EXECUTIVE SUMMARY TABLE OF RECOMMENDATIONS

INITIAL REPORT OF THE WIPO-ICA UDRP REVIEW PROJECT TEAM

(April 17, 2025)

TIER 1 - Unanimity of the Project Team

These are areas where the Project Team reached unanimous agreement and therefore believe that Consensus is likely to exist in the Phase 2 Review.

	PROJECT TEAM RECOMMENDATION
Loser Pays, Costs, Damages	While there was support for the principle of addressing the imbalance in enforcement costs and providing a deterrent against bad actors, given the complexities in administering such a system, <u>we would recommend against</u> the adoption of a loser pays system.
Fee Payment Deadlines	We would recommend that the Rules be amended to require a reasonable but fixed length of time for complainants to pay any additional required filing fees in three-member panel cases.

Reviewing and Reinforcing ICANN's Role in Compliance	We would recommend that ICANN review and reinforce its role in ensuring specifically-delineated timely compliance of registrars with respect to their duties under the UDRP and that registrars receive greater training and information on their obligations.
Providing UDRP-related Information for Registrars	We would recommend that ICANN prepare an FAQ for registrars, in consultation with UDRP stakeholders. We also recommend that ICANN sponsor an optional "UDRP Bootcamp" webinar to better inform registrars how to process UDRP complaints and transfer orders.
Regulating Complaint Withdrawals	We would recommend that the Rules be amended to regulate withdrawals and to thereby make the procedure uniform across all Providers.
Clarifying Registrar Verification Procedures	We would recommend that, to the extent not already being done so by a Provider, in the case of a discrepancy between the information provided in the complaint, the registrant's registration data be provided to both parties and the panel by the Provider.
Identifying Dissenting Panelists	We would recommend that the Rules be amended to require that dissenting panelists be identified in all decisions.
ICANN Contribution to the UDRP	Given the benefit to registration authorities in outsourcing dispute resolution under the UDRP, we would recommend that consideration be given to a very small subsidy drawn from registration fees going towards the UDRP in some fashion such as lowering or reimbursing a portion of complaint filing fees (especially for non-profits or SMEs), UDRP education and training, panel remuneration, developing UDRP guidance material, etc.

Educational Materials	We would recommend the creation and publication of educational material for use by all parties, and which may be made available on each Provider's website and on ICANN's own website.
Mediation	We believe that mandatory mediation should not be adopted. At the same time, we believe that although instances may be relatively infrequent where both parties are interested in availing themselves of a voluntary mediation procedure offered by a Provider, it may nonetheless be offered for those that want it without interfering or compelling those that do not. In that light, we recommend however that individual Providers should be free to offer voluntary mediation to parties, provided that they both agree to participate under the Provider's mediation framework, rules, and fees.
Laches/Statute of Limitations	As a result of the extensive investigations, consultations, and deliberations by the Project Team, we recognize that delay, especially as some domain names are as old as the UDRP, is a factor that ought to be considered by panels, and it currently is. We therefore do not see sufficient basis for changing the UDRP to better address laches except perhaps by codification of existing case law principles. Overall, we believe that a limitation period should not be adopted and that laches, even if it were adopted as a formal defense under the Policy, would be unlikely to have any appreciable effect given the rarity in which circumstances which lend themselves to laches arise.
Scope of UDRP	While the Project Team recognizes that the success of the UDRP could encourage its expansion beyond trademark-based cybersquatting cases, it is not recommended that the ICANN's Phase 2 Review consider as part of its initial work charter the expansion of the scope of the UDRP.

	We believe that any such scope consideration be addressed in a separate work track, if at all, in order to avoid adding to an already delicate and complex policy review process.
Name Redaction	We recognize the increasing importance of privacy generally and in particular when it comes to protecting the privacy of innocent registrants. We also recognize the importance of publication of party names where warranted for the efficacy of the UDRP. We believe that panels currently have the power under the Policy and Rules, to redact party names where appropriate and therefore neither a Policy nor Rule change is required. Nevertheless, we recommend that the discretionary best practices applicable to redaction of party names by panelists should be further shared and published by all Providers.
Registrars to Provide Additional Notice	Although the UDRP has been generally successful in providing notice of a dispute to respondents, the process can be easily improved with a small adjustment. We believe that it would increase effectiveness and would be prudent and manageable for registrars to provide an additional form of notice to respondents. We propose that this practice become universal and mandatory across all registrars – in support of due process for registrants. Registrars, however, would not be required to serve the complaint; that function would still be left to the Provider. (The registrar's actions would be limited to emailing its customer at all available email addresses (including the account holder address and not just the registrant's recorded WHOIS address) and providing notification to its customer that the disputed domain name has been locked and that they will have received or will shortly receive a Notice of Commencement of Proceedings from the Provider.)

