain name to the suspension page. If any of those is not carried out at all or not carried out correctly, we send reminder e-mails and, if necessary, we submit a report to ICANN for the lack/error of implementation of the URS Determination by the Registry Operator ( <a href="https://forms.icann.org/enl/resources/compliance/registries/urs/form">https://forms.icann.org/enl/resources/compliance/registries/urs/form</a> ).	
109	<b>Determinations and Publication</b>					

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110	URS Rule 15(a)	Have you published the full text of all URS Determinations issued by your Examiners?	Yes, in accordance with the URS Rule and Procedure. Examiners' have the discretion to publish only Final Determinations or Appeal Determinations, so some cases' Default or Final Determinations may not be published.	Yes, in accordance with the URS Rule and Procedure. Examiners' have the discretion to publish only Final Determinations or Appeal Determinations, so some cases' Default or Final Determinations may not be published.	Yes, in accordance with the URS Rule and Procedure. Examiners' have the discretion to publish only Final Determinations or Appeal Determinations, so some cases' Default or Final Determinations may not be published.	<b>Staff:</b> <a href="https://community.icann.org/download/attachments/79436564/URS%20Rules%20Research%20-%20URS%20Rule%2015%28a%29%28c%29%28d%29%28e%29.pdf?version=1&amp;modificationDate=1520360041000&amp;api=v2">https://community.icann.org/download/attachments/79436564/URS%20Rules%20Research%20-%20URS%20Rule%2015%28a%29%28c%29%28d%29%28e%29.pdf?version=1&amp;modificationDate=1520360041000&amp;api=v2</a>
111	URS Rule 15(c)	Have any of your Examiners issued both the Default and Final Determinations, when the Final Determination changed the case outcome from that of the Default Determination?	No - No case has both Default and Final Determinations listed (As of 06 March 2018)	Yes - 1 case (As of 06 March 2018)	No - No case has both Default and Final Determinations listed (As of 06 March 2018)	
112	URS Rule 15(d)	Have any of your Examiners decided to publish both the Default and Final Determinations, when the Final Determination upheld the Default Determination outcome for the same case?	No - No case has both Default and Final Determinations listed (As of 06 March 2018)	Yes - 14 cases (As of 06 March 2018)	No - No case has both Default and Final Determinations listed (As of 06 March 2018)	
113	URS Rule 15(e)	What is your Examiners' practice with regard to the publication of an Appeal Determination?	We have not dealt with any Appeal Determination.	<b>FORUM is undertaking a review and have reached out to Examiners to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.</b>	No Appeal handled so far. Pursuant to paragraph 15(e) of the URS Rules our online <b>Appeal Determination form</b> provides the Examiners with the following options: "Publish the Appeal Determination by replacing the previous Determination(s)" or "Publish the Appeal Determination together with the previous Determination(s)". The Examiners' choice would depend on the evaluation of all circumstances of each case.	<b>Staff:</b> Based on the staff data collected for the URS Documents Sub Team, there has been fourteen (14) Appeal cases, only one (1) of which saw the Examiner exercise the permitted discretion to publish only the Appeal Determination and not both the Appeal and initial Determinations (see URS Rule 15(e)).
114	URS Rule 15(f)	Do you agree with the policy embodied in URS Rule 15(f)?	We have no issue with URS Rule 15(f) and are currently adhering to that practice.	Yes, it would be difficult for a Provider to make a determination to link cases together given the potential time gap between cases to be linked. Additionally, since there are multiple Providers, there would not be a way to link cases across multiple Providers. There is the ability to search by party name and domain name on FORUM's website to make necessary connections.	Yes. As URS Provider we do not see any reason to link Determinations related to the same domain names and/or parties, but not part of the same case at our website. Nor any provision requiring the linking of decisions exists under UDRP.	
