2013-05-18-TOC-REFERENCE MATERIALS.docx

TABLE OF CONTENTS – REFERENCE MATERIALS

2013-05-18-01c-Board Reference Materials-October 2014 Meeting.doc

ANNEX TO BOARD SUBMISSION No. 2013-05-18-1c
Location of October 2014 ICANN Meeting

DETAILED ANALYSIS:

1. Background:

At the Special Meeting of the ICANN Board of Directors held telephonically on 20 December 2012, the Board discussed the proposal on the location of ICANN meetings in 2014, which adopted only the first year plan of the Consolidated Meetings Strategy Proposal, given the negative comments received on the full three-year plan. The Board passed the following resolution: Resolved (2012.12.20.20), the Board directs the President and CEO to make the necessary arrangements to conduct the 2014 ICANN Meetings in Singapore, London (England) and a city to be identified in North America.

This paper describes the steps taken to identify the location of the October 2014 ICANN Meeting in North America.

2. Site Visits:

Site visits were performed, as follows:

Confidential Business Information

- April 2013 – Los Angeles, California

3. Discussion of Issues:

Los Angeles offers an excellent combination of accessibility, meeting facilities and hotel accommodations for the October 2014 ICANN Meeting. The Hyatt Regency Century Plaza will be used for all meetings, as well as guest room accommodations for Board, staff and many delegates. Nearby hotels are within walking distance and offer accommodations at varying price points.

Air access to Los Angeles is excellent, offering direct flights to many international destinations. The airport is approximately 30 minutes from the meeting venue.

Holding the meeting in Los Angeles will result in greatly reduced air travel and guest rooms expenses for ICANN staff located in Los Angeles.

Staff recommends that the board approve Los Angeles, California as the location of the October 2014 ICANN Meeting.

A budget of US$568K is proposed for the ICANN Meeting in Los Angeles, California. It includes all expenses for the Meeting, but does not include travel for the ICANN Board, staff, meeting contractors or funded travellers, nor does it include expenses for Language Services.

*****Confidential Budget Estimate Information Set Forth Below*****

*****Confidential Budget Estimate Information Set Forth Above*****

2013-05-18-02a-Board Reference Materials-ACDR-Proposal-UDRP-Provider.doc

REFERENCE MATERIALS - BOARD PAPER NO. 2013-05-18-2a

TITLE: ACDR's Proposal to Serve as a UDRP Provider

Background

ICANN has received a proposal from the Arab Center for Domain Name Dispute Resolution (ACDR) to be recognized as one of the official dispute resolution providers under the UDRP. The proposal was submitted pursuant to the process specified athttp://www.icann.org/en/dndr/udrp/provider-approval-process.htm.

The ACDR is jointly established by the Arab Intellectual Property Mediation and Arbitration Society (AIPMAS) and the Arab Society for Intellectual Property (ASIP), with headquarters in Amman, Jordan and additional offices in other Arab Countries. Both the AIPMAS (established in 1987) and ASIP promote the activities of the Arab Center of Mediation and Arbitration, established in 2003, active in resolving conflicts related to intellectual property through international arbitrators. If approved, the ACDR would be the first Approved UDRP Dispute Resolution Service Provider headquartered in an Arab state.

The ACDR's Proposal is provided in a five-part attachment to this paper.

Attachment A is the Base Proposal

Attachment B is the ACDR's initial list of neutrals to serve on UDRP panels

Attachment C is the ACDR's screening requirements for its neutrals

Attachment D is the ACDR's proposed Supplemental Rules for UDRP proceedings

Attachment E is the ACDR's Internal Operating Procedures. Pursuant to the process, ICANN has agreed to hold the Internal Operating Procedures as confidential.

The First Comment Period

ACDR's proposal was previously posted for 30 days of public comment on 10 September 2010. The summary and analysis of public comments is attached as Attachment F. Only seven comments were submitted, and many addressed the issue of

how ICANN could assure uniformity of practices among UDRP providers. Some of the commenters called for ICANN to develop contracts with all of its UDRP providers as one means of assuring uniformity. The ACDR proposal now affirmatively recognizes that if ICANN imposes requirements among all UDRP providers, the ACDR will comply with those uniform requirements.

Commenters also addressed specific issues with the ACDR application, identifying items such as the definition of "writing" that appeared in the Supplemental Rules and how that definition may be inconsistent with UDRP practice. The ACDR has reviewed those comments and remedied potential inconsistencies with the UDRP. The ACDR has also imposed a meaningful limitation on its capacity as it starts administering UDRP cases, a limitation that was not there before.

Finally, commenters addressed some of the ACDR's fee structure. ICANN does not set the UDRP provider fee schedules; therefore, ICANN has not re-evaluated the ACDR proposal to determine if the comments on fees were addressed. Fee setting is within the discretion of the providers.

The Second Comment Period

At the direction of the Board, the ACDR was posted for an additional public comment period on 1 March 2013. The summary and analysis of the second comment period is attached as Attachment G. Ten comments were submitted. Three commenters provided conditional support to the proposal so long as a change was made to the Supplemental Rules. ACDR has incorporated that change. Four of the commenters opposed the proposal based on the issue of uniformity of providers, without providing specific objection to the substance of the ACDR proposal. One of the commenters expressed concern about the location of the ACDR.

Issues of Uniformity

The issue of provider uniformity has long served as bar for some in the community to support the approval of new UDRP providers. One of the concerns noted in February 2013 was that the community had no visibility into the prior work of ICANN into considerations of contracting with UDRP providers or other mechanisms to assure provider uniformity. To address that concern, staff has prepared an informational

briefing to be posted on the ICANN website, reflecting the outcomes of the staff work on this issue. That briefing paper is provided as Attachment H to this paper.

Conclusion

This proposal has been pending for some time. Soon after the ACDR proposal was posted for comment, the GNSO evaluated the potential initiation of a policy development process on the UDRP, and that work could have encompassed the provider approval process. The consideration of the proposal was stalled until the status of the potential PDP (which was deferred) was made more clear. Since that time, ICANN and the ACDR have worked in coordination to address the issues raised in public comment, and the application is now ripe for Board consideration. In addition, a report on the work that the community requested visibility into is now publicly available, which will address the tangential issues related to provider uniformity.

Signature Block:

Submitted by:	Samantha Eisner
Position:	Senior Counsel
Date Noted:	6 May 2013
Email:	Samantha.eisner@icann.org

2013-05-18-02a-Board Reference Materials-Attachment-A-UDRP-ACDR.pdf

The Arab Center for Domain Name Dispute Resolution (ACDR)

Jointly established by

The Arab Intellectual Property Mediation and Arbitration Society (AIPMAS)

&

The Arab Society for Intellectual Property (ASIP)

TABLE OF CONTENTS

I- CONTACT DETAILS

Main contact details of the Arab Center for Domain Name Dispute Resolution (ACDR).

P.O Box 921100 Amman, 11192
Hashemite Kingdom of Jordan

Contact persons for the proposal:

Ms. Deema Abu-Zulekha.
Mr. Mohammad Quttaineh.

Contact details for communication purposes:
-MS. Deema Abu Zulekha
Deputy Executive Director
Quality Control Department Manager
Talal Abu-Ghazaleh Legal (TAGLegal)
P.O.Box 921100 - 11192
Amman - Jordan
Tel: +962 6 5100900
Fax: +962 6 5100901
Email: dabu-zulekha@tag-legal.com

-Mr. Mohammad Quttaineh
Legal Counsel (LLM)
TAGLegal Abu Dhabi Office Manager
Talal Abu-Ghazaleh Legal (TAGLegal)
P.O.Box: 4295, Abu Dhabi, UAE
Tel: +971 2 6723526
Fax:+ 971 2 6724425
Email: contracts@tag-legal.com

With a copy to:

Mr. Mu'tasem Dmour
Executive Director
The Arab Society for Intellectual Property (ASIP)
Abdul Rahim Al-Waked Street
Bldg. No. 46, Shemisani
P.O. Box 921100 Amman 11192 Jordan
Tel. 00962 6 5609000

Fax: 00962 6 5609001
Email: Info@aspip.org
Amman- Hashemite Kingdom of Jordan

II- EXECUTIVE SUMMARY

The Arab Center for Domain Name Dispute Resolution (ACDR) requests the Internet Corporation for Assigned Names and Numbers (ICANN) to approve its proposal to become recognized as an official dispute resolution provider under the Uniform Domain-Name Dispute-Resolution Policy (UDRP). The Arab Intellectual Property Mediation and Arbitration Society (AIPMAS), and the Arab Society for Intellectual Property (ASIP) as non-profit institutions, with their headquarters in Amman, Jordan and other offices in the Arab countries, have a vast experience in dispute resolution in general and IP related dispute resolution in particular.

Throughout the years, we have developed a comprehensive set of standardized internal policies and procedures to deal with the intricate and multi-faceted IP cases. The increasing number of clients that approach us, and trust our commitment to a fair and reliable service, attests to our capacity to become a UDRP provider in the Middle East. Given the potential for more socioeconomic changes in the region, the existence of such an institute is essential to ensure that the necessary cultural framework is being developed simultaneously and accordingly. We believe that, considering the history of ASIP and AIPMAS in handling the related issues, ACDR has the capacity to address this need.

