**Revised and Consolidated URS Individual Proposal 15/22**

**Proposal**:

The URS should be amended to include an express provision that in cases where a losing respondent is found to be a “repeat offender” or engaging in “high-volume cybersquatting”, the losing respondent shall be required to reimburse the prevailing complainant for the filing fee in the URS proceeding. These elements must be specifically alleged by the Complainant in the Complaint.

“Repeat offender” shall be defined as a losing respondent in a URS proceeding where the same respondent has previously been the losing respondent in at least 3 previous URS proceedings.

“High-volume cybersquatting” shall be defined as a specific finding by a URS panel that 10 or more domain names in a single URS proceeding have been subject to URS suspension, or any other remedy hereinafter added to the URS.

**Implementation Guidance**:

There are legitimate questions about how to practically collect the reimbursement payment if such a URS requirement were adopted, particularly in instances of respondent default.

Option 1. One possibility would be to use transfer of the applicable domain names as collateral against payment of the fee by the losing Respondent.  Under this approach, in the event the necessary elements are established, upon notification of the URS Decision, the registrar of record for the disputed domain name(s) shall be required to contact the Respondent to indicate that they will have 15 calendar days in which to confirm a valid payment method from which the filing fee reimbursement payment will be made and advising the Respondent that if not such confirmation is made, then the registrar must transfer the applicable domain name(s) to the Complainant. If the registrar does not receive such confirmation, then in lieu of the filing fee reimbursement, the registrar shall instead transfer the domain name(s) to the prevailing Complainant as effective payment in place of the reimbursement.

Option 2. Another possibility is for the Registry Operator to collect the renewal fee for the subject domain name(s) from the registrar at the normal renewal date but where the registrar shall also charge the payment method on file for the domain the applicable URS filing fee (akin to a redemption or similar post-expiration redemption fee). Once that payment is received by the Registry Operator, the filing fee portion shall be issued to the dispute resolution service provider and reimbursed to the Complainant based on payment details provided by complainant to the dispute resolution service provider following the successful URS proceeding in which the requirement is triggered. In cases where the Complainant has elected to extend the URS suspension for 1 additional year beyond the initial registration period, the reimbursement payment would be issued less the applicable renewal fee that would be charged to the Complainant. This would be consistent with URS Technical Requirements, Registry Requirement 10, Registry-Registrar Agreement requirements, and Registrar Requirements 2 and 3. In the event the payment method on file with the registrar is no longer valid, the same process as outlined in Option 1, above, could be used.

Option 3. Another possible implementation approach might be to require Registry Operators to make direct payments and obtain a corresponding credit against their ICANN fees. Credits should be issued quarterly, and payments should be made by ICANN to the registry in rare instances when the credits exceed registry fees owed in any quarter. In this way, ICANN would effectively be covering the cost of these payments. The total number of URS cases in a particular year has not exceeded 300, and assuming that all complainants prevail in all cases and that all cases include a proven repeat offender or high-volume cybersquatter, and that all URS filing fees are $500, this would create an ICANN budget impact of $150,000, which is well within a reasonable limit. Obviously, the actual budgetary impact would be much lower, as filing fees are generally lower than $500, there are generally far fewer than 300 URS decisions in a given year, and most cases would likely not involve a repeat offender or high-volume cybersquatting. This approach would also avoid the need to involve the registrar, which is more in line with the nature of the URS as a procedure primarily implemented at the registry level. While this option might have a higher likelihood of actually recovering and paying out the reimbursement, it lacks the deterrent effect against the actual losing Respondent that the other options would have, so there would need to be further consideration given as to how to include an element of deterrence against the specific Respondent while also utilizing this mechanism to ensure the reimbursement payment is actually made.