WIPO-ICA UDRP Review Project: presentation to ICANN Governmental Advisory Committee

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Background to the UDRP

- Late 1990s: WIPO Member States requested recommendations for a uniform approach to resolving trademark-based domain name disputes.

- International process, nearly 20 consultations, WIPO Report to address cases of trademark "cybersquatting" was adopted by ICANN's precursor to the GNSO, the DNSO.

- Under WIPO's leadership and institutional investment, the UDRP is recognized as a unique global success and online dispute resolution best practice.

  - Over 80,000 cases managed by WIPO with parties from every corner of the world; the UDRP is preferred over cost-prohibitive multi-jurisdictional court litigation.

  - Registries and registrars do not need to get involved in cybersquatting disputes.

  - Nearly 100 country code Top Level Domains (ccTLDs) use the UDRP or a tailored model.

- 2011 ICANN Issue Report: "In the last decade, the Internet community has come to rely on the consistency, predictability, efficiency, and fairness generally associated with the […] UDRP."

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25+ Years

100,000+ Cases

1 Executive Summary

1.1 Background

On 18 February 2016, the GNSO Council voted to initiate the Policy Development Process (PDP) on the Review of All Rights Protection Mechanisms (RPMs) in All gTLDs.[1] On 15 March 2016, the GNSO Council approved the PDP Charter for the review to be conducted in two phases.[2] Phase 1 focuses on reviewing all the RPMs and associated structures and procedures applicable to gTLDs launched under the 2012 New gTLD Program, specifically:

- The Uniform Rapid Suspension System (URS);

- The Trademark Clearinghouse (TMCH);

- The Sunrise and Trademark Claims services offered through the TMCH; and

- The Trademark Post-Delegation Dispute Resolution Procedure (TM-PDDRP).

Phase 2 will focus on reviewing the Uniform Dispute Resolution Policy (UDRP), which has been an ICANN Consensus Policy since 1999. Please see the "Background" section of this Final Report for summaries of these RPMs.

On 21 April 2016, the Working Group held its first meeting to commence its Phase 1 work and met regularly since that time. Its last meeting was held on 29 October 2020.
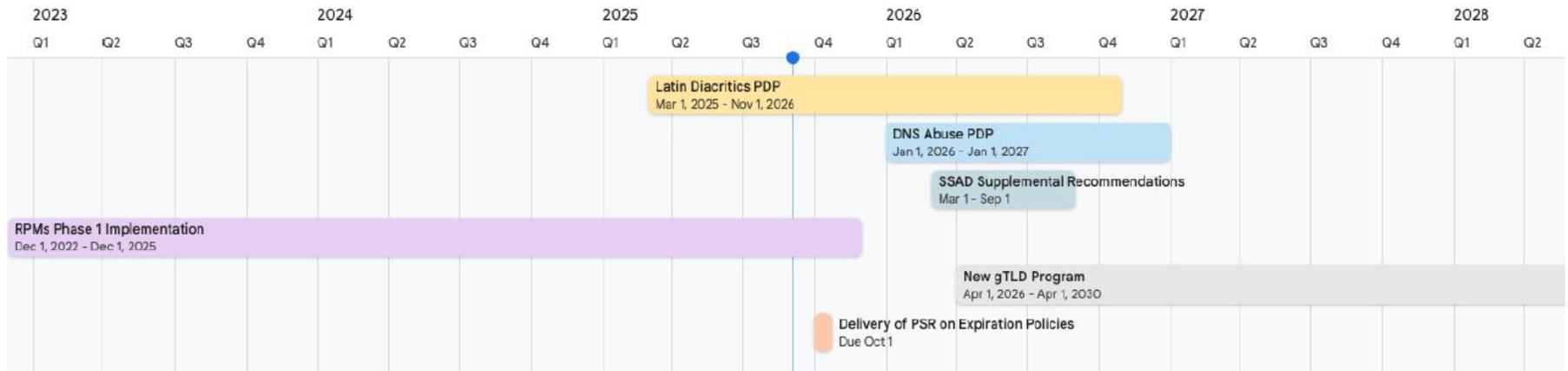
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Generic Names Supporting Organization