115		Has any Determination that your Examiners have issued concerned the same domain name(s) at issue in a prior case? If so, have you linked the cases? Has any Final Determination been made by the same Examiner who made the initial Default Determination in the same case? If so, how many times has this occurred?	No.	Yes, FORUM has received cases involving domain names at issue in prior cases. FORUM does not link the cases.  Most of the Final Determinations were made by the same Examiner as the Default Determination, unless a Response was received in a language that the Examiner did not speak after the Default Determination. In those instances, an Examiner who speaks the language of the Respondent's response is appointed for the Final Determination.	No, none.	<b>Staff:</b> Staff's initial review of Professor Rebecca Tushnet's research shows that data has been included that can answer Parts 1, 3 and 4 of this question.
116	FORUM Supplemental Rule 15(b)	(To FORUM) What is the purpose of FORUM Supplemental Rule 15(b)? Has any party requested to include or exclude certain information from a publicly available Determination? If so, how did FORUM act on such request?		<b>FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.</b>		
117	<b>Settlement or Other Grounds for Termination</b>					
118	URS Rule 16(b)	How many "unnecessary or impossible" incidents, per URS Rule 16(b), have been recorded by you?	None.	<b>FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.</b>	No cases of "unnecessary or impossible" incidents.	
119	<b>Effect of Court Proceedings</b>					

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120	URS Rule 17(a)	To your knowledge, have there been instances of legal proceedings relating to URS proceedings and, if so, what effect did such instance(s) have?	None to our knowledge.	Unless mentioned in the complaint, FORUM does not search for or track other legal proceedings unless it is brought to our attention by a party or a court requesting specific action. If other proceedings are mentioned in a complaint, the Examiner may decide how to treat those proceedings depending on the circumstances. If FORUM discovers any such instances in its review of decisions, it will supplement this response.	No, we have no knowledge about any.  Paragraph 15 of MFSD's Supplemental Rules provides that: "If a party is aware of any proceedings that have been commenced or terminated in connection with or relating to the domain name subject of URS administrative proceeding, <b>the party shall promptly notify MFSD</b> , showing official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) of such proceedings.  The Examiner might decide, at its sole discretion, whether to suspend or terminate the URS proceeding or to proceed to the Determination.  If a party initiates any legal proceedings during the pendency of an URS administrative proceeding or after the issuance of the determination in connection with or relating to the domain name subject of URS administrative proceeding, <b>the party shall promptly notify MFSD</b> , showing official documentation (such as a copy of a complaint, file stamped by the clerk of the court) of the legal proceedings" (emphasis added).	
121	<b>Abusive Complaints</b>					
122	MoU 2b(viii) URS Rule 18(e)	How have you complied with the obligation to establish and maintain a process to monitor URS abuse?	ADNDRC reminds its Examiners of the existence of the abusive Complaints rule and asks them to provide ADNDRC their findings for any abusive Complaints.	If an Examiner finds a Complaint abusive, the Examiner will electronically flag it and FORUM staff will be notified immediately.	Publication of the Determination containing a finding that a Complaint is abusive or contains deliberate material falsehoods among the Abusive of Proceedings: <a href="https://urs.mfsd.it/urs-disputes">https://urs.mfsd.it/urs-disputes</a> .	<b>Staff:</b> <a href="https://community.icann.org/download/attachments/79436564/URS%20Rule%2018.pdf?version=1&amp;modificationDate=1522699121668&amp;api=v2">https://community.icann.org/download/attachments/79436564/URS%20Rule%2018.pdf?version=1&amp;modificationDate=1522699121668&amp;api=v2</a>
123	URS Procedure 11.6	Are you coordinating the listing of abusive Complaints with other Providers? How do you and the other Providers share information about abusive Complaints?	Currently ADNDRC does not have a mechanism that will automatically flag abusive Complaints, who would be barred from utilizing URS. It is a part of the Administrative Review process to flag that.  Upon a Determination of abusive Complaints, any of the four ADNDRC offices responsible for publishing the decision will notify the other three ADNDRC offices of the result.  Information regarding abusive Complaints, if any, will also be shared among the FORUM, MFSD and ADNDRC.	FORUM will review the Determination, inform the other Providers and add the decision to the abusive findings database shared by the Providers.  The abusive Complaint determination will also be available on FORUM's website and easily found by clicking the box entitled: URS finding of abuse, on FORUM's decision search template: <a href="http://www.adrFORUM.com/SearchDecisions">www.adrFORUM.com/SearchDecisions</a> .  FORUM is hosting the combined abusive Complaint database. Each Provider has login information to add any cases to the database. Only the Provider that adds information is able to edit any of that information; the other Providers cannot go in and take somebody out. The system is developed to inform all Providers the minute that a finding of abuse case is registered in the database.	Emailing the Determination and case details to the other two Providers (FORUM and ADNDRC).  Submission to FORUM's Abusive Filing Database.  <b>Supplemental Rule: 10. Notice of the Determination to the Parties, the Registry Operator and Registrar, Publication of the Decision; abusive Complaints</b> In case of abusive Complaint, within 1 Business Day, MFSD will submit information of the abuse to the abuse case database accessible to all URS Service Providers.	
