

## ICANN Webinar on Uniform Rapid Suspension

### Adobe Connect Chat Transcript

03 October 2012

Rubens Kuhl:Good <insert your time of day> All... does the Adobe Connect alert that audiobridge is connected means we won't have to dial-in ?

Wayne MacLaurin (Sedari):that would be a welcome feature !

Reg - TLDH:Sounds like it!

Gideon (DotConnectAfrica):Greetings , the voice is ok

Frank Michlick (DomainCocoon):Good (almost noon) from Montréal.

Gideon (DotConnectAfrica):Its 6 pm here in Nairobi ,Kenya

Yaovi Atohoun:And 4pm here in Cotonou (Benin Republic)

Kathy Teng:23:00 here in Beijing ,China

Kathy Teng:So sleepy...

P:+1

Michael Dance:Bored, posts on WebHostingTalk

Olivier Crepin-Leblond:Wow this is a popular place. Lots of participants!

Henriot:Another early morning for Kurt!

Wayne MacLaurin (Sedari):8am isn't too bad for Kurt ... better than 5am!

Kathy Teng:I want to ask a question, a registry can be a URS provider?

Alan Greenberg:Star 1 to ask a question

Alan Greenberg:Think that is what I heard

Michele Jourdan:If you would like to ask a question verbally, please dial into the phone bridge and press \*1 to get in the queue

Rubens Kuhl:@Kathy : I'm not ICANN and can only speak for myself, but I would have lots of reservations against a registry (i.e., a competitor) making URS determinations. URS requires a neutral standing.

Frank Michlick (DomainCocoon):No more sound

Kathy Teng:Rubens Kuhl,Thank you very much.

Amy Mushahwar:I lost sound, too

Frank Michlick (DomainCocoon):sound is back

Michele Jourdan:If you would like to ask a question or make a comment or suggestion via Adobe Connect, please put your question in the Comments and Feedback pod

Frank Michlick (DomainCocoon):Agree with @Rubens there.  
Evan Leibovitch:The IRT was hardly cross community  
Alan Greenberg:Kurt did say it was TM experts  
Kurt:no, it wasn't, I meant to refer to the STI and the community discussion that followed  
Amy Mushahwar:Will these slides be available on the web after the presentation?  
Kristina Rosette:300-500  
Michele Jourdan:Yes, the slides will be posted to the Webinar page on the Microsite.  
Amy Mushahwar:Great, thank you.  
Jeff Neuman (Neustar):What does it mean "in clear cut cases" when no one responds  
Jeff Neuman (Neustar):who determines whether it is clear cut if no panel  
Kathy Kleiman:There is huge opposition to an automatic default -- especially when there is so little time to respond!  
Philip Sheppard:there is a panel for non clear cut  
Jeff Neuman (Neustar):So, someone still needs to determine whether it is clear cut?  
Kathy Kleiman:@Philip: Clear-cut is a matter of interpretation  
Jeff Neuman (Neustar):If clear cut, no panel  
Jeff Neuman (Neustar):???  
Gideon (DotConnectAfrica):sound problem  
Kathy Teng:May be the examiner can determine whether it is clear-out.  
Kathy Kleiman:I agree with #2  
Elaine Pruis - M+M:how about letting the registry operator decide if it is a clear cut violation of the registry policy  
Philip Corwin:Agreed, some human must at a minimum determine that rights holder rights are valid and that domain appears to be clear cut infringement.  
Kristina Rosette:#2 is supposed to be in URS already - that's the point. Is ICANN saying that they would "quantify" the amount of time the panel could spend? that's so subject to gaming.  
Kathy Kleiman:How do we comment again -- by voice?  
Philip Sheppard:Summary acceptance of complaint if no response is Nominet model no ?  
Karen Lentz:\*1 to comment or ask a question  
Karen Lentz:star 1 to join the queue

Frank Michlick (DomainCocoon):or type it in the comment field at the bottom apparently

Kathy Kleiman:Olof, since I am not on the phone (but web), could you please share my comment (it will follow in next posting)

Karen Lentz:We will keep a record of all the written feedback from the webinar as well

Mary Wong:Agree with Kristina re: #2; it is integral to the URS as designed.

Jeff Neuman (Neustar):I would like my question raised and responded to. Namely, it says if it is clear cut and there is no response, then no panel decision. But who determines if it is clear cut?

Kathy Kleiman:But Kristina, if the cases are difficult to decide, are they really "clear-cut"???

Kathy Kleiman:@Kristina: good point. Better to have a non-UDRP provider?

Rubens Kuhl:@Elaine: in all our brand TLDs the brand owner will take URS-like complaints for free. But for open registration TLDs, the registry itself cannot rule on who has IP rights.