Our offices, located in the heart of Amman, are fully equipped to deal with large numbers of cases. Our professional team consists of four lawyers with supporting staff, highly qualified translators and an IT Department. The Center provides extensive administration assistance to all parties, panelists and registry. We are capable, at any stage in the future, of expanding our team of lawyers, professionals and supporting personnel as the implementation of the UDRP system may demand, to ensure accurate administration of UDRP cases.

III- OUR VISION

Our vision is to promote a well-rounded debate in the realm of domain name dispute management between all interested parties. We aim to become an internationally accredited institute which provides a world class dispute resolution, as an alternative to the legal and business communities of our region.

While we put impartiality and professionalism first, we also take into account the necessity for gradual invergance of the rules applied by UDRP providers. Hence, we acknowledge the importance of constant interaction among the existing providers in order to stay aware of the conflicting policies and to interactively discuss them.

IV- OUR APPROACH

1- Overview of the ACDR Capabilities

The Arab Center for Domain Name Dispute Resolution (ACDR) is a joint venture by the Arab Society for Intellectual Property (ASIP) and the Arab Center for Mediation and Arbitration in Intellectual Property (AIPMAS). Its aim is to resolve domain name disputes under the Uniform Domain Name Dispute Resolution Policy (UDRP).

a- Historical Synopsis

- The Arab Society for Intellectual Property (ASIP)

The Society was established on February 23, 1987 in Munich, Germany. Its original name was The "Arab Society for the Protection of Industrial Property. The original purpose of the institute was to encourage studies in the field of Industrial Property. However, as the institute became more sophisticated, in 2003 its name changed to The Arab Society for Intellectual Property (ASIP). A new mission promotes the research and debate in the development of the IP industry among the member countries. Conducting research projects, holding educational programs, conferences and seminars about various aspects of IP have been at the core of its activities since the cited date.

Also in 2003, ASIP launched the Center of Mediation and Arbitration.
Since then, it has handled numerous Alternative Dispute Resolution (ADR) cases brought by parties from different nationalities.

- The Arab Intellectual Property, Mediation, and Arbitration Society (AIPMAS)

On May 31, 1987, the Arab Intellectual Property Mediation and Arbitration Society (AIPMAS) was established as a non-for-profit institute in Jordan. Originally called The Arab Society for the Protection of Industrial Property, its first mission was to support the establishment of national IP societies in Arab countries to promote IP studies at a national level. The main idea was to pave the way for gradual convergence among the IP regulators in Arab countries, while at the same time to consider the countries' socioeconomic distinctions.

In 1997, the name of the Society was modified, as well as its Articles of Association. Its name changed to The Arab Society for Protecting Intellectual Property, based in Jordan. Like ASIP, this change came with the expansion in its activities and mission to include all aspects of IP. However, the Society evolved even more to encompass the same task as of the Center for Mediation and Arbitration. In 2003, the name changed to The "Arab Intellectual Property, Mediation, and Arbitration Society (AIPMAS). Since then, AIPMAS has been specifically dealing with Intellectual Property ADR cases, including many domain name disputes.

- Arab Center for Mediation and Arbitration in Intellectual Property

The Arab Center for Mediation and Arbitration in Intellectual Property was unveiled as one of the sub-committees under the AIPMAS in a 2003 meeting between the Jordanian Committee of Intellectual Property in E-commerce, the AIPMAS and the Jordanian Arbitration Committee. The Center of Mediation and Arbitration is one of the activities pertinent to the Society.

The Center manages conflict resolution by following its own mediation and arbitration rules prepared by the Executive Committee which reports to the Society‘s Board of Directors.

The Center deals solely with resolving IP disputes but having recognized the necessity for a regional Center of mediation for domain names and having acknowledged the importance of invergance with international rules AIPMAS and ASIP have taken the initiative to establish a UDRP provider which avails itself of:

- the experience gained by the Center for Mediation and Arbitration in Intellectual Property
- uniform UDRP rules
- precedents established by other providers as a non-binding guidance

b- Multiple Languages

The ACDR can provide reliable and quality administration of UDRP cases in three major languages - Arabic, English and French. Team members are either educated in English or French, or both, next to Arabic. ACDR will also continue to expand foreign language capabilities, for instance in Spanish, Chinese, German, Italian and Korean.

c- ACDR Office

ACDR will enjoy spacious facilities in a state-of-the-art office complex in central Amman. The offices are fully equipped to handle administrative proceedings with the utmost quality and professionalism. The Center will not need new premises for its proposed UDRP home. The Center’s role is to administer proceedings, which includes verifying that the initial complaint meets formal requirements and policy. It will coordinate with all concerned registrars, parties and the panel to facilitate the process for a final dispute resolution.

The Center will be operated by a team of professionals to whom different roles will be assigned, including the administrative management , supervisory roles and the tasks of case administrators as well as accounting and financial control.

d- Fees

The fees consist of an amount to be retained by the Center as an administrative fee and an amount to be paid to a panelist. The fees for our domain name dispute resolution services are similar to other UDRP providers which are outlined in our supplemental rules.

e- Advisory Board

The Center shall have an Advisory Board; which will encompass international experts, from different backgrounds such as Intellectual Property, competition law and economists. They will regularly support the Center in varying areas, including policy matters related to the organization's development, technology, procedure and outreach. Their selection will be according to experience and knowledge in their fields, such as IP and ADR procedures. The Advisory Board will meet every three months (via teleconferencing or online) to discuss all issues related to the Center.

2- Initial List of the Names and Qualifications of the Panelists

a- Initial List of Neutrals

In line with the vision of ACDR, panelists will be invited from different nationalities and with different approaches to IP and other related fields. The selection of the panelists will be according to their experience and knowledge. See Annex 2 (Screening requirements).

An initial list of highly qualified neutrals who have agreed to serve as panelists (in response to a limited call) can be found in Annex 1 of this Proposal. Providing an excessively long list of neutrals has been avoided for the purposes of this Proposal. However, an additional call for panelists may take place during implementation.

The initial panelists are multinational, multilingual and highly qualified professionals possessing knowledge and experience in ADR in general and domain name dispute resolution in particular, thus, they are considered to be experts in their field of practice. The panelists are residents of different countries and capable of conducting proceedings in several languages. The grounds which the ACDR demands a panelist to meet can be found in Annex 2 of this Proposal.

Before the appointment of a panelist, the elected panel will be requested to sign and return to the Center a Declaration of Independence and Impartiality using the specially designed form specifically designed for that purpose which will be available on the Center's website.

A party to the administrative proceedings may challenge the appointment of a panelist via filling written request or by submitting an electronic request through the website stating the circumstance and reasons for the challenge within five calendar days from the date of notice of the selection. The Center will determine whether adequate circumstances exist for disqualification. (Please see Supplemental Rules in Annex 3 of this Proposal)

b- Screening Requirements

Screening requirements - please see Annex 2 of this proposal.

3- Training and Educational Measures Employed for Panelists

To facilitate the exchange of information and ideas, as well as to further develop and enhance the knowledge and experience of panelists, the ACDR will promote training through, for instance, slide show presentations over a computer network or the web; live or streaming video; recording of presentation activity for later viewing and/or distribution through the web. The main training areas considered are:

a- *e*Training

ACDR will hold online training sessions in the form of web seminars (Webinars) to introduce and discuss important issues online. The events will include real cases presented by panelists from ACDR and other UDRP providers. Panelists will be able to access on demand archive and replay webinars.

ACDR will hold classes for the Panelists, including, inter alia, classes about covering ACDR and UDRP procedures and policies, ADR in general and technicalities regarding domain names. It will be optional for the panelists to take such classes. The classes will be taught by international professionals in the related field, including but not limited to the panelists from ACDR and other UDRP providers.

b- Online Discussion

The ACDR will establish an online discussion medium, accessible by panelists only, enabling them to communicate with each other and exchange perspectives and experience on all matters relating to the Center's UDRP process and legal practice of domain dispute resolution.

Any significant legal perspectives or points of critical practice importance which would have the effect of further development in the field will be published on the Center's website in the form of panelists' views on UDRP practice.

c- Annual Meeting

ACDR will host an annual meeting for its panelists in Amman to explore and examine contemporary issues in domain name dispute resolution in general and UDRP practice in particular.

4- Commitment

The ACDR will not prevent or discourage its listed panelists from serving as panelists for domain name disputes administered by other approved providers.

5- Supplemental Rules

Please see Annex 3 of this Proposal.

6- Internal Operating Procedures

Please see Annex 4 of this Proposal. (*Confidentiality Asserted*)

7- Implementation Schedule

The ACDR intends to implement the UDRP project described in this Proposal within 6 - 8 months from its approval by the ICANN.

8- Statement of Requested Limitation on the Number of Proceedings

During the start-up period, the ACDR will be ready to start with a limitation not exceeding 50 per month.

The ACDR's professional team includes five lawyers (fluent In English and Arabic) supervised by an executive Director of Legal Affairs with 28 years of experience and a member of Abu Dhabi Arbitration Center.
Support staff includes highly qualified translators and IT specialists. The Center will expand its team to include additional personnel, especially lawyers and supporting staff, during UDRP implementation.