124	URS Rule 3(e), 18(a) URS Procedure 11.2, 11.3	Have your Examiners found any abusive Complaints?	No (As of 15 March 2018)	No (As of 15 March 2018) -- FORUM had one case in early 2016 that was checked in the database as abusive; it was an error and removed.	No (As of 15 March 2018)	
125	URS Procedure 11.1, 11.4, 11.5	Have you imposed any penalty for an abusive Complaint? If so, what was it?	No (As of 15 March 2018)	No (As of 15 March 2018)	No (As of 15 March 2018)	
126	URS Rule 18(f)	Do you, as a standard procedure, verify the eligibility of the Complaint against the abuse case database for every URS case?	Providers would check it, but there is nothing to check at present.	Providers would check it, but there is nothing to check at present.	During the Administrative Review of the Complaint, the designated case manager would check whether the Complainant has exceeded its quota of abusive Complaints (i.e., Checklist #6 Has the Complainant exceeded its quota of abusive Complaints? – If YES – Dismissal).  MFSD also checks the websites of the three Providers if there are any abusive cases regarding such Complainant.	
127	<b>Appeal</b>					

Row #	Origin Legend	Proposed Questions Questions Sent to URS Providers	ADNDRC Response Responses Include Attachments	FORUM Response Pending Responses from FORUM	MFSD Response Follow Up Questions	Additional Notes Divergent Responses
128	ICANN61 Presentation	What percentage of your administered cases have been appealed? Do you have any view as to why Appeals are infrequent?	<p><b>0 Appeals</b></p> <p>The reason could include that the parties are just very satisfied with the results of the examinations. Also they have alternative remedies that could be provided to them in court of competent jurisdiction.</p> <p>Among the 33 cases that ADNDRC has handled, only six parties have submitted Responses. This may be an indicator that a lot of Respondents have not given their consideration to the URS proceeding. The suspension of the domain name to them is probably not as serious as having the domain name transferred to the trademark owners.</p>	<p><b>14 Appeals covering 16 domains</b></p> <p>It comes down to a client decision -- it just may be not worth it for them to proceed any further.</p>	<p><b>0 Appeals</b></p> <p>Parties may not have any reasons to Appeal and may be satisfied with the outcome of the proceeding. Since the URS do not preclude subsequent UDRP proceeding, there is also the possibility to file a UDRP after the URS.</p> <p>MFSD has not been contacted by the Complainants or the Respondents regarding the Appeal proceeding.</p>	
129	URS Rule 19(b)	How do you implement URS Rule 19(b)? Do you conduct an administrative check on the data of any additional evidence sought to be introduced? How do you determine that the Appellant in seeking to introduce new evidence, is in fact, providing evidence that is material to the Determination and clearly pre-dates the filing of the Complaint?	<p>Yes, we conduct administrative checks when parties seek to introduce additional evidence, but we have not experienced any such instance.</p>	<p>FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.</p>	<p>Section III. Appeal Grounds of our online <b>Appeal form</b> (accessible at <a href="https://urs.mfsd.it/urs-forms-appeal">https://urs.mfsd.it/urs-forms-appeal</a> upon registration at our website and hereto enclosed for ease of reference) provides the following information to the Appellant:</p> <p>"In accordance with URS Procedure 12.1, identify the specific grounds on which you are appealing, including why you claim the Examiner's Determination was incorrect. In accordance with URS Procedure 12.2 and URS Rules 19(b), a limited right to introduce new admissible evidence that is material to the Determination will be allowed upon payment of an additional fee, provided the evidence clearly pre-dates the filing of the Complaint".</p> <p>In the relevant box the Appellant may provide its arguments on the introduction of new admissible evidence and may attach files in file formats specified in MFSD's Supplemental Rules. Upon receipt of the Appeal, MFSD will carry out the administrative review pursuant to paragraph 16 of its Supplemental Rules and check if:</p> <ul style="list-style-type: none"> <li>i) the Appellant has made any declaration in the Section III Appeal Grounds of the online Appeal form regarding the introduction of any new evidence;</li> <li>ii) any evidence different from those already submitted by the party who is filing the Appeal is being submitted;</li> <li>iii) the relevant additional fee has been paid.</li> </ul> <p>In forwarding the case file to the Examiner(s) MFSD will inform the Appeal Panel about the findings of its administrative review. Admissibility, relevance, materiality and weight of the new evidence will be determined by the Examiner(s) pursuant to paragraph 8(d) of the URS Rules.</p>	