Olivier Crepin-Leblond:anything that's difficult to decide is NOT clear cut

Olivier Crepin-Leblond:it's exactly like purchasing a Rolls Royce. If you need to enquire about the cost, then purchasing one is not for you.

Kathy Kleiman:-)

Jeff Neuman (Neustar):thanks Alan!

Claudio Digangi:@Jeff: I think the wording used is unclear, all URS cases are intended to be clear-cut cases of abuse

Kristina Rosette:@Olivier: That's exactly the point. But, putting a time limit on it has risks

Kathy Kleiman:@Olof, but let's remember the Board cut the response time from even what was recommended by the STI Team -- it's way too short!!

Tim Switzer, DotGreen:So "clear cut" = "no response"?

Jeff Neuman (Neustar):@claudio, whether default or not, someone needs to do a "sanity check"

Kathy Kleiman:+1, 2 and 3 to Alan!

Rubens Kuhl:@Kristina: agreed. All a defendant would need to do is sending 10 thousand pages of "Lorem Ipsum" to make the time limit expires.

Henriot:I thought it would be a case handler, i.e. the folks before a

panalist?

Kathy Kleiman: Could you please share the deep, deep concern for #1: I wrote it in CircleID on 8/17: I urge the community not to spend another minute rehashing the "automatic default" scenario. Automatic default, to some, particularly respondents, still represent a dramatic change of substantive rights. One side will argue (again) that 14 days is enough to respond and the defaulter should lose automatically. The other side will argue (again) that due process is violated with only 14 days to respond, especially as New gTLDs reach out to people and entities around the world

who don't speak English as a first (or second) language. Let's avoid repeating this debate ☹ we've come too far and we're doing too well.

Jonathan Robinson (Afilias): Agree with Alan - make sure clear cut & no response are separate issues

Philip Corwin: Absence of response in short time period allowed should not lead to automatic presumption that registrant has valid rights and that domain is clear cut infringement -- those determinations require human review.

Kristina Rosette: panel is UDRP/URS-speak for examiner(s)

Kristine Dorrain: Kathy, if a respondent loses on a default, they still get 30 additional days to respond for free, and six months to respond with a fee (in the current iteration, anyway)

Kathy Kleiman: Agree with Kristina, we did try to create different terms for URS and UDRP -- so people would not confuse them.

Jeff Neuman (Neustar): Kristine - but the name gets put on hold and is unresolvable

Philip Sheppard: URS allows 6months +6months for review of an originally accepted complaint

Kathy Kleiman: It is an Examiner in the URS (not a Panelist).

d: In UDRP, panels can consist of 1 or 3 people

Olivier Crepin-Leblond: There was an extensive discussion about the panel vs. examiner so you have to really look carefully at all of the words that were used by the IRT & STI. A lot of work went into choosing the EXACT right words.

Philip Corwin: Agree with Jeff's point

Kristine Dorrain: True, Jeff. but when the Respondent DOES show up, I believe the current iteration says the domain name will re-resolve until the Determination

J. Scott Evans: The lack of a default option ignores the reality that most

cybersquatters don't show up. You are ignoring the efficiencies that are already built into reality.

Mary Wong:(putting on NCSG hat) We agree with Alan; no response does NOT equal clear cut.

Kristina Rosette:I want to be one of those cybersquatters with tons of vacation time. how do I get that gig? :-)

Jeff Neuman (Neustar):@Kristine - I would like to see a "sanity check" in a default.

Rubens Kuhl:I hope we could all agree not to change what any constituency deems to be policy, so URS implementation can go forward.

J. Scott Evans:The appeal process and late response without fee are the cure for the vacationing rightsholder.

Jeff Neuman (Neustar):A check to make sure that the info submitted by the TM Holder is accurate

Jon Nevett:Rubens +1

Scott Austin:Agree with J. Scott's point

Kristina Rosette:+1 to J. Scott's point

Kristine Dorrain:@ Jeff, I agree.

Kathy Kleiman:Trying to come on audio...

Jeff Neuman (Neustar):What if we do not put the name on hold then J Scott?

Philip Corwin:How about questions in the Comment and Feedback box, as that is where we were told to post them?

Jon Nevett:Sanity check is one of the safeguards that we agreed to in the STI. Let's not debate that again, but figure out how to get it done efficiently.

Liz Williams:Can someone please describe "clear cut cases"? What exactly does that look like?

Mary Wong:@Jeff, @Jon, we agree.

Kristina Rosette:@Liz: sedarri.app

Jeff Neuman (Neustar):I just think that someone needs to make sure that the Trademark Owners facts are legit.

