

URS Practitioner Background Experience and Perspective

1. In how many URS proceedings have you been involved as Complainant or its representative?

- A. 1 to 2
- B. 3 to 5
- C. 5 to 10
- D. 10 or more
- E. None

2. In how many URS proceedings have you been involved as Respondent or its representative?

- A. 1 to 2
- B. 3 to 5
- C. 5 to 10
- D. 10 or more
- E. None

3. Overall, leaving aside the result of the proceeding, how was your experience with the process of a URS proceeding?

- A. Extremely Positive
- B. Positive
- C. Neither positive nor negative
- D. Negative
- E. Extremely Negative

With respect to question 3 above, please indicate if you are:

- A. A Respondent or its representative
- B. A Complainant or its representative

With respect to question 3 above, please indicate what provider you used:

Procedural Issues

4. When involved as Complainant or its representative in a URS proceeding, were there any ~~issues~~ difficulties with delivering notice of the proceeding to the Respondent?

- A. Yes

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- B. No
- C. Not applicable

If yes, briefly explain the issue: _____

5. When involved as Respondent or its representative in a URS proceeding did the Respondent experience any issues with receiving notice of the proceeding, not including a delay in the Respondent sending to its representative?

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- A. Yes
- B. No
- C. Not applicable

If yes, briefly explain the issue: _____

6. Have you filed or been involved in an appeal of a URS decision?

- A. Yes
- B. No

If yes, why? _____

7. If yes to question 6, from the choices below how would you characterize your experience with the appeal process after a URS proceeding?

- A. Extremely Positive
- B. Positive
- C. Neither positive nor negative
- D. Negative
- E. Extremely Negative

With respect to question 7 above, please indicate if you are:

- A. A Respondent or its representative
- B. A Complainant or its representative

With respect to question 7 above, please indicate what provider you used:
_____.

8. Have you or a party adverse to you in a URS proceeding ever sought de novo review under Paragraph 6.4 of the URS Procedure.

- A. Yes, within the initial 6 months
- B. Yes, within a six month extension period

- C. No
- D. Not applicable

9. *If you answered yes to Question 8: From your experience with de novo review under Paragraph 6.4 of the URS Procedure, do you believe this procedure should be retained, modified or removed?*

- A. Yes, retained as is
- B. Yes, retained but modified
- C. No, should be removed
- D. No opinion

10. *Please provide any comments you wish to add in explanation of any of your answers to questions 3 through 9 above: _____.*

Substantive Issues

1. *Do you believe that URS dispute resolution providers should provide a resource similar to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions for the URS?*

- A. Yes
- B. No

2. *In your URS proceeding(s) do you believe the Decision/Determination provided the reasons upon which the decision was based, as required by Section 13(b) of the URS Rules?*

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

3. *Do you believe that the URS is being used for the types of cases for which it was intended, namely, clear cases of abuse?*

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

4. *Have you encountered any problems with the implementation of the relief awarded following a URS decision?*

- A. Yes
- B. No

If yes, please briefly describe: _____

5. Do you believe the relief provided by a URS proceeding is adequate?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

If your response to question 5 is D or E, how would you change it?

6. Should there be more guidance provided to educate or instruct practitioners on what is needed to meet the "clear and convincing" burden of proof in a URS proceeding?

- A. Yes, more guidance from the dispute resolution service provider
- B. Yes, from ICANN
- C. No, the guidance is already adequate
- D. No opinion

7. Based on your experience as a URS practitioner, is the standard of "clear and convincing evidence" for the burden of proof in a URS proceeding appropriate?

- A. No, too high
- B. Appropriate
- C. No, too low
- D. No opinion

8. Based on your experience with the URS, should the standard for the burden of proof be modified?

- A. No, it is adequate as is
- B. Yes, it should be lowered – please explain the basis for your position:

- C. Yes, it should be made higher – please explain the basis for your position:

- D. No opinion

9. Please provide any comments you wish to add in explanation of any of your answers to questions 1 through 8 above: _____.

Practical Issues

1. Do you believe the current mechanisms for proving use in a URS case are adequate?¹

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

2. Do you believe that the submission of an SMD file from the Trademark Clearing House to demonstrate that proof of use was filed with the TMCH is adequate proof of use for a URS case?

- A. Yes
- B. No

3. Do you believe the filing fee for a URS is appropriate?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

If you answered D or E, should it be higher or lower, and why? Or, please suggest what you think is an appropriate fee: _____

4. Do you believe there are adequate means for searching prior URS cases?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

5. Do you believe the existing word limitation for filings in a URS proceeding is appropriate?

¹ "Specify the trademark(s) or service mark(s) on which the complaint is based and the goods or services with which the mark is used including evidence of use – which can be a declaration and a specimen of current use in commerce - submitted directly or by including a relevant SMD (Signed Mark Data) from the Trademark Clearinghouse;" Section 3(v). The Complaint, at: <http://newgtlds.icann.org/en/applicants/urs/rules-28jun13-en.pdf>; See also Section 1.2.6.1(a) and 8.1.2.1 at: <http://newgtlds.icann.org/en/applicants/urs/procedure-01mar13-en.pdf>

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

If you answered D or E, should it be higher or lower, and why? _____

6. Do you believe the existing time frames for submitting filings in a URS proceeding are appropriate?²

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

If you answered D or E, should it be longer or shorter, and why? _____

7. Do you believe the existing limitations on the submission of evidence in a URS proceeding are appropriate?

- A. Strongly agree
- B. Agree
- C. Neither agree nor disagree
- D. Disagree
- E. Strongly Disagree

8. Please provide any comments you want to add to explain your answers to questions 1 through 7 above: _____

Other

1. If you chose not to file a URS in a particular matter, what was the reason? Please choose from the following options:

- A. No remedy available for transfer of disputed domain name to prevailing complainant
- B. Procedural reasons such as word limitations in a complaint
- C. Time or cost reasons
- D. Burden of proof

² See: The Procedure: <http://newgtlds.icann.org/en/applicants/urs/procedure-01mar13-en.pdf> and the Rules: <http://newgtlds.icann.org/en/applicants/urs/rules-28jun13-en.pdf>.

E. Other: please elaborate and if possible without violating confidentiality, privilege or attorney work product, specify the alternative action you did take: _____

2. Do you believe that the URS Process as it now exists is an effective rights protection mechanism?

- A. Strongly agree
- B. Agree
- C. Disagree
- D. Strongly Disagree

2. If the URS was available in all gTLDs, would you use it? Why or why not? _____ --

3. Please provide any comments you want to add to explain your answers to questions 1, 2 and 3 above: _____

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