Row #	Origin	Proposed Questions	ADNDRC Response	FORUM Response	MFSD Response	Additional Notes
	Legend	Questions Sent to URS Providers	Responses Include Attachments	Pending Responses from FORUM	Follow Up Questions	Divergent Responses
130	URS Procedure 12	Has there been any instance in which the same Examiner selected for the Appeal Panel had made the initial Determination in the same case?	<p>The Appeal Panel members should be different from the Examiner who made Appealed Determination for the Complaint.</p> <p>Same rules as FORUM.</p> <p><b>Supplemental Rule: Article 12. Appointment of Appeal Panel</b>                      2. The Relevant Office of the Centre shall appoint suitable individuals from the list of Examiners to form the Appeal Panel having regard to the factors listed in Article 7 of the Supplemental Rules. The Relevant Office of the Centre will not re-appoint the Examiner whose Determination is being Appealed.</p>	<p>New appellate Examiners are appointed for Appeals. The only choice that the party would have would be at three-member panel in an Appeal - they each would give FORUM a list of three Examiner candidates. FORUM would do its best to impanel one of the three candidates from each Party's list and then FORUM appoints a chair for the URS Appeals.</p> <p><b>Supplemental Rule: 16. URS Appeal Supplemental Rules And) Appeal Panel Appointment</b>                      (i) If neither party has timely requested and paid for a three member Appeal Panel, the FORUM shall select an Examiner from its list of qualified Examiners to hear the Appeal. The FORUM will not reappoint the Examiner who made the Determination being Appealed.                      (ii) If either party has timely requested and paid for a three member Appeal Panel, each party shall select three Examiners from the FORUM's list of qualified Examiners within the time allotted for the Appeal or Reply submissions as stated in the Rules. The FORUM will make every effort to appoint one of the Examiners from each parties' list to the Panel, but if all three selections are unavailable, or there are insufficient Examiners who are fluent in the language needed, the FORUM will make an appropriate selection. The FORUM will appoint the presiding Examiner from its list of qualified Examiners. None of the Examiners on the Appeal Panel may be the Examiner who made the Determination being Appealed.</p>	<p>The Appeal Panel members should be different from the Examiner who made Appealed Determination for the Complaint.</p> <p><b>Supplemental Rule: 16. Appeal</b>                      If either party has requested and paid the fees for the three-member panel, each party shall indicate three Examiners from MFSD's list of Examiners within the time period allotted respectively for the Submission of Appeal and the Response to the Appeal. MFSD will appoint one Examiner per party, one chosen from the names indicated by the appellant, the other chosen from those indicated by the appellee. The third Examiner is appointed by MFSD choosing from the names shown in the list of candidates submitted by MFSD to the parties; selection from the parties' candidates is made by MFSD trying to reconcile within reason the each party's preferences. <u>None of the Examiners of the three member panel shall be the same that issued the Appealed Determination.</u></p>	
131	FORUM Supplemental Rule 16(d)	(To FORUM) How often/in what percentage of Appeals was a three-member Appeal Panel requested? Which party made the request?	n/a	Nine (9) out of fourteen (14) Appeal cases had three-member Appeal Panels (as of	n/a	
132		(To FORUM) In appointing Examiners to the three-member Appeal Panel, did you encounter any difficulties appointing Examiners from each party's list to the Panel?		FORUM is undertaking a review to obtain the information necessary to respond to this question. FORUM will supplement prior to ICANN 62.	No Appeal handled so far.	