J. Scott Evans:Putting the name on hold will certainly alert the vacationing registrant that there is a need to respond.

Jeff Neuman (Neustar):I agree it will alert them..but it could also mean a loss of business, e-mail, etc

Kathy Kleiman:No, I don't agree with J. Scott, and you won't on behalf of your clients, either: it means listservs, websites and emails go down - all

because of a default.

Kathy Kleiman:Appeals were never intended as remedies for automatic defaults...

Kristina Rosette:@Jeff: couldn't you accomplish the "fact check" by either linking the URS complaint basis to Trademark Clearinghouse data or, if it's not in TC, have it "validated/authenticated" (or whatever term we're using)

Mary Wong:Can we agree to remove the phrase "In clear-cut cases" from #1, and focus the discussion on the default question?

Jeff Neuman (Neustar):@Kristina - that would be part of it yes. But you still need a sanity check on the bad faith element

Kristina Rosette:good suggestion, Mary

Philip Sheppard:@Kathy URS allows both review of default and an appeal if either party wishes

J. Scott Evans:My comment is not intended to suggest that appeals should be no cost

Kristina Rosette:It seems quite unlikely that a registry operator would want to take on that burden. Seems to be an invitation to find itself embroiled in a PDDRP, IMHO.

Philip Sheppard:Mary is correct - clear cut was not meant to be in #1 I suspect

Jon Nevett:Kristina +1

Rubens Kuhl:@Kristina: I like the TMCH-URS linkage idea, but think it's simpler to make it the only way to do URS. It would just be a matter of opting out of Sunrise and Claims, if you only want to do URS.

J. Scott Evans:My comment is to suggest that the safety valve of a late response (up to 30 days with no fee) and 6 months for an appeal (with a fee) are sufficient to hand the small percentage of cases for the vacationing legitimate registrant.

Claudio Digangi:Limiting Panel Involvement is good potential solution, with adequate safeguards

Kathy Kleiman:Kurt: procedure is different from substance

Kristina Rosette:@Rubens: If I remember correctly, IRT recommended that URS fee would be lower if data was in Clearinghouse and could be linked; if manual review required, then (slightly) higher fee would be warranted

Philip Sheppard:#2 does not try to define clear cut but defines NOT clear cut as too difficult - there is a difference methinks

Kathy Kleiman:Let's leave the substantive rules where they are... and

not edit them with a small team.

Jeff Neuman (Neustar):J Scott - I am not really worried about the vacationing registrant, but more the registrants that do not trust the communication about a urs proceeding

Kathy Kleiman:But procedurally, there are things to do...

Philip Corwin:@Rubens -- evaluation of TMC-URS linkage must await final decision on what will be in TMC - exact matches of TMs (as at present) or something more.

Kristina Rosette:#3 is unacceptable.

Jeff Neuman (Neustar):In running .us, when we (the registry) send a nexus violation and demand a response, the biggest problem is that our registrants do not know who we are and our emails go into their spam folder or junk folder

Jeff Neuman (Neustar):We have to actually call them up on occasion to convince them that the e-mail was real and they need to respond

Jeff Neuman (Neustar):or else lose their name

Mary Wong:What does #3 mean, just a visual check?

Chicoine:I think ICANN needs to remember the "R" in URS stands for "rapid." If the time for decision nears that of a UDRP, the URS is of little value.

Scott Austin:But how does a trademark holder distinguish between legitimate registrants and those who aren't if they do not respond to URS; what is the business cost to the trademark holder

Philip Sheppard:I think #3 should read IDENTICAL match - but I don't supprt the idea

Kathy Kleiman:But @Chicoine "rapid" was supposed to be around "clear-cut" cases -- if the Complainant brings a non-clear cut case, then how do we remove it to the proper forum? Rapidly...?

Kristina Rosette:umm, RES in .xxx isn't anywhere close to \$500. It's \$1300, if memory serves.

Mary Wong:@Kristina, @Philip, same here. Identical match may in many cases mean there is also confusing similarity, but not necessarily. It also doesn't automatically make a case clear cut as a result.

Henriot:If you do use email please make sure it is not like the ICANN CSC email system as the format and friendliness is quite poor

Jonathan Robinson (Afilias):Identical match between TM & Domain Name may be subjective

Kathy Kleiman:Agree with B(1), of course

Philip Corwin:has to be a distinction between TMs that are unique

(e.g., Google) and those that are generic (e.g., Apple)

Elaine Pruis - M+M:i would feel better about tying URS to TMCH if TMCH is done according to the alternate model proposed

Karen Lentz:\*1 to join queue

Philip Sheppard:@Kathy B1 is an easy win as there are only a couple of hard copy parallel communications

Chicoine:@Kleiman - Then a panelist with the appropriate expertise will quickly find the complaint fails. and the domain name stays with the respondent.