Phase 1 Final Report on the Review of All Rights Protection Mechanisms in All gTLDs Policy Development Process

24 November 2020

Status of This Document

2023   2024   2025   2026   2027   2028

Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4 | Q1 Q2 Q3 Q4 | Q1 Q2

Latin Diacritics PDP
Mar 1, 2025 - Nov 1, 2026

DNS Abuse PDP
Jan 1, 2026 - Jan 1, 2027

SSAD Supplemental Recommendations
Mar 1 - Sep 1

RPMs Phase 1 Implementation
Dec 1, 2022 - Dec 1, 2025

New gTLD Program
Apr 1, 2026 - Apr 1, 2030

Delivery of PSR on Expiration Policies
Due Oct 1

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September 26, 2025
ICANN GNSO MEETING SLIDE at ICANN84

Program	Project	Description: What	Urgency: When	Importance: Why	What Could the Future Work Look Like?	Level of Effort (based on column immediately to the left)
RPM	Rights Protection Mechanisms Phase 2	RPMs Phase 2 is work that the Council has previously committed to, which is intended to focus on the UDRP. In concluding RPMs Phase 1, the Council had postponed the start of Phase 2 until Phase 1 implementation completed. The Council also agreed to consider whether amendments may be needed to the Charter before starting the work. **At some point prior to reinitiating this work, a Charter drafting team will need to be convened.** However, that step does not preclude additional data gathering and analysis happening prior.	PRIORITY? DEFER? - The Council has deferred taking next steps (i.e., establish a charter drafting team) several times, starting in February 2023.	- In considering the importance of this initiative, the Council may want to consider the passage of time since the original PDP was chartered. Is this work still a priority? Are there clear issues to address?	Intermediate Next Steps: • Review WIPO-ICA UDRP Review • Consider whether additional ICANN org analysis is needed • Convene Charter drafting team Based on preceding steps, launch a PDP on RPMs Phase 2 (UDRP) that is as narrowly focused as possible on addressing identified issues.	**High**, especially because of preceding steps.

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WIPO-ICA UDRP Review

Final Report now published: FINAL REPORT OF THE WIPO-ICA UDRP REVIEW PROJECT TEAM

Executive Summary Table of Recommendations in the Final Report

The World Intellectual Property Organization Arbitration and Mediation Center (WIPO Center) along with the Internet Commerce Association (ICA) have convened a project team to conduct a review of the UDRP – the Uniform Domain Name Dispute Resolution Policy.

This project consisted of a robust international process spanning nearly a dozen consultations with industry leaders and experts to identify best practices, consensus, and potential areas for improvement of the UDRP. Following public comment on the draft report, the Final Report is now being shared, including with ICANN for consideration in any UDRP review undertaken by its GNSO.

By assisting the ICANN community in identifying areas of stakeholder agreement and disagreement, it is expected that ICANN's review process will benefit from greater focus and efficiency.

Concerning a review of the UDRP, the ICANN GAC (Governmental Advisory Committee) Hague Communique (ICANN 74) noted that: "[t]he GAC received an update on the status of a planned review of the UDRP, and in particular notes reference to section 13.1 of the ICANN Bylaws which calls on and indeed encourages, the Board and constituent bodies to seek advice from relevant public bodies with existing expertise that resides outside of ICANN (notably the World Intellectual Property Organization —WIPO, as author and steward of the UDRP) to inform the policy process, and looks forward to further exploring this provision prior to any review of the UDRP."

Such approach has also been called for in a letter to ICANN from MARQUES, the European association representing brand owners: "ICANN could request the World Intellectual Property Organization as the global leader, which was commissioned in 1998 to develop a solution which became the UDRP, to select and chair this independent expert group."

Overarching Principles

The core aim of this project is to maintain the UDRP as an efficient and predictable out-of-court dispute resolution mechanism for clear trademark-based disputes.