9- Description of Proposed Administration to the Proceedings

The ACDR will provide the administration of UDRP administrative proceedings in compliance with the UDRP Rules. Nonetheless, the ACDR contemplates future advancement to the UDRP system towards paperless pleadings.

a- Expedited & *e*UDRP

We acknowledge that there is a requirement for the exchange of paper pleadings, but is one of the obstacles that hinder the achievement of expedited UDRP. The ACDR shall embrace all future developments in the field of domain name dispute resolution. Mainly, the ACDR is keen to have all future UDRP proceedings totally online with no physical exchange of paper documents.
Thus, apart from the mandatory requirements of the Rules, and in accordance with paragraph 2(c) of the Rules, we will gradually move all communications online.

In accordance with the current status of the Policy and the Rules, we will establish an electronic medium for the administration of proceedings where parties may create a user account with a unique user name and password to provide secure online filing and electronic submission of complaints and responses. Nevertheless, the Center will consistently exert efforts to achieve simplified submission and communication of hardcopies of complaints and responses.

b- In general, the ACDR will administer proceedings under UDRP as follows:

The Complainant files a complaint with the ACDR according to the policy, rules and supplemental rules. A copy is communicated to the Respondent and the concerned Registrar(s). (Should all communication move online, an electronic form copy of the Complaint will be transmitted to the Respondent and actual notice of the Complaint is to be achieved via electronic means to the addresses supplied by the Registrar to the Center).

The ACDR will review the Complaint for administrative compliance. In the event of non-compliance, the Complainant will have 5 days to amend the Complaint or the Complaint will otherwise be dismissed.

Upon acceptance of the Complaint by the ACDR, proceedings will begin and the Respondent will have 20 days to respond to ACDR according to the Policy, the Rules and Supplemental Rules.

In the event that the Respondent does not submit a written response, the Panel will base its decision on consideration given to the Complaint alone.

The ACDR shall decide on additional submissions in accordance with its Supplemental Rules.

The ACDR appoints the Panel for deciding the case.

The Panel examines the Complaint and the Response.

Hearings (via teleconference, video conference or web conference etc.) shall be held according to the Panel's sole discretion.

The Panel renders its Award. The Award is published on the ACDR website and transmitted to the Parties, the Registrar, and ICANN.

For details on our proposed Supplemental Rules please see Annex 3 of this Proposal.

10- Publishing the Decision of the Panelists in the Proceedings

The ACDR will publish all outcomes rendered by panelists on its website.

The ACDR will administer UDRP proceedings in English, Arabic and French, and plans to extend its capacity to include other languages in the future. Significant decisions rendered in French or Arabic will include translations to English, and, in the future, decisions in other languages will have English summaries.

The ACDR is committed to providing ICANN with copies of all portions of panel decisions that are not published.

ACDR will have its own system/search tool for researching the Center's decisions resolved under UDRP. The tool will assist complainants, respondents, their counsel, panelists, providers and members of the public who are concerned with the DNS, the UDRP practice, as well as IP protection in general, in researching decisions on domain names.

V- OUR TEAM

Our team includes experts with considerable knowledge and experience in several fields of legal practice with a focus on Intellectual Property, specifically trademarks through representing more than (494,000) Trademarks worldwide through our sister firm Abu

Ghazaleh Intellectual Property (AGIP). , ADR, arbitration and understating of the regulation and practice of international domain name dispute resolution systems.

Team members are highly self-motivated, enthusiastic and professional individuals with a hunger eagerness to succeed. They will be the key elements players in the preparation and implementation of our UDRP system.

VI- LIST OF ANNEX

Annex 1: Initial List of the Names and Qualifications of the Panelists
Annex 2: Screening Requirements
Annex 3: Supplemental Rules
Annex 4: Operating Procedures

2013-05-18-02a-Board Reference Materials-Attachment-B-UDRP-ACDR.pdf

Annex 1
Initial List of Neutrals

This is an initial list of highly qualified neutrals who have agreed to serve as Panelists and a brief description of their qualifications. The ACDR has avoided providing an excessively long list of neutrals. However, a call for further Panelists may take place upon implementation.

Name	Country	Qualifications	Position	Listed as Panelist	Membership IT/IP/ ADR
Abdelwahab Badri	Algeria	LL.M in Intellectual Property Law- Turin. Italy	Attorney at law Managing Partner/ Badri Algerian Cabinet for Intellectual Property- Algeria	No	Arab Society for Intellectual Property
Adamou Al Bortchire	Niger	PhD in Law. Clermont-Ferrand University- France	Associate Cabinet ATRHET- Lyon, France	No	Attorney at Law. Avocats Center Sud France
Albert Agustinoy Guilayn	Spain	LL.M in Law- Barcelona/ Spain	Attorney at Law/ IP & IT Cutatrecasas/ Barcelona. Lecturer in IT law- Spain	WIPO/ NAF	Madrid Professional Bar
Angelica Maria Elena Lodigiani	Italy	LL.B in Law Rome- University- Italy	Attorney-at-Law, Studio Jacobacci- Rome, Italy.	WIPO/ ADR.eu	Intellectual Property Attorneys Association/ European Community Trademark Association (ECTA)
Assen Alexiev	Bulgaria	LL.M in Law Sofia University- Sofia, Bulgaria	Partner in Sabev Sofia, Bulgaria	Wipo/ ADR.eu	LCIA

Charné le Roux	South Africa	LL.B University of Pretoria	Partner, Adams & Adams Attorney	WIPO	South African Institute of Intellectual Property Law (SAIIPL)
Christos A. Theodoulou	Cyprus	PhD Institut Uninversitaire de Hautes Etudes Internationales-Geneva, Switzerland	Attorney at Law/ Managing Partner Theodoulou- Larnaca, Cyprus	No	ECTA
Christiane Bou Khater	Lebanon	PhD in Law University of Nantes-France	Executive Director Talal Abu-Ghazaleh Legal-Amman Jordan	No	Arab Society for Intellectual Property
Deema Abu-Zulaikha	Jordan	LL.M in Intellectual Property, University of Jordan-Amman-Jordan	Quality Control Department Manager/ Talal Abu-Ghazaleh Legal-Amman, Jordan	No	Jordanian Bar Association/ Arab Society for Intellectual Property/ Jordan Intellectual Property Association
Debrett Gordon Lyons	Australia	LL.M in Laws, University of Technology, Sydney, Australia	Managing Partner Lyons Cartwright Intellectual Property Consultants & Trade Mark Attorneys-Sydney, Australia	WIPO/ NAF/ ADNDRC	UK Government's Registration Practice Working Group on Design Law and Practice-UK Government's Registration Practice Working Group on Trade Mark Law and Practice/ Internet Committee Laws and Practice Committee, (ITMA) Director and Council/ INTA Committee / ITMA Committee / ITMA Student Lecturer.

Dilek Ustun	Turkey	LL.B in Law/ University of Istanbul- Turkey	Attorney at Law/ Partner of Istanbul Patent & Trademark Consultancy	WIPO/ ADNDRC	INTA/ IP Committee of TUSIAD/ Association European Trademark Owners/ Istanbul Bar Association
Dina Founes	Syria	LL.M in Multimedia & Information Technology Law, University of Robert Schuman- Strasbourg	Attorney at Law / Molinari Legal Consultancy	WIPO	Paris Bar Association/ Chartered Institute of Arbitrators/
Enrique Ochoa	Mexican	M.A., Trademarks, Designs, Patents, Copyright and Information Technologies (Magister Lvcentinvs), Universidad de Alicante- Spain	Langlet, Carpio y Asociados, S.C., 2008; Professor at the Master's Degree on Corporate Law of Universidad Anáhuac, A.C.	WIPO	Society of Former Students of "Magister Lvcentinvs", Universidad de Alicante, Spain, 2002; Mexican Association for the Protection of Intellectual Property (AMPPI), Mexican Chapter of AIPPI, 2000; Mexican Attorneys' Bar. (Intellectual Property, Administrative and Constitutional Commissions, 1999; Center for the Development of Intellectual Property (CEDPI), 1997.
Eva Fiammenghi	Italy	LL.B Law degree, "La Sapienza"- Rome	Attorney at Law Partner, Trade Mark Section, Law Office Fiammenghi & Fiammenghi- Rome, Italy	WIPO	European Community Trade Mark Association (ECTA)/ International Federation Counselor of Industrial Property (F.I.C.P.I.)/