Jeff Neuman (Neustar):I do not believe it is productive to limit the scope of the URS? that is clearly policy

Philip Corwin:@Kristina -- fact that NAF charges \$1300 for .xxx RES may affect their guesstimate of cost of URS implementation

Kristine Dorrain:the vast majority of UDRP cases are for confusingly similarity. Assuming the TMCH is doing its job, many identical matches will be covered. I think #3 is not practical because most folks utilizing it will not be having and "identical" match.

Kristine Dorrain:The fact that NAF charges \$1300 for RES is because we had to build a new system and try it out.

Kristine Dorrain:.)

Gideon (DotConnectAfrica):On the automation ,for the use of interfaces and email, should there be the problems that were experienced like the TAS , how does ICANN plan to deal with alternatively,

Jeff Neuman (Neustar):Just as many do not believe we should eliminate the sanity check (as that is policy), we should not limit the scope of the URS to identical marks as that is policy too. Lets be consistent

Elaine Pruis - M+M:good luck getting deloitte to share any info in the TMCH

Rubens Kuhl:The fact that TMCH is identical match doesn't mean URS would need to be. TMCH would just validate your rights on "string", URS could look at "strin", "sting" and so forth.

Alan Greenberg:@jEFF +1

Philip Corwin:@Kristine -- now that system has been built and tested, what is prospect for lower URS fee based on those costs having been already expended?

Ken Stubbs:ICANN could require Deloitte to share the info.. I do not believe that they have finalized contract with deloitte

Kristine Dorrain:@Phil: Good, but much of that still will depend on the outcome of these discussions.



Elaine Pruis - M+M:(because the registry operator gets the data instead of just a code)

Alan Greenberg:@Ken, the STI said "The TC shall provide confirmation of the TM, and its jurisdictions, to the URS Providers for a fee."

Jon Nevett:Kurt, dual fees seem to be fair

Philip Sheppard:Easy cost saving IF URS provider staff validate and panels only examine where needed

Kathy Kleiman:@Kurt, I don't think we finalized anything in the STI for the URS, but what you write sounds good. Could you put in writing so we can see, review and discuss it?

Jeff Neuman (Neustar):Lets earmark some funds from the applications (\$350 million) to subsidize some of the URS at least until we have time to review the fees based on actual practice

Jon Nevett:LOL!

Jeff Neuman (Neustar):I like to keep things moving ;)

Mary Wong:Kristina speaks with conviction, anyway! :)

Philip Corwin:Fact that a domain is match for something registered in TMC may be indication of bad faith registration, but shouldn't be wholly determinative -- again, depends on what is permitted to be registered in TMC (exact TM or TM + something more) and whether TM is generic or unique word, as well as use of domain

Philip Sheppard:Tiered fee structure ie lower fee for unopposed complaint is also easy cost saving

Alan Greenberg:NO!

Olivier Crepin-Leblond:no

Alan Greenberg:There are fair use issues, and TMs have specific local and usage implied.

Emily Taylor:@Kurt's suggestion that validated marks that have gone through validation in the Trademark Clearinghouse could have a fee reduction - makes sense to me, as there will have already been validation work done.

Kathy Kleiman:No, just because a mark is registered in the TM clearinghouse, it's not a clear-cut case -- it could be an ordinary word or last name with a myriad of other uses -- in lots of other categories of goods and services as well as noncommercial uses

Philip Corwin:I hope that at some point my Q in the Comment box about whether URS provider(s) will be placed under contract per STI-RT recommendation will be addressed.

Bart:@Alan / Kathy: that is covered by the sanity check

Eva Gaertner: Don't trademarks in the TMC have to have been registered prior to a certain date?

Alan Greenberg: If this Webinar is only 1 hour, we have a real problem. We are only on the 2nd of what I think were 4 topics.

Emily Taylor: @Kathy - isn't that a different issue. I was thinking merely about the step where complainant has to show that they have relevant rights/marks

Jeff Neuman (Neustar): There is no such thing as a generic or ordinary word. Every word can be trademarked...all depends on use. What may be generic for one purpose is not for others. So that is not a path I believe is productive to walk down.

Kathy Kleiman: OK @Bart, that's the "sanity check" if not a review of the facts/complaint/marks/domain name?

Philip Sheppard: Suggest that TMCH issue is red herring - no significant costs saving here

Bart: @Kathy: yes, that depends on the facts

Bart: @Jeff: agreed

Alan Greenberg: @Philip, correct just moves the fee somewhere else and impacts timing

Jeff Neuman (Neustar): We seem to be forgetting the most important element....bad faith Kristine Dorrain: @Philip, agree.