133	<b>Exclusion of Liability</b>					
134	URS Rule 20	Have you or any of your Examiners been sued in regard to the issuance of a URS Determination?	No.	FORUM has not been sued and to its knowledge either has any Examiner on the URS roster.	No, never.	
135	<b>Others</b>					
136	Generally	Have you undertaken any internal reviews of your Supplemental Rules? If yes, how often? Have you discerned a need to tighten or provide greater clarity to your Supplemental Rules?	Yes, and we do not discern a need to tighten or provide greater clarity to our Supplemental Rules.	Yes, FORUM reviewed its Supplemental rules and made a change regarding fees for multiple domain names when it began receiving URS cases involving hundreds of domain names in 2016.	We have been approved by ICANN as 3rd URS Provider at the end of 2015 and received the first URS Complaints at the beginning of 2016. Supplemental Rules were revised in January 2017 due to the changes in our schedule of fees. We have never received any request of clarification or comment regarding our Supplemental Rules and retain that they are sufficiently clear.	
137	URS Technical Requirements	Do you have any difficulties complying with the URS technical requirements (e.g., utilizing PGP Keys, etc.)?	Yes, we are migrating to a new website. We will comply with the technical requirements asap.	No.	No, we have no difficulties complying with the URS Technical Requirements and using the PGP keys.	

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138	MoU 2b(x), 2c	Do you maintain any regular communications with ICANN? If yes, did ICANN request any information or data from you via such communications? What other areas of the URS do such communications touch on? Please provide details.	Yes.	<p>Yes. ICANN has a standing request for monthly statistics, which FORUM emails to ICANN on the first business day of each month for the previous month.</p> <p>ICANN emails FORUM Registry contact information to use when requesting verification and domain name locks. If there are questions about the information contained within the report, FORUM contacts ICANN for clarification.</p> <p>In addition, FORUM worked with ICANN to obtain a method of verifying SMD files originating with the TMCH.</p> <p>Most recently, FORUM has had communications with ICANN regarding the impact of masked Whois information in the wake of GDPR on URS cases.</p>	Yes, we maintain regular communications with ICANN. We provide statistics on URS disputes filed with us on regular basis. We have also been asked about data regarding cases of abusive complaints and our practice on handling the abusive proceedings database. We inform ICANN if there is any change in our fees, registered office address and E&O policy. We exchanged communications on technical issues (e.g. change of password to access ICANN's repository, PGP key's fingerprint verification, access to SMDRL (SMD Revocation List) to validate the SMDs), coordination between ICANN and URS Providers for the presentation held at ICANN San Juan, issues related to GDPR and the Temporary Specification for gTLD Registration Data.	
139	FORUM Supplemental Rules Appendix A	(To FORUM) Did any party submit an individual file in excess 10MB? Did any party submit electronic case documents in excess of 10MB, in the aggregate, per domain name?		No. FORUM's filing portal will not allow files in excess of the limit.		