					Licensing Executives Society, Italy, (L.E.S.)
Feras Al Shawaf	Kingdom of Saudi Arabia	LL.M in Law Western Reserve University- USA	Attorney at Law/ Alshawaf law Firm/ Lecturer at Prince Sultan University, Riyadh-KSA	No	Saudi Arabian Bar Association/ Arbitration Committee of the GCC
Ghazi Alodat	Jordan	PhD in Intellectual Property- Nantes. France	Lawyer. Amman, Jordan	No	Jordanian Bar Association/ Arab Society for Intellectual Property
Gustavo P. Giay	Argentina	Northwestern University in Chicago- USA	Attorney at law/ Marval, O'Farrell & Mairal	WIPO	INTA/ The Argentinean Association of Industrial Property Agents (AAAPI)/ The International Association for the Protection of the Industrial Property (AIPPI)/ Licensing Executive Society (LES)
Hassan Okour	Jordan	PhD in Law Southern Methodist University- USA	Regional Manager at Talal Abu-Ghazaleh Legal- Amman, Jordan	No	Jordanian Bar Association/ Licensing Executive Society
Hoda Barakat	United Arab Emirates	M.A. (Law), Clare College, University of Cambridge- UK	Managing Partner & Head of IP/IT Department at Al Tamimi & Co., Dubai, UAE	WIPO	International Bar Association (IBA)/ Institute of Trade Mark Attorneys (ITMA)/ International Trade Mark Association (INTA)/ Marques;

					Pharmaceutical Trade Mark Group (PTMG)/ British Business Group (BBG).
Hossam El-Saghir	Egypt	PhD in Commercial Law, University of Cairo-Egypt	Professor of Commercial and Intellectual Property Laws, Helwan University/ Attorney At Law & Arbitrator/ Egypt	No	The Association for Advancement of Teaching and Research in Intellectual Property (ATRIP)/ The Egyptian Association of International Law, Cairo/ The Egyptian Society for Political Economy Statistics, and Legislation/ Member of the Board of Directors of the Intellectual Property Studies Association
KEita Sato	Japan	LL.B., Law School of Chuo University-Japan	Professor of Law at Chuo University, Law School/ Japan	WIPO	International Bar Associate / American Bar Association/ Board of Directors at Japan Industrial Property Association/ Board of Directors at Japan Copyright Association/ Board of Directors at ALAI Japan Division
Khaled Rafat Ahmed	Egypt	PhD in Law University of Paris I Pantheon-Sorbonne France	Associate Professor/ Arbitrator-Egypt	No	Director of Egyptian Center for Conciliation & Arbitration

Mehdi Salmouni-Zerhouni	Morocco	LL.M in Law University of Strasburg-France	Founding & Partner SALMOUNI-ZERHOUNI-Morocco	No	FICPI Federation International de Propriété industrial/ INTA/ International Trademark Association
Mladen Vukmir	Croatia	LL.B in Law University of Zagreb.	Founding Partner, Legal Counseling, Patent and Trademark Agent Croatia	No	INTA/ American Bar Association
Mohamed Abdulkader Tumi	Libya	PhD in Law. Delaware. LL.M in Law George Washington University-USA	Founding partner Altumi Law Firm-Libya	No	Libyan Bar Association/ The American Society of International Law. I BA Membership/ Arab Society of Intellectual Property/ Dubai Int'l Arbitration Center (DIAC)
Nasser Ali Khasawneh	Jordan	LL.M in Commercial Law/ University of London	Founding & partner Khasawneh & Associates Dubai- UAE	WIPO	International Bar Association/ International Trademark Association (INTA)
Nathalie Dreyfus	France	LL.M in Law/ University Robert Schuman Strasbourg	Founding & Partner Dreyfus & Associés,	WIPO/ NAF/ ADNDRC / ADR.eu	WIPO/ NAF/ CMPA/ INTA/ Association of French Trademark Patent & design/ Attorney/ CEIPANI/ APRAM/ CNPI/ AIPPI/ AACEIP/ ECTA/ AFDIT/ ISOC/ ISOC/ ICANN at Large, ACIP/ PTMG

Nayef M. Abu Alim	Jordan	LL.M Intellectual Property & Commercial Arbitration University of Aberdeen (UK)	Contracts Manager Talal Abu-Ghazaleh Legal (TAGLegal) Amman, Jordan	No	Jordan Bar Association European Arbitration Chamber (EAC) Licensing Executive Society International (LESI) Licensing Executive Society Arab Countries (LES-AC) Arab Society for Intellectual Property (ASIP)
Nicoletta Colombo	Italy	J.D. Università Statale degli Studi di Milano, Milan-Italy	Lawyer and Patent & Trademark Attorney/ Studio Mariacristina Rapisardi-Italy	WIPO	Italian Bar Association/ Founder and Member, European Law Student's Association (ELSA) in Italy; Member of Lawyers' Society of ELSA (ELS)
Sanna af Ursin	Finland	LL.M in Intellectual Property Law University of Helsinki-Finland	IPR Lawyer, European Trademark Attorney, Partner, Berggren Oy Ab-Finland	ADR.eu	INTA/ ECTA / MARQUES/ Finnish IT Law Association/ Finnish Anti-

					Counterfeiting Group (FACG) Association of Finnish Patent Attorneys (SPAY)
Syed Naqiz Shahabuddin	Malaysia	L.L.B, Australian National University, Canberra-Australia	Attorney at Law, Partner, Naqiz & Partners. Kuala Lumpur-Malaysia	WIPO/ ADNDRC	Technology Sub-Committee of the Malaysian Intellectual Property Association (MIPA)/ Technology Committee and the Convenor of the ITC Sub Committee of the Malaysian International Chamber of Commerce and Industry;/ Malaysia Bar Council IT and Cyberlaws Committee/ Kuala Lumpur Bar Committee ITC SubCommittee/ Licensing Executives Society (Malaysia) (LESM).
Victoria McEvedy	United Kingdom	LL.B (Hons) University of Canterbury	Principal of McEvedy & Associates Solicitor, Barrister, Attorney-at-Law, Arbitrator and Mediator-UK	WIPO/ Nominet. UK/ ADR.eu	INTA Society for Computers and the Law Intellectual Property Constituency of ICANN
Zahid Jamil	Pakistan	LL.B. (Hons) University College London. UK	Partner Jamil & Jamil Barristers-at-Law Karachi. Pakistan	No	The Hon. Society of Gray's Inn, London/ The Bar of England & Wales, U.K/ American Society of

					International Lawyers/ IBA / Inter-Pacific Bar Association, Tokyo/ ICC /Commission on E-Business, IT and Telecoms/ Sindh High Court Bar Association/ Punjab High Court Bar Association/ Chairperson of the UN Global Alliance for ICT & Development Champions Group/ UN ICT Task Force's Global Forum on Internet Governance/ (ICC) National Committee on E-Business IT and Telecommunications, Pakistan (EBITT)/ AFACT Asia Pacific Council on Trade Facilitation and E-Commerce (AFACT)

2013-05-18-02a-Board Reference Materials-Attachment-C-UDRP-ACDR.pdf

Annex 2
Screening Requirements

Educational and Professional qualifications:

A panelist must have a University Degree (e.g. LL.B, LL.M, J.D) from a reputable university which allows its holder to be admitted with a local bar or a similar professional body of trademark attorneys and practice.

Position:

Attorney at Law, Trademark Attorney, Arbiter, Professor, Lecturer.

Language;

English in addition to other global languages.

Area of Specialization:

Intellectual Property, Information Technology Law, Internet Law, Computer Law, Competition Law, Litigation, E-Commerce Law.

Experience:

Considerable experience in fields of Intellectual Property, Information Technology Law, E-Commerce Law, Domain Names, Litigation, Mediation, Arbitration or ADR related to domain names.

Membership in professional bodies:

Arab Society for Intellectual Property (ASIP)
Young International Arbitration Group (YIAG)
International Bar Association (IBA)
International Trademark Association (INTA)
International Association for the Protection of Intellectual Property (AIPPI)
Licensing Executive Society International (LESI)
European Community Trademark Association (ECTA)
American Intellectual Property Law Association (AIPLA)
Pharmaceutical Trade Marks Group (PTMG)
Fédération Internationale des Conseils en Propriété Industrielle (FICPI)
Institute of Trade Mark Attorneys (ITMA)
ITechLaw (International Technology Law Association)
Chartered Institute of Arbitrators (CIArb)
International League of Competition Law (LIDC)

Publications:

Contributed articles or features in the fields of Intellectual Property, Technology Law and E-commerce.

2013-05-18-02a-Board Reference Materials-Attachment-D-UDRP-ACDR.pdf

Annex 3

ACDR Supplemental Rules

The Arab Center for Domain Name Dispute Resolution Supplemental Rules

1. Definitions

(a) **The "rules"** means the rules for the uniform domain name dispute resolution policy, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) and its updates.
(b) **The policy** means the uniform domain name dispute resolution policy approved by ICANN on October 24, 1999.
(c) **The supplemental rules** mean these rules which are supplemental to the rules and the policy and are adopted by the Arab Center for Domain Name Dispute Resolution (ACDR) to assess complaints in relation to domain name disputes and administer proceedings in compliance with “the rules” and where essential supplement them.
(d) **The Center** means the Arab Center for Domain Name Dispute Resolution (ACDR).
(e) **Working days** are all days between Sunday and Thursday except for days which are public holidays in the country where the Center or either of the parties, as the case may be, and, shall be considered in deciding all deadlines. Where a deadline falls on a holiday or a Friday or Saturday, the deadline shall be extended to the following working day.
(f) Any terms defined in the policy and the rules shall have the same meaning in these supplemental rules.