Over nearly 25 years and tens of thousands of cases, the UDRP has proven to be an effective process to quickly, consistently, efficiently, and predictably resolve clear cases of cybersquatting. Any recommendations should be borne out by a demonstrated compelling need for a change, and must

FINAL REPORT OF THE WIPO-ICA UDRP REVIEW PROJECT TEAM

(December 2, 2025)

WIPO | ADR
Arbitration and Mediation Center

ICA INTERNET COMMERCE ASSOCIATION
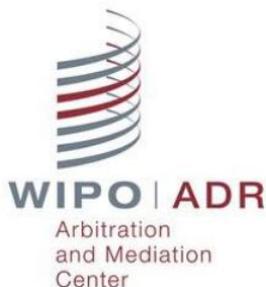
A More Efficient, Focused, and Practical Way Forward

EXECUTIVE SUMMARY TABLE OF RECOMMENDATIONS

FINAL REPORT OF THE WIPO-ICA UDRP REVIEW PROJECT TEAM

(December 2, 2025)

Category 1 – Unanimity of the Project Team, Likely to Achieve Consensus and Readily Implementable

These are the topics on which the Project Team reached unanimous agreement, and we therefore believe that consensus is likely to exist in the Phase 2 Review. These are moreover recommendations that appear readily implementable.

TOPIC	PROJECT TEAM RECOMMENDATION
Supplemental Filings	We recommend that the Phase 2 review seek a consistent approach to the procedures and parameters concerning supplemental filings.
Fee Payment Deadlines	We recommend that the Rules be amended to impose a deadline for complainants to pay additional filing fees in three-member panel cases.

Executive Summary

- We convened a group of 16 UDRP experts with extensive practical experience as counsel, as panelists, and as parties

- We additionally brought in 28 specific subject matter experts including scholars, panelists, counsel, ccTLD representatives, registrars and registries, registrants, brand owners, noncommercial users, and UDRP Providers

- Based upon the project team's discussions and sessions with subject matter experts, we created a series of survey questions to gather the project team's views on a broad range of UDRP-related topics

- We evaluated the accumulated data from the survey and categorized each topic into a category of "Unanimous Support" or, "Consensus Achievable with Further Exploration"

- We published this Initial Report for broad public comment and will then submit our Final Report to ICANN's GNSO Council for its consideration

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Overarching Principles

- The **core aim** of this project is to **maintain** the UDRP as an efficient and predictable out-of-court dispute resolution mechanism for clear trademark-based disputes.

- By assisting the ICANN community in identifying areas of stakeholder agreement and disagreement, it is expected that ICANN's review process will benefit from **greater focus and efficiency**.

- Concerning a review of the UDRP, <u>the ICANN GAC (Governmental Advisory Committee) Hague Communique</u> (ICANN 74) noted that:

  - "[t]he GAC received an update on the status of a planned review of the UDRP, and in particular notes reference to section 13.1 of the **ICANN Bylaws which calls on and indeed encourages, the Board and constituent bodies to seek advice from relevant public bodies with existing expertise that resides outside of ICANN (notably the World Intellectual Property Organization—WIPO, as author and steward of the UDRP) to inform the policy process**, and looks forward to further exploring this provision prior to any review of the UDRP."

- MARQUES (the European association representing brand owners):

  - "ICANN could request the World Intellectual Property Organization as the global leader, which was commissioned in 1998 to develop a solution which became the UDRP, to select and chair this independent expert group."

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Project Team: experts and UDRP stakeholders from around the world

- lead faculty for [WIPO Advanced Workshop on Domain Name Dispute Resolution](): David Bernstein and Andrew Lothian;

- ICANN Board member and liaison: Sarah Deutsch;

- party counsel: Paul Keating, Jane Seager, Jason Schaeffer, and Marc Trachtenberg;

- UDRP panelists: Shwetasree Majumder, Francine Tan, Adam Taylor, Kiyoshi Tsuru, Nicholas Smith, Jeremy Speres, and Deanna Wong Mai Man;

- domain name registrant representative: Nat Cohen;

- brand owner representative: Mette Andersen

- Additional expertise from:

  - **ccTLDs** (for Nominet: Nick Wenban-Smith, Tony Willoughby, and Nick Gardner), **counsel** and UDRP review proponents (Georges Nahitchevansky and Steve Levy), **Respondent counsel** (Gerald Levine and John Berryhill), **Registrars** (Reg Levy and Rich Brown from Tucows, Owen Smigelski from Namecheap, and Chris Patterson from GoDaddy), **UDRP Providers** (Renee Fossen from Forum, Lenka Nahlovksa from CAC, and Ina Ergasheva from CIIDRC), civil society and academia (Konstantinos Komaitis, Christine Farley, and Rebecca Tushnet), **domain investors** (Nat Cohen and Jay Chapman), **filing counsel** (Nathalie Dreyfus and Cecilia Borgenstam), **brand owners** (Patrick Flaherty from Verizon and Margie Milam and Natalie Leroy from Meta), and **enforcement firms** (Caroline Valle from SafeNames, Tim Brown from Com Laude, and Vincent D'angelo, Joe Viviani, and Özge Şentürk from CSC)

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Overarching Principles Guiding this UDRP Review Project

- 25 years and tens of thousands of cases have given rise to a rich body of case jurisprudence – as demonstrated in the WIPO Overview.

- The UDRP has proven to be an effective process to quickly, consistently, efficiently, and predictably resolve clear cases of cybersquatting for parties around the world.

- Any recommendations to update the UDRP must be considered against this background, in full consideration of the potential implications and their impact on jurisprudence and party expectations.

- Any policy recommendations should not be made on the basis of outlier cases or views which are unlikely to garner consensus.

- It is recognized that the UDRP has generally worked well, and that there is no pressing need or desire to undertake a wholesale revision.

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Identifying Subjects for Consideration Based on Practical Experience and Knowledge

- Loser Pays, Costs, Damages

- Fee Payment Deadlines

- Reviewing and Reinforcing ICANN's Role in Compliance

- Providing UDRP-related Information for Registrars

- Regulating Complaint Withdrawals

- Clarifying Registrar Verification Procedures

- Identifying Dissenting Panelists

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Four categories

Category 1 – Unanimity of the Project Team, Likely to Achieve Consensus and Readily Implementable

These are the topics on which the Project Team reached unanimous agreement, and we therefore believe that consensus is likely to exist in the Phase 2 Review. These are moreover recommendations that appear readily implementable. Against that backdrop, these are topics that the Project Team considers should be prioritized in the charter for ICANN's Phase 2 review of the UDRP.

Category 2 – Unanimity of the Project Team, With Implementation Particulars to be Resolved

These are topics on which the Project Team agrees that a solution is both desirable and possible, but for which a specific solution has not yet been agreed upon. It is suggested that these topics be considered in dedicated, specialized work tracks in the Phase 2 review of the UDRP.

Category 3 – Agreement in Principle, Further Directional Work Required

These are topics on which the Project Team agrees that further work may be undertaken, but for which it did not propose a specific substantive solution nor a procedural direction.

Category 4 – Unanimity of the Project Team to Retain the Status Quo

These are topics on which the Project Team agreed that the complexity of the topic and the effort that would be necessary to reach a consensus solution prima facie outweighed the benefits of doing so.

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Implement Consensus Improvements When Consensus is Achieved, on a Rolling Basis

- By breaking the Phase 2 work down into component pieces, we suggest that when consensus is achieved on a particular topic, ICANN need not await the final resolution of all issues under consideration.

- We have identified over two-dozen topics in this Report; ICANN's Phase 1 project has now taken over 10 years (almost 5 of that in Working Groups) and has yet to be fully implemented.

- This **iterative approach** also has the benefit of not upsetting the 25 years of UDRP experience with too many changes at once. Beyond that, a number of identified topics have long-held opposing views that may take considerable time to study and discuss.

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A more efficient, focused, and practical way forward.

- We hope that, by providing this Report garnered through extensive consultation and deliberation from experts with hands-on experience with the UDRP, ICANN will be able to:

  - a) Commence a Phase 2 Review with a clear sense of what may reasonably be accomplished and thereby better direct the work (both in terms of scope and duration) and **be efficient with ICANN's resources**;

  - b) **Responsibly charter** the Phase 2 Review in an efficient manner by prioritizing areas where consensus appears likely; and

  - c) Appropriately **project manage** certain topics for which consensus may require further work by dedicated and specialized work streams.

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Questions?