Kathy Kleiman: @Bart, so how does your idea of a "sanity check" change things?

Evan Leibovitch: Just wondering: why are we re-opening policy debate. I thought that the URS had already been nailed down, and that the current problem is that none of the so-far-contacted providers would perform it at the target price. Shouldn't we be dealing with the procurement issue before re-opening the Pandora's box?

Jeff Neuman (Neustar): "sanity checks" do not have to be done by attorneys or panels

Kathy Kleiman: B(4) if valid, useful and does not change substantive rules

Jeff Neuman (Neustar): Sanity checks is more or an administrative burden

Jeff Neuman (Neustar): to verify the facts alleged

Emily Taylor: @Evan thanks for asking. I was wondering about the same thing, but too afraid to ask!

Jeff Neuman (Neustar): (In my opinion)

Philip Corwin: @Jeff -- yes, bad faith registration and use - which leads

to Q of whether URS will be permitted against domain that has been registered but is not yet in use

Jon Nevett:C.1 +1

Kathy Kleiman:??? Sanity checks of trademark law, infringement, free speech issues do not have to be done by attorneys??

Philip Sheppard:Subsidy model does not address internally inconsistent procedures in URS as written - alas

Bart:@Kathy: one of the checks to be performed by the examiner should relate to whether or not the domain name is used in relation to the products / services covered by the trademark, would be defamatory, etc.

Philip Corwin:@Evan -- YES

Olivier Crepin-Leblond:I am also surprised that we are, on a conference call, having a Q&A session that effectively puts question marks on a PDP that took a long time to get through, because of inability to find a provider that can provide the services for a reasonable cost

Jeff Neuman (Neustar):I will do URS cases for a free ICANN T-shirt ;)

Philip Sheppard:@Olivier als the PDP did not start form a USD 500 price tag

Alan Greenberg:@Olivier, not a formal PDP

Kurt:First prize is a free t-shirt

Rubens Kuhl:@Jeff's T-shirt would read "Will rule for food"

Jeff Neuman (Neustar):Seriously, you can act like an insurance company that gets pre-negotiated rates from panelists

Kurt:Second prize is two

Kristina Rosette:Pro bono URS? Are you kidding? Someone in the PR office at ICANN needs to think about the optics of suggesting pro bono legal advice where ICANN just took in over \$350 million USD.

Philip Corwin:@Oliver -- we do not yet know that, as RFI has just been put out -- and I'm still unclear whether ICANN is taking steps to encourage bids from arbitration providers beyond 'the usual suspects'

Kathy Kleiman:@Jeff N: I'm sorry, I don't see the review as mere administrative, esp. with the huge range of new people, languages and DN uses coming online with IDNs and all New gTLDs. Younger lawyers, perhaps, but no lawyers, no way, it won't be fair.

Jeff Neuman (Neustar):@Kathy - in cases of Default (was what I was arguing)

Philip Sheppard:C2 - madness !

Olivier Crepin-Leblond:Option C.3: find another URS provider by having

an open call in countries where the cost of labour is not as much a premium as blue chip consultants who overcharge ICANN.

Kristine Dorrain:I've been looking for volunteer UDRP panelists for years. :)

Jeff Neuman (Neustar):Go out to trademark firms and get them to compete for the business. Guarantee you will get lower flat rates.

Bart:Various registries are providing a refund if the complainant prevails ...

Kathy Kleiman:@Jeff N: Still, an attorney needed, but not a world-class celebrity, to be sure. But there are lots of legal issues here...

Claudio Digangi:@Oliver: We are all on this call because of design flaws that were identified, although not addressed, prior to Board approval of program in Singapore

Jeff Neuman (Neustar):@ Kathy - I disagree with the fact that it must be an attorney for a sanity check

Rubens Kuhl:@Olivier: Czech Arbitration Court is a likely contender for URS.

Kristine Dorrain:Actually, the URS seems to suggest that the Panelists need to be "more" qualified than UDRP Panelists...for less money, or free...

Kristine Dorrain:excuse me, "Examiners."

Jeff Neuman (Neustar):@Kristine - that was not the point of the URS

Jeff Neuman (Neustar):If it takes more expertise, then it is not clear cut

Olivier Crepin-Leblond:@Jeff +1

Evan Leibovitch:Alan, do you like being introduced as being "from

ICANN"? ;-)

Jeff Neuman (Neustar):it was supposed to be obvious to anyone that there was bad faith

Gabriela Szlak:@Kristine: maybe not the examiner, but the technology has to be the expert, I believe that is the solution to efficient and cost effective

Kathy Kleiman:@Jeff: I agree with you that trademark firms can provide services for lower cost -- but the URS is forum for lawyers, not secretaries and paralegals. As Kristine D says, the Examiners may need to be MORE qualified -- and remember, the IDN issues are coming in as cases of first impression.