2. Scope

(a) The supplemental rules are to be read and used in connection with the policy and the rules.
(b) The Center will apply the rules, the policy and its supplemental rules effective at the time of filling a complaint.
(c) The Center in its sole discretion may modify its supplemental rules from time to time; however, the Center shall implement ICANN’s requirements in the future.

3. Filling, Submission and Transmission

Without prejudice to the requirements of the rule, under any requirement to submit, file or transmit documents in these supplemental rules or ordered by the Center or the panel, it shall be considered submitted, filled or transmitted via E-mail only, when received by the Center’s defined mail server.

4. Communications

(a) All communications and submissions that are to be made should be communicated to the case administrator and not to the Panel.
(b) Electronic communications to the Center shall be made to: domaindispute@acdr.com.

(c) Documentation submitted in paper form to the Center by a party is to be submitted in four (4) sets together with the original copy.
(d) The Center shall keep an archive of all communication received or required to be made under the rules and the supplemental rules.

5. The Complaint

(a) The complaint must include all elements listed in Paragraph 3 (b) of the rules and may not exceed five thousand (5,000) words.
(b) The complainant shall be required to file electronically its complaint with the Center under cover of the complaint transmittal coversheet posted on the website of the Center.
(c) The complainant shall provide a copy of the complaint to the concerned registrar(s) at the same time as it submits its complaint to the Center.
(d) The Center shall transmit the complaint to the respondent(s) within three (3) calendar days following receipt of the initial fee required to be paid by the complainant.
(e) The administrative proceedings will be deemed to have commenced on the date that the Center forwards the complaint to the respondent(s) in accordance with Paragraph 4 (c) of the rules.
(f) The Center will send a notice of any deficiencies uncovered in compliance review to both the complainant and respondent within five (5) calendar days following receipt of the complaint or response.

6. The Response

(a) Within twenty (20) calendar days of the date of commencement of the administrative proceedings, the respondent shall file a response to the Centre.
(b) The response must include all elements listed in Paragraph 5 (b) of the rules and may not exceed five thousand (5,000) words,
(c) The respondent shall provide a copy of the response to the complainant(s) on the date of its filling with the Center.

7. Compliance Review

(a) The Center shall, within three (3) calendar days of receiving the complaint, examine the complaint for fulfillment of the formalities of the policy, the rules and the supplemental rules and shall notify the parties of any deficiencies therein.
(b) The complainant must remedy any deficiencies recognized by the Centre within five (5) calendar days. If the complainant fails to do so, the Center shall notify the complainant, the respondent and the relevant registrar(s) of the deemed withdrawal of the complaint in accordance with Paragraph 4 (b) of the rules.

8. Appointment of Case Administrator

(a) The Center shall notify the parties of the name and contact details of a member of its staff who shall be the case administrator and who shall undertake all administrative matters concerning the dispute and communications to the panel.

(b) The case administrator may provide administrative assistance to the panel or a panelist, but shall have no authority to decide matters of a substantive nature concerning the dispute.

9. Extensions

(a) The Center and, after its appointment, the panel, shall _in its sole discretion_ decide on any request from a party or on its own motion, prior to the expiration of the concerned period(s), to extend, in the presence of exceptional circumstances, the period(s) of time provided for under these supplemental rules.
(b) A request to the Center for an extension by a party must state the circumstances warranting the request, accompanied by an extension fee of $100.
(c) If an extension is granted, it shall be for a period not exceeding ten (10) additional calendar days.

10. Appointment of the Panel and Timing of Decision

(a) The Center will maintain and publish a list of panelists and their qualifications to which any party will be directed on the Center's website.

(b) Pursuant to Paragraph 6 (e) of the rules, and without prejudice to its specifications, in the event that either the complainant or the respondent elects a three-member Panel, the Center shall endeavor to appoint one Panelist from the list of candidates provided by each of the complainant and the respondent. In the event the Center unable within five (5) calendar days to secure the appointment of a Panelist on its customary terms from either Party's list of candidates, the Center shall make that appointment from its list of panelists. The third Panelist shall be appointed by the Center from a list of five candidates submitted by the Center to the Parties, the Center's selection from among the five being made in a manner that reasonably balances the preferences of both Parties, as they may specify to the Center within five (5) calendar days of the Center's submission of the five-candidate list to the Parties.

(c) Once the entire Panel is appointed, the Center shall notify the Parties of the Panelists appointed and the date by which, absent exceptional circumstances, the Panel shall forward its decision on the complaint to the Center.

(d) If the complainant requested a three-member panel and no response was filed., the Center shall notify the complainant of its option to convert its three-member panel request to a single-member panel request, and if within five (5) calendar days from notification, the complainants submits to the Center request, via email, for such conversion the complainant will be reimbursed the relevant amount paid by the complainant for the presiding panelist fee in accordance with paragraph 16 of these supplemental rules. Failing submission of the above-mentioned request by the complainant a three member panel shall be constituted.

11. Impartiality and Independence.

(a) Prior to appointment as a panelist, an elected panelist shall transmit to the Center a declaration of independence and impartiality using the form posted on the Center's website.

(b) A panelist shall be relieved from serving in case a conflict of interest exists, and\or in case such conflict may affect the panelist's latitude; the concerned party shall submit to the Center within five (5) calendar days from date of receipt of the notice of the selection a detailed written request to disqualify the appointment of a panelist, determining the circumstances and reasons for such request provided that a decision has not already been published.

(c) The Center will decide-in its discretion- on a request to disqualify a panelist and conclude whether circumstances subsist that call for panelist disqualification.

12. Panel Decision

The panel shall render its decision in accordance with Paragraph 15 of the rules and there shall be no word limits therefore.

13. **Correction of Clerical Mistakes**.

The Center shall decide on any written request received from a party to correct any errors in computation, clerical or typographical errors, or any errors of equivalent type.

14. Communication of Decision to Parties; Publication of Decision.

(a) The Center will transmit the panel's decision to the parties, ICANN, and the concerned registrar(s), and shall publish the full decision on the Center's website in the language of the proceedings unless an Administrative Panel determines in an exceptional case to redact portions of its decision.

(b) If the decision was in a language other than English an unofficial English translation of elected decisions will be published.

15. Fees (U.S. Dollars)

(a) Fees:

I. Single-member panel

Number of domain Names	Fees for Single-Member Panel	Administrative Fee	Total
1-2	$1000	$500	$1.500
3-5	$1.100	$600	$1.700
6-10	$1.200	$900	$2.100
11-15	$1.500	$1.200	$2.700
16 or more	Please contact the Center.	Please contact the Center.	Please contact the Center.

II. Three-member panel

Number of domain Names	Fees for Three-Member Panel	Administrative Fee	Total
1-2	Presiding panelist: $1000 Each co-panelist:$500	$600	$2.600

3-5	Presiding panelist: $1.300 Each co-panelist:$700	$1000	$3.700
6-10	Presiding panelist: $1.400 Each co-panelist:$1000	$1.100	$4.500
11-15	Presiding panelist: $1.500 Each co-panelist:$1.200	$1.300	$5.200
16 or more	Please contact the Center.	Please contact the Center.	Please contact the Center.

(b) Forms of payment
Payment shall be made in one of the following forms:
I. Credit card;
II. Certified check; or
III. Bank wire transfers.

(c) All transfer charges or other amounts that may be levied in connection with a payment made to the center shall be the responsibility of the party making the payment.

16. Exclusion of Liability

Other than cases resulting from deliberate wrongdoing, an administrative panel, the center and its staff shall not be liable to a party or a concerned registrar for any act or omission in connection with the administrative proceeding under the UDRP.

17. Effective Date

These supplemental rules apply to all cases filed on or after , 2013 [to be determined]

2013-05-18-02a-Board Reference Materials-Attachment-E-UDRP-ACDR.pdf

Annex 4
Internal Operating Procedure
Confidential Business Information

Confidential Business Information

2013-05-18-02a-Board Reference Materials-Attachment-F-UDRP-ACDR.pdf

Summary and Analysis of Public Comments for ACDR Proposal to be Recognized as an Official Dispute Resolution Provider Under the UDRP

Comment period: 28 September 2010 – 28 October 2010

Background

The Arab Center for Domain Name Dispute Resolution (ACDR) submitted a proposal to ICANN to be recognized as an official dispute resolution provider under the UDRP. The proposal was submitted pursuant to the process specified at http://www.icann.org/en/dndr/udrp/provider-approval-process.htm .

At its 5 August 2010 meeting, the Board approved staff's recommendation to publish the ACDR proposal for a public comment for a period of not less than 30 days.

Comments received

A total of seven comments were received.

