

Registries Stakeholder Group Statement



Initial Report from the EPDP on Specific Curative Rights Protections for IGOs

Date statement submitted: 23 October 2021

Reference url: <https://www.icann.org/en/public-comment/proceeding/initial-report-epdp-specific-curative-rights-protections-igos-14-09-2021/submissions/rysg-registries-stakeholder-group-23-10-2021> .

Background¹

- [Initial Report & Preliminary Recommendations](#) (.pdf)

The EPDP team reached initial agreement on: (1) adding a definition of “IGO Complainant” to the current Rules applicable to the UDRP and URS, to facilitate an IGO’s demonstration of rights to proceed against a registrant (in the absence of a registered trademark); and (2) including an option for voluntary arbitration following the initial UDRP or URS panel decision, to resolve the issue of how to recognize an IGO’s jurisdictional immunity while preserving a registrant’s right to choose to go to court.

The EPDP team has not come to an agreed conclusion on: (1) whether the option to arbitrate will remain available to a registrant following the outcome of a court proceeding initiated by the registrant where the court declines to hear the merits of the case; and (2) what should be the applicable choice of law for any arbitration that the parties may agree to.

RySG comments on related issues

- [RySG comment on the GNSO Initial Report on the IGO-INGO Access to Curative Rights Protection Mechanisms Policy Development Process](#). (30 March 2017)
- [RySG comment on the Proposed implementation of GNSO Consensus Policy Recommendations for the Protection of IGO & INGO Identifiers in All gTLDs](#) (9 July 2017)

Registries Stakeholder Group comment*

Summary of Submission:*

The RySG has some concern in general regarding changes to the URS and UDRP processes. However, we understand that IGOs have cited a unique set of jurisdictional challenges impacting their ability to avail themselves of various rights protection mechanisms (RPMs) and that this work was an attempt to accommodate their specific needs and will be utilized on a very limited basis. We would support the EPDP

¹ *Background: intended to give a brief context for the comment and to highlight what is most relevant for RO’s in the subject document – it is not a summary of the subject document.*

in reaching out to the GNSO to gather input from the RPM PDP, if possible, on these recommendations prior to finalizing them. We offer more specific input on some recommendations below.

Overarching comments

The Registries Stakeholder Group (RySG) welcomes the opportunity to comment on the Initial Report from the EPDP on Specific Curative Rights Protections for IGOs.

We have some concern in general regarding changes to the URS and UDRP processes. However, we understand that IGOs have cited a unique set of jurisdictional challenges impacting their ability to avail themselves of various rights protection mechanisms (RPMs) and that this work was an attempt to accommodate their specific needs and will be utilized on a very limited basis. We would support the EPDP in reaching out to the GNSO to gather input from the RPM PDP, if possible, on these recommendations prior to finalizing them. We offer more specific input on some recommendations below.

Comments on the individual recommendations

- **Recommendation #1: Definition of “IGO Complainant”**

The RySG believes this a clear and targeted definition that contributes to an appropriate scope for these recommendations.

- **Recommendation #4: Arbitral Review following a UDRP Proceeding**

The RySG supports Option 2. Where the avenue of judicial challenge to the UDRP decision is not available to the registrant as a result of the IGO’s refusal to submit to the jurisdiction of the Court, and the Court thereby declining to hear the action, then fairness would support the registrant being able to avail themselves of the proposed arbitration alternative.

- **Recommendation #5: Arbitral Review following a URS Proceeding**

The RySG supports Option 2. See our comments to Rec #4.