Bart:@Jeff: at least they need to know how the policy works – looking at the number of cases under the UDRP, there is a lot of reading to do for a candidate Panelist who is not deeply involved in these sorts of matters

Scott Austin:@kleiman +1 regarding IDN what about costs of translation/transliteration and does doctrine of foreign equivalents apply to identity between marks and domain names

Evan Leibovitch:+1 Alan

Kathy Kleiman:Good questions Scott!

Bart:@Kathy: trademark firms are also mainly looking at the likelihood of possible issues for to be registered trademarks; they do not look at bad faith type issues

Philip Sheppard:agree - panelist must be qualified but better used - back to use of URS provider staff for validation and no response complaints - ??

Philip Corwin:Panelists are supposed to be TM 'experts', not novice volunteers -- that could be a train wreck

Rubens Kuhl:URS/UDRP is likely to be 80/20 or even 90/10.

Kathy Kleiman:@Philip: could you please tell me more about URS Provider Staff -- lawyers with trademark backgrounds??

Evan Leibovitch:There are TM experts outside ICANN's "usual suspects" list fo service providers

Kristine Dorrain:UDRP has handled TM-domain name translation/transliteration issues over several years.

J. Scott Evans:What we seem to be ignoring is that the lack of a default judgment (with mechanism for cure by registrants) could (based on the overall experience with DN disuptes to date) lower the cost.

Philip Sheppard:@kathy - trained - not necessarily with professional qualification - staff in issues of validation etc - not impossible

J. Scott Evans:Sorry my last comment is unclear.

J. Scott Evans:My point (need more coffee) is that a default judgment option will increase speed and lower cost.

Philip Sheppard:@JSCott - agree this is most achievable cost reducer

Evan Leibovitch:In any case, determination of "clear cut" does not (and arguably should not) be a TM expert. Indeed, if such a determination requires a TM expert arguably it's not, then, clear cut

Kathy Kleiman:@Philip, No, there is no way you would want your client's DN seized by someone without legal qualifications.

J. Scott Evans:We should not shy away from using the efficiencies that exist in the real world

Sean Wilke (Ladas Domains):+1 J Scott

Kathy Kleiman:@Philip: Fortunately, a trained legal staff does have

have to be expensive -- costs have come way down in the last few years.

Emily Taylor:@J Scott agree - and there is a low cost, pro forma approach for default decisions in the .uk Dispute Resolution Process

Olivier Crepin-Leblond:This is a worldwide market and it is disappointing that ICANN is only considering organisations in the traditional "West". Czech Arbitration Court. There are many others.

Kristina Rosette:@Evan: I suspect that Kathy and Phil (and others) would disagree w/r/t fair use claims.

Philip Corwin:Need to differentiate between the URS provider - which can be any qualified arbitration provider, as its duties are mainly administrative -- and the panelist/expert, who must have demonstrated TM expertise

Emily Taylor:@Philip C + 1

Philip Sheppard:@Phil Corwin - agree - it was my point - you expressed it better

Kathy Kleiman:@Philip: I must be missing something, even in default, we want the fairness and balance of a view of free speech, freedom of expression, critique and criticism comments by lawyers

J. Scott Evans:@Kathy. The DN is not "seized" it will not resolve unless the registrant responds or appeals.

Claudio Digangi:ICANN created subsidy for needy applicants (good idea); its also a good idea to use program funds to protect users and rights holders from fraud/registration abuse. Benefits of new gTLDs must exceed costs or program will not be successful

Philip Sheppard:@Kathy - agree - there is the 6m +6m reexamination safeguard with panelist

Tim Switzer, DotGreen:+1 Jon

Kathy Kleiman:+1 Jon N

Paul Diaz (PIR):+1 Jon

Alan Greenberg:@Jon +100

Kathy Kleiman:@Philip: are we in agreement on all review by attorney?

Evan Leibovitch:How to finance is one facet, though. The case has been made that ICANN has not adequately tendered the project and thus limited its options.

Philip Sheppard:@Kathy - yes if registrant requests

Philip Corwin:@Kathy -- please differentiate between Philip S and C (me)/otherwise gets confusing - thanks

Alan Greenberg:@Evan. Also, there are assumptions being made (such as "panel" size that may not be uniformly held.

Philip Sheppard:D - more madness - URS already has appeal mechanism that can be a higher price and Ombudsman exists anyway

Kathy Kleiman:D(1) Olof, did you say this was complementary and in addition to the existing Appeal??