Summary of relevant comments

George Kirikos of Leap Financial Services Inc. commented that ICANN should not approve another UDRP provider and should instead prioritize bringing existing UDRP providers under contract. http://forum.icann.org/lists/acdr-proposal/msg00000.html

Barbara Madonik of Unicom Communication Consultants Inc. commented that while she applauds the attempt to establish an international center, the locale of the ACDR "might not be ideal" and ICANN should seek a more neutral location to serve both Arab and non-Arab countries. http://forum.icann.org/lists/acdr-proposal/msg00001.html

Moe Alramahi expressed support for the ACDR's proposal, noting that it is "reasonable, comprehensive and robust." Mr. Alramahi also noted that recent developments in the domain name system, such as the introduction of IDNs and gTLDs will lead to increased disputes, and local knowledge and expertise will expedite the handling of those disputes. http://forum.icann.org/lists/acdr-proposal/msg00002.html

A commenter identified as Volodya submitted comments covering positive and negative aspects of the ACDR proposal. Among the positives are the location of the Center, which will provide a "more balanced process"; the provision of multilingual services, and the multinational composition of the initial panel. Among the negatives are the apparent view of the ACDR to enforce the "strong protection of Intellectual Property Rights," which raises questions of the ACDR's commitment to

neutrality. Further, the Advisory Board's selection is based upon experience in "intellectual property protection" – again demonstrating a bias. Though the panel selection procedures allow for persons to be chosen that "do[] not openly show support for Intellectual Property," the remainder of the document "suggests . . . a deliberate attempt to derail the neutral process of domain name resolution." Volodya notes that this could result in biased panels, and would not represent the "complexity of the IP debate." http://forum.icann.org/lists/acdr-proposal/msg00003.html

Steve DelBianco on behalf of the ICANN Business Constituency (BC) submitted the BC's comment that it cannot support the approval of ACDR's proposal nor any other proposal until "ICANN implements a standard mechanism for establishing uniform rules and procedures and flexible means of delineating and enforcing arbitration provider responsibilities." The BC noted that gTLD names can only be registered through accredited registrars under contract with ICANN, but non-contracted UDRP providers have the power to order the involuntary deletion or transfer of those same names. The BC raised a concern of the consistency of the UDRP process among providers, and noted that these concerns grow if additional providers are approved without first creating a uniform framework. Therefore, the BC "advocates" that ICANN should first standardize a framework for UDRP providers – allowing for regular ICANN review and ultimate loss of approval where appropriate – prior to approving any new providers. The creation of a uniform framework – including constraints on provider authority – is increasingly important with the anticipated expansion of gTLDs and jurisdictions where disputes are likely to arise. This will further the goal of consistency among decisions and will allow the UDRP to remain "an expedited an lower cost remediation" to address cybersquatting. The BC notes that the standardization of provider practices does not require a full review of the substantive elements of the UDRP. http://forum.icann.org/lists/acdr-proposal/msg00004.html

J. Scott Evans on behalf of the Intellectual Property Constituency (IPC) submitted conditional approval of the ACDR proposal, noting the geographic and cultural diversity the ACDR would bring to the UDRP process at a time where Arabic expertise is needed. The IPC provides substantive comment on portions of the ACDR's proposal, suggesting that a proposal adopting all of the IPC's modifications would be appropriate for approval, but if the ACDR elects not to incorporate all revisions, the proposal should be presented for further public comment. The IPC also cautioned that "any enthusiasm for the ACDR's proposal must be tempered by the desire to ensure a predictable and equitable system of domain name dispute resolution – as opposed to any profit-driven 'race to the bottom' between UDRP providers." The IPC's substantive comments on the proposal identified issues such as potential inconsistencies with the UDRP and its Rules on electronic filings, commencement dates, and definition of "writings." The IPC also recommends changes to the fee structure proposed, with an eye to minimizing fees to complainants. Additional recommendations include: inclusion of statements on the commitment to impartiality and fairness; additional information on the start-up

period and background and track record for handling ADR proceedings; and clarification of the role of a presiding panelist. http://forum.icann.org/lists/acdr-proposal/msg00006.html

Philip Corwin on behalf of the Internet Commerce Association (ICA) submitted its opposition to the ACDR proposal. As with the BC comments, the ICA notes that it "strongly opposes" the approval of any new UDRP dispute resolution provider until ICANN forms a uniform, enforceable agreement with all UDRP providers, to assure due process to all parties to a UDRP actions, and to prevent forum shopping among UDRP providers. The ICA provides substantial discussion of the need for enforceable agreements with UDRP providers, echoing many comments made by the BC regarding the contractual regime in place for the registration of domain names within gTLDs and the lack of contracts with the entities that may force involuntary deletions or transfers of those names. The ICA emphasizes the need for uniformity of process that can be achieved through enforceable agreements. The ICA comments refer to prior ICA communications on this same topic, including comments relating to a proposal of another UDRP provider to allow for reduced fees for UDRP proceedings where no response is filed. The ICA provides a suggested list of topics that such an agreement should encompass. The ICA then identified deficiencies to be addressed in ACDR's proposal. These deficiencies include: a lack of "meaningful" information on the types of arbitration handled by the ACDR's component entities and their "track records"; more fulsome documentation of the preparation of panel training materials; no representations of monthly case handling capabilities; the "meaningless" assertion of being able to handle 5,000 proceedings in a start-up period, particularly when compared to the numbers of cases handled by existing UDRP providers; a lack of description of communications with other UDRP providers, and a commitment to researching decisions of other providers so as to assure consistency.

ICA notes its opinion that if ACDR is approved as a provider, a strict limitation on the number of cases it may handle, subject to an ICANN quality review before the limitation can be lifted. Finally, ICA comments on the confidentiality of ACDR's internal operating procedures and that the community will not be able to review those for fairness. http://forum.icann.org/lists/acdr-proposal/msg00005.html

Analysis and Next Steps

The commenters were of varied opinions on the ACDR's proposal: Three commenters (George Kirikos, the BC and the ICA) were expressly against the ACDR proposal. The IPC noted its conditional approval subject to incorporation of suggested changes, and only one commenter (Alramahi) submitted unqualified support for the ACDR proposal.

Some commenters identified the fact that the ACDR would bring greater cultural and geographic diversity to the UDRP providers, as well as expand multi-lingual abilities of UDRP providers. Though one commenter questioned whether Jordan is a neutral

enough locale for a UDRP provider, if the ACDR were to be approved as a provider, such approval would not limit the ability for others in the region to seek to become an approved provider as well.

The three commenters opposed to the approval of the ACDR proposal noted their opinion that ICANN should not approve *any* additional UDRP providers prior to establishing a uniform, enforceable arrangement with all existing UDRP providers. The ICA also recommended that ICANN undertake an expert third party review of the operation of UDRP generally.

One commenter, Volodya, raised the question of the neutrality of the panelists to be appointed by the center, based upon the statement in the ACDR's proposal that it will enforce the "strong protection of Intellectual Property Rights." No other commenters raised this neutrality argument. The IPC and the ICA each provided substantial comments on the substance of the ACDR proposal. The IPC noted that if all of its suggestions were addressed, then it may be appropriate for ICANN to approve the ACDR's application; otherwise the proposal should be posted for additional public comment. The ICA, after attempting to evaluate the proposal against the published criteria for applying to be a UDRP provider, suggested that there is no way for ICANN to proceed to approval of the ACDR's proposal.

Some areas identified by the IPC and ICA include:

(i) Provision of more detail on track record in handling alternative dispute resolution proceedings;
(ii) A more precise statement regarding the case load administrative capacity that the ACDR anticipates handling;
(iii) Better documentation regarding the creation of training materials;
(iv) Revision of specific terms in the supplemental rules to better align with the UDRP process;
(v) Revision to the ACDR's fee structure; and
(vi) Release of confidential internal operating procedures.

ICANN is providing the ACDR with a copy of this summary and analysis so that the ACDR may determine how to respond and whether it wishes to revise any portion of its proposal. When a revised proposal is received, the proposal will be reviewed to determine if further public comment is advisable prior to presentation to the Board for consideration. Further comment may not be necessary, for example, if the ACDR elects to not alter its fee schedule, as the UDRP allows providers to set their own fees.

Separate from the ACDR proposal, ICANN has been undertaking a process to review its relationships with UDRP providers, and that review is ongoing.

Contributors (chronological order of posting):
George Kirikos, President, Leap of Faith Financial Services Inc.

Barbara Madonik, President, Unicom Communication Consultants Inc.
Moe Alramahi, Law Lecturer/ Domain Name Panelist (ADNDRC)
Volodya
Steve DelBianco, Business Constituency
J. Scott Evans, Intellectual Property Constituency
Philip Corwin, Internet Commerce Association

2013-05-18-02a-Board Reference Materials-Attachment-G-UDRP-ACDR.pdf

Report of Public Comments

Title:	Revised Proposal of the ACDR to Serve as a UDRP Dispute Resolution Service Provider
Publication Date:	
Prepared By:	Elizabeth Le

Comment Period:	
Comment Open Date:	1 March 2013
Comment Close Date:	22 March 2013
Reply Close Date:	13 April 2013
Time (UTC):	23:59

Important Information Links
Announcement
Public Comment Box
View Comments Submitted
Report of Public Comments

Staff Contact:	Samantha Eisner, Senior Counsel	**Email:**	samantha.eisner@icann.org

Section I: General Overview and Next Steps

The Arab Center for Domain Name Dispute Resolution's (ACDR) initial proposal (Original ACDR Proposal) to serve as an approved dispute resolution service provider under the UDRP was posted for public comment in September 2010. The proposal was submitted pursuant to the process specified at http://www.icann.org/en/dndr/udrp/provider-approval-process.htm. The ACDR is jointly established by the Arab Intellectual Property Mediation and Arbitration Society (AIPMAS) and the Arab Society for Intellectual Property (ASIP), with headquarters in Amman, Jordan and additional offices in other Arab Countries. Both the AIPMAS (established in 1987) and ASIP promote the activities of the Arab Center of Mediation and Arbitration, established in 2003, active in resolving conflicts related to intellectual property through international arbitrators. If approved, the ACDR would be the first Approved UDRP Dispute Resolution Service Provider headquartered in an Arab state. Following the initial public comment period, the ACDR revised its proposal in light of the comments received. The summary and analysis of comments to the Original ACDR Proposal is available at http://forum.icann.org/lists/acdr-proposal/msg00007.html. This comment forum provided an opportunity to review a revised proposal submitted by the ACDR (Revised ACDR Proposal). The Revised ACDR Proposal took into account many of the comments previously received.