140	ICANN61 Presentation	If a domain name is used to further a phishing attack, does your online filing system accept evidence of email abuse, such as the email header?	Same Response as FORUM and MFSD.	<p>FORUM would consider the information/evidence that can be attached to the Complaint.</p> <p>Regarding the type of evidence that would be a permissible attachment as a follow up, that wouldn't be for FORUM to decide. That would be for the Examiners to decide whether it falls within the categories.</p>	If it is attachable to the Complaint, it can be accepted as proof.	
141	ICANN61 Presentation	If the WG were to recommend the URS apply to legacy gTLDs (as a consensus policy), can you readily scale your services accordingly, or would anticipated challenges which will determine additional number of cases?	<p>There is not much technical issue for ADNDRC to extend the current URS system to legacy domains.</p> <p>ADNDRC would welcome such extension as that would help ADNDRC to expand its services provided under the URS.</p>	<p>The system itself would be easily scalable.</p> <p>FORUM would have to certainly consider if it wants to undertake that, with the fee structure that is provided. FORUM is certainly not making any money off of the URS cases. What FORUM is trying to do is to give filers a complete package of options.</p>	If URS becomes a consensus policy, MFSD has no technical problems to receive Complaints also for other type of domain names, different from new gTLDs.	

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142	ICANN61 Presentation	<p>(To FORUM): According to:</p> <p>[A] <a href="https://fedsoc.org/commentary/publications/national-arbitration-FORUM-settlement-with-minnesota-attorney-general">https://fedsoc.org/commentary/publications/national-arbitration-FORUM-settlement-with-minnesota-attorney-general</a>                      "On July 20, 2009, Minnesota Attorney General Lori Swanson announced that the country's largest arbitrator of credit-card and consumer-collection disputes would no longer handle consumer arbitrations.</p> <p>The National Arbitration FORUM's decision to end its consumer-arbitration business resulted from a settlement it reached with the State of Minnesota less than a week after Attorney General Swanson sued the company in Ramsey County, Minnesota, accusing the company of violating Minnesota's consumer-fraud, deceptive-trade-practices, and false-advertising statutes."</p> <p>[B] <a href="https://www.creditcards.com/credit-card-news/minnesota-attorney-general-lawsuit-national-arbitration-FORUM-1282.php">https://www.creditcards.com/credit-card-news/minnesota-attorney-general-lawsuit-national-arbitration-FORUM-1282.php</a></p> <p>"The lawsuit claims the NAF, the largest arbitration company in the United States, violates state consumer fraud and deceptive trade laws by hiding its financial ties to collection agencies and credit card companies. The lawsuit also claims the company violates false advertising laws by misrepresenting themselves as a neutral organization. "</p> <p>My questions are:</p> <p>(1) In light of [A], how do NAF's business practices in handling domain name disputes differ from those in the consumer-arbitration business which it left, and how can domain name registrants be confident that the same abuses which were alleged in consumer arbitrations are not present in its domain name dispute business?</p> <p>(2) In light of [B], who are the beneficial owners of NAF, and do they have any ties to the trademark industry, law firms, or anyone else that might affect its neutrality? In other words, what is the "Statement of Interest" (SOI) for NAF itself as an organization?</p>		<p>With respect to the topic of consumer arbitration, that is a political football in the United States certainly, and for the record, FORUM voluntarily ceased doing consumer arbitrations. As far as how can domain name registrants be confident that those same abuses won't happen, alleged abuses won't happen here: that's why FORUM is here explaining our processes and how we do things. Everything is published, as far as Determinations, Examiner information, etc. so I don't know how I can prove a negative that we don't have those abuses anymore.</p> <p>As far as the SOI for NAF, I can't tell you who the owners are, I don't know that they can tell you who I am so I don't know how they would have any influence on how I essentially run the business the domain name programs. It's not like owners are in my office on a daily basis. I don't even know who they are necessarily. And if there are any further questions as for their identity, I think I would definitely have to run that through staff counsel.</p>		