Kristine Dorrain:In my experience with the UDRP, we have a tiny handful of folks asking about Appeal each year. I suspect, especially considering the ability for very late Responses, there will be very few Appeals.

Rubens Kuhl:If URS is a contracted party to ICANN, wouldn't current ICANN ombudsman already in charge of that ?

Paul Diaz (PIR):Ombudsman "findings" are merely advisory, correct? If so, how would such an "appeal" benefit any party?

Kathy Kleiman:@Phil S: Then no agreement, I'm afraid, because it is exactly in default that we need review by an attorney as the registrant may not be able to speak for herself in English... in the timeframe... etc

Philip Corwin:@Rubens -- well, they still have not said whether they intend to place URS providers under contract per STI-RT recommendation

Mary Wong:I see more problems with this suggestion than benefits.

Philip Sheppard:D - is another red herring - lets ditch this idea now

Kathy Kleiman:Not sure what an ombudsman would add??

Philip Corwin:I have asked that Q twice now

Emily Taylor:@Kristine - my impression is that an appeal mechanism would be more appropriate in the context of a UDRP (and as you say that would be in a tiny minority of cases)? I've always struggled with the concept of the appeal in the context of the URS - which I thought was intended as a speedy resolution system.

Paul Diaz (PIR):+1 Emily

Scott Austin:what is ombudsman empowered to do? remand?

Philip Sheppard:URS problem is cost. URS appeals can be fully priced to cover costs. Thus - it is NOT an issue !

Kristine Dorrain:@Emily, I think the thought was that a URS appeal would be cheaper than appealing to the UDRP (which is an option).

Rubens Kuhl:I've always thought that UDRP could be considered a higher "court" appeal for URS.

Kristine Dorrain:@ Alan: I think one iteration of the URS did not clarify that the URS Appeal could require an additional fee.

Alan Greenberg:@Kristine. Perhaps. Hopefully the last one did. Haven't checked.

Kristine Dorrain:It did

Emily Taylor:@Kristine - sorry, I was not clear. I meant that it would be more appropriate to introduce an appeal process into the UDRP

Philip Corwin:Asking for 3rd time --DOES ICANN INTEND TO PLACE URS PROVIDERS UNDER CONTRACT PER STI-RT RECOMMENDATION??

Kristine Dorrain:@Emily, I understand you...I think the idea of the URS Appeal, as mentioned was included as a special registrant protection piece.

Kristina Rosette:How does the Toronto session interplay with the outstanding RFI?

Kristine Dorrain:No opinion at this point on a UDRP Appeal. :)

Rubens Kuhl:UDRP review is like "Fight Club". You don't talk about it.

Philip Corwin:@Kristina -- good Q/response to RFI assumes existing model, not any of changes being discussed here

Kathy Kleiman:Quick note re: earlier point: URS Guidebook, Section 6.3 All Default cases proceed to Examination for review on the merits of the claim

Gideon (DotConnectAfrica):My Appreciation for the what i have learnt on URS and by extention UDRP

Kathy Kleiman:So the rules require that the decision-maker be an Examiner -- the same Examiner as a claim where both sides are represented

Philip Corwin:@Kurt -- disagree/STI-RT recommended contracts and believe that is needed to circumscribe powers and provide flexible enforcement

Philip Sheppard:@Kathy - exactly - thats the point being debated to change to allow for a two tier fee system

Michael Dance:I personally like it

Gabriela Szlak:One question regarding RFI. Should potential providers take into account these community suggestions? (I am not on the phone)

Philip Corwin:If no contract is intended then maybe there should just be a single provider to assure uniformity of application and prevent forum shopping (though strongly prefer contracts)

Kristina Rosette:Doesn't it make more sense to find out what the potential providers come up? If one or more can do it at the target price, there's nothing to do, right?

Kathy Kleiman:Per Jon N's suggestion: procedural rules may change, but the substantive rules should stay the same. If that's the guideline,



then we can constitute a small group...

Rubens Kuhl:Single provider under contract - best solution.

Kristina Rosette:that should be "come up with"

Evan Leibovitch:I guess comments entered into Adobe Connect don't count.

Philip Corwin:@Kristina - Yes! let's put horse before the cart! So long as ICANN promotes responses beyond existing UDRP providers

Mary Wong:Agree ith Kurt.

Mary Wong:(with, not ith)

Jon Nevett:This should be implementation not policy making -- hope that message was heard loud and clear.

Nick:URS Accreditation Agreement needed,,,

Philip Corwin:@Jon +1

Mary Wong:+1 (x1000), Jon.