Next Steps:
ICANN Staff will provide the ACDR with a copy of this summary and analysis so that the ACDR may determine whether it wishes to revise any portion of the Revised ACDR Proposal. If a revised proposal is received, it will be reviewed to determine if further public comment is advisable prior to presentation to the Board for consideration. Staff will also evaluate further recommendations to the Board on proceeding with the revised proposal.

Section II: Contributors

At the time this report was prepared, a total of nine (9) community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in chronological order by posting date with initials noted. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.

Organizations and Groups:

Name	Submitted by	Initials
Leap of Faith Financial Services Inc.	George Kirikos	GK
Intellectual Property Constituency	Kristina Rosette	KR
Internet Commerce Association	Philip S. Corwin	PC
INTA Internet Committee	Kathryne Badura	KB
Business Constituency	Steve DelBianco	SB

Individuals:

Name	Affiliation (if provided)	Initials
Nat Cohen	Telepathy, Inc. Riptide LLC	NC
Konstantinos Zournas		KZ
Morgan Linton	Linton Investments LLC	ML
H.S.A.J.M.		HSAJM

Section III: Summary of Comments

General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).

Summary of Substantive Comments

George Kirikos, on behalf of Leap of Faith Financial Services, Inc. renewed his objections previously submitted for the Original ACDR Proposal, that ICANN should not approve another UDRP provider until broader reforms have been adopted. Mr. Kirikos suggested such reforms include third-party beneficiary rights, thereby increasing accountability; fundamental changes to the rules to enhance due process protections for registrants; and a formal review of the UDRP that brings all providers under a standard contract with ICANN. He expressed concerns that approving the ACDR proposal without first putting broader reforms in place would simply encourage more forum shopping by complainants. Mr. Kirikos suggested that a" quick fix" solution to forum shopping would be to allow domain name registrants to pre-select the UDRP Providers, which would reduce the current "race to the bottom" amongst providers attempting to attract complainants to their forum, and instead would incentivize providers to consider the needs of registrants/respondents. He also suggested that making the response time for a UDRP be a function of the age of the domain name, to create a more level playing field between complainants and respondents, and publishing UDRP decisions in a

machine-readable XML format to reduce the costs of and thereby encourage further academic studies. http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00000.html.

Nat Cohen stated that the problem of forum shopping must be resolved before accrediting new UDRP providers. Mr. Cohen stated that because intellectual property rights are treated differently in different parts of the world, a uniform standard across UDRP providers is needed to ensure the integrity necessary for the successful application of the UDRP. He noted that there is no review of panelist decisions currently in place and no process to harmonize differences in application of the UDRP between panelists. According to Mr. Cohen, this "lack of uniformity" undermines the ownership rights of domain holders subject to the UDRP and creates great uncertainty in operating a business on the Internet. He also noted that the UDRP is increasingly subject to abuse. Mr. Cohen suggested that a partial solution to "forum shopping" would be for Complainants and Respondents to participate equally in choosing the UDRP provider. He also suggested placing all UDRP providers under a standardized contract to ensure that no differences in supplemental procedures or other processes - such as panelist selection - make a one UDRP provider more appealing to than others. Mr. Cohen also indicated his support of the comments posted by Mr. Kirikos (as summarized above).

Kristina Rosette on behalf of the Intellectual Property Constituency (IPC) submitted the IPC's approval of revised ACDR proposal and its recommendation that ICANN approve the ACDR as the new UDRP Provider, subject to one adjustment. The IPC noted that the revised ACDR proposal addresses all but the one concern previously raised by the IPC's 28 October 2010 comment for the Original ACDR Proposal. The remaining issue of concern relates to the reconciliation of Supplemental Rules 3 and 4(c) with UDRP Rules 3(b) and 5(b). On this issue, the IPC recommended that the ACDR amend Supplemental Rule to mirror UDRP 2(f). The IPC noted that Supplemental Rule 4(c) requires no change, but only if Supplemental Rule 3 is amended to apply to communications but not filings or transmissions of documents such as complaints and responses. With the exception of this remaining issue, which the IPC believes can be easily resolved, the IPC is satisfied with the Revised ACDR Proposal and encourages the ICANN Board to approve the ACDR as a new UDRP provider. http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00002.html

Philip Corwin on behalf of the Internet Commerce Association (ICA) opposed the Revised ACDR Proposal. ICA expressed its continuing objection to the accreditation of the ACDR or any other potential UDRP provider until ICANN adopts an enforceable mechanism to assure uniform disposition of UDPR cases. ICA stated that a major concern for its members is the potential for forum shopping at the expense of registrant rights in the absence of such a mechanism. ICA noted that it previously objected to the Original ACDR Proposal because that proposal did not contain a "standard contract or uniform and enforceable agreement with all providers of UDRP services or even the initiation of a process leading to one", and that the same deficiencies still exist in the Revised ACDR Proposal. ICA stated that the Revised ACDR Proposal "continues to raise questions about the qualifications and preparatory training of proposed panelists and the overall commitment to administering UDRP cases in as fashion that is consistent with established practices." ICA noted that separate from the ACDR proposal, ICANN has been undertaking a process to review its relationships with UDRP providers. ICA stated that it previously sent a letter to ICANN CEO Fadi Chahade and Board Chairman Steve Crocker on 26 February 2013 requesting that the Board: (1) defer action on this matter until the next

scheduled meeting; and (2) publish the pending ACDR proposal for community review and comment. The ICA stated that it is ICANN's responsibility to establish an enforceable mechanism that can achieve uniformity of the rules applied by all UDR providers. The ICA also expressed concerns about the list of neutrals and the reference to "different approaches to IP" which would lead to divergent practices and forum shopping. http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00003.html

Morgan Linton of Linton Investments LLC expressed concerns that establishing more UDRP providers will encourage forum shopping and provide an unfair edge to complainants. He stated that it is "important that domain owners are able to defend complaints in a balanced environment and by adding more UDRP providers this continues to shift the leverage towards the Complainant." Mr. Linton noted that adding additional UDRP providers, more definitions of "bad faith" could be created making more opportunities for domain holders to lose domain names that were not registered in "bad faith" as defined by other UDRP providers. http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00005.html

Kathryne Badura, on behalf of the INTA Internet Committee, supported the IPC's position and recommended that the ACDR be approved by ICANN to serve as a new UDRP provider. The INTA Internet Committee agreed with the IPC that Supplemental Rules 3 and 4(c) of the revised ACDR Proposal are inconsistent with UDRP Rules 3(b) and 5(b). The Committee recommended that the ACDR amend its Supplemental Rule 3 to mirror UDRP Rule 2(f). Supplemental Rule 4(c) requires no change if Supplemental Rule 3 is amended to apply only to communications and not filings or transmissions of documents such as Complaints and Responses. The INTA Internet Committee stated that adding the ACDR will create "further geographic and cultural diversity to domain name dispute resolution as well as a forum that can more readily address the needs of a significant population and provide support for the anticipated delegation of Arabic Internationalized Domain Names (IDNs)." http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00006.html

Steve DelBianco, on behalf of the Business Constituency (BC), provided its qualified endorsement to the ACDR's Revised Proposal. The BC acknowledged that the ACDR has submitted an impressive proposal and that there is a need and legitimacy of regional UDRP providers as the DNS expands to encompass new gTLDs and IDNs across the globe. However, the BC expressed concerns for the absence of "a standard mechanism for establishing uniform rules and procedures and flexible means of delineating and enforcing arbitration provider responsibilities". According to the BC, such administrative standards should be in place and applicable to all UDRP providers no later than the time that the ACDR would initiate UDRP adjudication activities following Board approval within nine months after the Board addresses the present application. The BC opined that the uniform and enforceable standards developed for all URDP should address at least the following matters:

1. Initial training of UDRP panelists in UDRP case precedents, with a focus on the WIPO Overview 2.0, and regular continuing education.

2. Adequate provider oversight of panelists' decisions, including safeguards to ensure that impartiality by panelists, and procedures to address decision and/or actions that may

unreasonably deviate from past precedents including disciplinary procedures in appropriate circumstances.

3. Procedures to ensure that cases are assigned on a random and dispersed basis among all of a provider's listed panelists.

4. Safeguards to ensure that a UDRP provider's Supplemental Rules do not undermine or conflict with the UDRP, and ensure consistency in the deadlines and response time to supplemental filings.