Kathy Kleiman:Kurt: if you need a cross-community group to assist with Implementation, I think we can all help...

Claudio Digangi:The ICANN "policy' on this issue stems on GNSO recommendation 3, protecting the rights of others. URS is merely implementation of that "policy'

Philip Sheppard:@jon - agree this must be implementation - best to see what replies are to RFI first

Kathy Kleiman:UDRP claims?

Philip Sheppard:@Kurt - the issue is not CLEAR-CUT but "NOT CLEAR CUT".

J. Scott Evans:@Claudio. Agree.

Jon Nevett:agree Philip

Frank Michlick (DomainCocoon):Not sure if the people doing this today really have such a good feel for what's clear cut, some decisions have been questionable in the past and some also lead to lawsuits....

Evan Leibovitch:It is extremely disappointing that staff is trying to get the community to change policy to cut costs, rather than examining its RFI and budgeting process.

Alan Greenberg:If that many cases turn out to be that clear cut, there should be no problem with the \$500 fee!

Kathy Kleiman:Kurt, I'm sorry to say it, but for so many of us, it's a "you know it when you see it" -- that's the beauty of experience. It maybe possible to provide examples or guidance, but perhaps not absolutes...

Philip Corwin:@Philip S -- another way to put -- is it black-and-white or shades of grey?

Philip Sheppard:@Philip C - ; )  
Claudio Digangi:@Alan, the fee is supposed to be between 300-500,  
let's not assume the public should pay the higher end of that fee  
Kristina Rosette:In the phone queue, but am curious why ICANN doesn't  
condense the RFI response period and defer convening any  
implementation group until after RFI responses are received.  
Philip Sheppard:@Kristina - exactly  
Kristina Rosette:isn't there some sort of association of arbitration  
service providers? Kristine, is there?  
Alan Greenberg:@Claudio. Certainly agree. \$500 has become shorthand  
for \$300-500. BUt yes, we should remember it was an upper bound.  
Rubens Kuhl:@Kristina +1 : Need to look at RFI responses first.  
Claudio Digangi:@Alan: :)  
Kristine Dorrain:Not that I know of...  
Rubens Kuhl:Pricing: \$300 if it's on TMCH, \$500 if it's not. TMCH  
registration also costs \$200, so it's mark holder choice where to go.  
Philip Corwin:@KR - good point (getting concerned that we are in  
agreement so often these days ;-)  
Kristina Rosette:@Philip Corwin: I know. Shocking! :-)  
Kristine Dorrain:Rubens: TMCH doesn't save the provider a dime.  
Claudio Digangi:this must be set up so TMCH can save the providers \$\$  
Philip Sheppard:@Kristina R- very wise  
Wayne MacLaurin (Sedari):also not sure about the optics of asking  
"volunteers" to support a program that just raised \$350 Million.....  
Philip Sheppard:Im happy to bill if it makes ICANN feel better  
Claudio Digangi:agree with Alan + Kristina  
Gabriela Szlak:Please can someone read my question as I am not on the  
phone!? thanks: Regarding RFI. Should potential providers take into  
account these community suggestions?  
Michele Jourdan:Hi Gabriela, this session is being recorded and will be  
made available for anyone to review on the new gTLD  
Microsite. Potential providers will be able to review these suggestions  
Michael Dance:Thank you for doing it  
Kristina Rosette:Thanks, Olaf and Kurt.  
Kathy Kleiman:Tx you Olof and Kurt -- and see you in Toronto!  
Kristine Dorrain:Thanks everyone, especially Olof and Kirt.  
Kristine Dorrain:Kurt  
Emily Taylor:Just a last thought - it's good to bear in mind that  
there's admin costs for handling the cases (goes to the provider) and the

expert/panel fees, and we seem to be munging them - worth splitting out the elements if you are looking for costs savings

Philip Corwin:Thanks - and see many of you in Toronto/safe travel

Jon Nevett:Thanks

Philip Sheppard:Indeed thanks to all - very useful chat here methinks

Gabriela Szlak:Thanks a lot for this webinar

Ksenia Golovina:Thank you

Kathy Kleiman:Quick note again: that handling Defaults is NOT an implementation issues -- it's a substantive rights issue ...

Rubens Kuhl:See most of you in Toronto. Thanks Olof/Kurt/ICANN staff.

Jamila:Thank you

Emily Taylor:Thanks

Chris Jackson:Thank you!

Mary Wong:Yes, very productive and useful. See you all in Toronto!

Gabriela Szlak:Thanks to all!!

Gideon (DotConnectAfrica):Thanks all

Frank Michlick (DomainCocoon):bye, thank you.

4568045 2:Thank you