5. Addressing the issues related to forum shopping.

The BC's comment is available at http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00007.html

H.S.A.J.M. expressed his or her opposition to the appointment of ACDR as a dispute resolution center for domain name property. It is H.S.A.J.M.'s opinion that "a citizen of a state in the Arab World" that, based on the current political climate of the "Arab World" (including Egypt, Syria, Libya, Bahrain, and Jordan), ICANN management should not approve UDRP provider in the region. H.S.A.J.M. stated that there are profound differences between the Arab World vs. the Free World in interpreting the meaning of "bad faith", noting that basic rights such as free speech are often frowned upon in the Arab World and considered "bad faith". H.S.A.J.M. questioned ICANN's decision to allow arbitration to take place in "a restrictive environment, where there's a very high risk of property being seized for political reasons and/or to silence free speech". http://forum.icann.org/lists/comments-acdr-proposal-01mar13/msg00008.html

Summary of Non-Substantive/Procedural Comments

Konstantinos Zournas asked if the comment period could be extended by one week.

Section IV: Analysis of Comments

General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.

The commenters were of varied opinions on the ACDR's proposal: Five commenters (George Kirikos, Nat Cohen, the ICA, Linton Investments LLC, and H.S.A.J.M.) were expressly against the Revised ACDR Proposal. Four of the five objectors stated that ICANN should not approve *any* additional UDRP providers prior to establishing a uniform, enforceable arrangement with all existing UDRP providers. These commenters are concerned that, absent a uniform policy in place before accrediting new UDRP providers, forum shopping by complainants will occur. These four commenters, however, did not express concerns with the specifics of the ACDR proposal, and only addressed the broader UDRP provider issue. The fifth objector expressed specific concerns accrediting a provider in the geographic

location given the political climate of the “Arab World”.

Three commenters (the IPC, INTA Internet Committee, and the BC) recommended conditional approval of the Revised ACDR Proposal, subject to the condition that the ACDR amend its Supplemental Rule 3 to mirror UDRP Rule 2(f) because the current Supplemental Rules 3 and 4(c) are inconsistent with UDRP Rules 3(b) and 5(b). It was noted that Supplemental Rule 4(c) requires no change if Supplemental Rule 3 is amended to apply only to communications and not filings or transmissions of documents such as Complaints and Responses.

ICANN is providing the ACDR with a copy of this summary and analysis so that the ACDR may determine how to respond and whether it wishes to revise any portion of its proposal. When a revised proposal is received, the proposal will be reviewed to determine if further public comment is advisable prior to presentation to the Board for consideration.

Separate from the ACDR proposal, ICANN has been undertaking a process to review its relationships with UDRP providers, and that review is ongoing.

2013-05-18-02a-Board Reference Materials-Attachment-H-UDRP-ACDR.pdf

UDRP Providers and Uniformity of Process – Status Report

6 May 2013

Issues relating to Uniform Domain Name Dispute Resolution Policy ("UDRP") and uniformity of providers started to arise within ICANN in 2010. Commenters raised concerns regarding how ICANN can and should enforce uniformity among the approved UDRP providers. At that time, ICANN stated that it would undertake a review of its relationship with its UDRP providers, which it did. This memo is the culmination of that effort.

Background

There are two documents that are required for universal, uniform operation of the UDRP. The first is the policy itself, at http://www.icann.org/en/dndr/udrp/policy.htm ("Policy"), setting out the scope of relief and the basis for mandatory administrative hearings that may be brought. The second document set outs the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), at http://www.icann.org/en/dndr/udrp/uniform-rules.htm, which provide the baseline procedural requirements that must be followed in a UDRP proceeding, such as required notice to a respondent, time for filing a response, and standardization of a practice for appointing the administrative panel in every proceeding brought under the UDRP.

Each approved UDRP provider is responsible for maintaining its own set of supplemental rules, defined as "the rules adopted by the Provider administering a proceeding to supplement these Rules. Supplemental Rules shall not be inconsistent with the Policy or these Rules and shall cover such topics as fees, word and page limits and guidelines, file size and format modalities, the means for communicating with the Provider and the Panel, and the form of cover sheets." (Defined in the Rules, at http://www.icann.org/dndr/udrp/uniform-rules.htm.) As part of the approval process, potential providers must provide ICANN with a copy of their proposed supplemental rules, which are reviewed to confirm that there is no

conflict with the Rules and the Policy, and also to confirm that the potential provider has an understanding of the policy.

Contracting with UDRP Providers

One of the most common requests that ICANN has received regarding UDRP providers is to implement a contract across providers that will require uniformity in proceedings. ICANN has carefully considered whether the introduction of contracts is feasible or useful in the scope of UDRP proceedings, and has determined that contracts would be a cumbersome tool to assert to reach the same outcome that exists today. Just as UDRP providers are approved by ICANN, ICANN can always revoke its approval if a provider is found to no longer meet the standards that supported its approval. For example, if a UDRP provider is found to be acting in violation of the UDRP, or if the provider has Supplemental Rules that are in conflict with the UDRP and the Rules, and the UDRP provider failed to remedy that conflict, there is nothing in either of those situations that precludes ICANN from revoking approval. Imposing a contractual relationship could actually make it more difficult for ICANN to take corrective action. Here, the UDRP and the Rules set forth all of the expected actions of the UDRP provider; a contract would only be repetitive in this case.

Although some have argued otherwise, the situation with the UDRP is different from the Uniform Rapid Suspension System (URS) that has been established for the New gTLD Program. Unlike the UDRP, the URS is not based on a policy. ICANN has used Memoranda of Understanding to govern the relationship with each of the selected URS providers, in which each of the URS providers agree to implement the URS services in accordance with the procedures laid out in the Applicant Guidebook, as they might be amended from time to time. The URS providers also agree to maintain supplemental rules that "may not contravene or be inconsistent with the URS Procedure or URS Rules." (See http://newgtlds.icann.org/en/applicants/urs for more information on URS providers.) These are the *same requirements* that UDRP providers are subject to, without a contractual relationship.

Forum Shopping and Provider Concerns

A frequent concerns raised regarding UDRP providers is the potential for "forum shopping," or that UDRP complainants will seek out providers that they believe will provide a better result. The provision of contracts, however, will not stop complainants from filing UDRP disputes with their preferred providers. In fact, one of the expected benefits of the diversity of UDRP providers is to provide further choice to all who may invoke the UDRP, including issues of geography and language. UDRP providers are expected to perform to the standards set forth in the UDRP. So long as those standards are used, and the provider is adhering to the UDRP, the choice is appropriate to leave to a complainant as to which UDRP provider it wishes to use.

Many of the concerns raised about the uniformity of UDRP providers are based on the premise that there are UDRP providers today that act outside of the UDRP. However, the few reports or complaints that ICANN has received regarding existing UDRP providers have not evidenced behavior that would require ICANN to consider whether there was a need to revoke its approval. Of course, there is always the future possibility that an issue of non-compliance will arise that will require corrective action. In recognition of that potential, ICANN commits that substantiated reports of UDRP provider non-compliance with the UDRP or the Rules will be investigated. If the investigations uncover issues of UDRP provider non-compliance, ICANN will work with the affected UDRP provider to determine if the issue can be remedied. If the issue cannot be remedied, and the UDRP provider cannot – or refuses – to return to acting in conformity with the UDRP, ICANN will take action, which might include revocation of its approval of the UDRP provider, taking into account issues relating to the transferring or completion of pending matters before that provider.

Provider Approval Process

The work related to the approval of UDRP providers is not solely within the control of ICANN staff and Board. At the time the UDRP was implemented, there was an indication that "The Generic Names Supporting Organization (GNSO) is currently undertaking a review of the UDRP, and will include the approval process for dispute-resolution providers as part of this review." See http://www.icann.org/en/dndr/udrp/provider-approval-process.htm. In the interim, 10 required elements for applications were set forth on that approval process page. In 2003, the GNSO conducted a survey to prioritize issues relating to the UDRP, as seen in a UDRP Issue table, and raised the issue of "[s]hould standards for accrediting providers and panelists be promulgated?". This issue was ranked fourth in level of import, and there is no further mention of the issue available on the GNSO Issues page. As a result, the Approval process listed as "provisional" in 2000 has remained in effect. This issue was re-raised within the documentation for a policy development process regarding the UDRP that was before the GNSO Council in 2011, and could be included within the continuation of that PDP when the work is reinitiated after new gTLDs are delegated into the root.

Summary

UDRP providers are central to the maintenance of one of the policies that is most central to rights protection within gTLDs, the Uniform Domain Name Dispute Resolution Policy. UDRP providers are expected to adhere to all portions of the policy – and it is important for ICANN to know if they are not doing so. However, a contractual regime is not required for ICANN to have enforcement power over the UDRP providers; the established UDRP and Rules set out the parameters of the UDRP providers' conduct, and they may not act in contravention of the Policy or Rules. While there has not been, to date, a need for ICANN to revoke its approval of any UDRP provider, the concerns raised in the community make clear that ICANN has to be prepared for this potential. As a result, ICANN is committed to thoroughly investigate complaints of non-compliance and take corrective action as appropriate.