	Although the Project Team was not in unanimous agreement about removing the current requirement to deliver a hard copy of the notice of proceedings, there was strong support – also noting the registrant's obligation to provide accurate contact information – on this issue.

TIER 2 - *No Unanimity of the Project Team, But Consensus Potentially Achievable*

These are areas where the Project Team did not reach unanimous agreement and therefore we believe that consensus may be achievable through dedicated and specialized work in a "secondary" work track in Phase 2.

	PROJECT TEAM RECOMMENDATION
Appeals Layer	As a result of the extensive investigations, consultations, and deliberations by the Project Team, we believe that although an appeals procedure can provide enhanced stability to the UDRP and on the whole appears to be a workable concept, complex procedural issues would need to be worked out. As a result, we would recommend that the concept of an appeals layer be considered in a "Secondary Track" in Phase 2 wherein the ICANN Community can deliberate the different facets and considerations of an appeals layer.
Changing "and" to "or"	As a result of the extensive investigations, consultations, and deliberations by the Project Team, we believe that although a change from "and" to "and/or" may be possible to implement in order to address discrete and limited instances of bad faith use following good faith registration such as a licensee/former employee scenario, the instances of such cases are relatively infrequent, therefore raising a question as to the overall utility of undertaking such a change given the nuanced effort involved.

	As a result, we would recommend that an examination of the possible introduction of “and/or” in limited circumstances such as licensee/former employee scenarios, and the inclusion of potential express safeguards, be deferred to a “Secondary Track” in Phase 2 wherein the ICANN Community can engage in what would appear to be required lengthy and complex deliberations with possible consensus achievable, but not immediately available. That is not to prejudge whether ultimately the ICANN community will decide in favor or against a limited introduction of “and/or”, but we identify this topic as one where it is at least conceivable that with further work a consensus may be achieved through delicate balance.
Supplemental Filings	Although the Project Team was unable to reach unanimous agreement on the specifics concerning supplementary filing issues with some disagreement about whether a Rule change was required or whether a codification of the case law or status quo is preferable, the Project Team agrees that supplemental filings should be further considered with a view to finding consensus on an improved and uniform manner of treating supplemental filings, which is consistent with the existing case law. This may take the form of codification of current practices and discouraging supplemental filings. The Project Team therefore recommends that this issue be further explored and deliberated upon in a Secondary Track of Phase 2.
Expedited or Summary Procedures	The Project Team felt that although agreeing on the form of any expedited procedure would require further discussion, it is nevertheless highly worthwhile to further investigate and deliberate upon the details of such a procedure with a view to finding a solution that deals with certain kinds of cybersquatting abuse on an expedited basis, while ensuring that rights of legitimate registrants are protected. We would therefore recommend that such consideration be subject to a “Secondary Track” in Phase 2 as consensus appears achievable.

Remedy: True Cancellation	The Project Team felt that “true cancellation” should be considered as a remedy under the UDRP, provided that a suitable mechanism for lifting the cancellation so that third parties are not prevented from legitimate registrations can be determined. Figuring out a satisfactory method may require some nuance but appears not only to be within reach, but worth a dedicated effort. We therefore recommend that this issue be prioritized in a dedicated “Secondary Track” in Phase 2 in order to achieve consensus.
Panelist Appointment, Accreditation, and Quality	The Project Team was unable to reach unanimous agreement on these issues. Most of the Project Team however expressed support for consideration in any future UDRP review of matters such as a process to raise concerns about panelist performance and panelist continuing education.
Codification of Case Law	The Project Team was unable to reach agreement on whether existing case jurisprudence should be codified in a binding manner across all Providers. It was however recognized that there is value in ensuring consistency in cases across Providers and also ensuring that after 25 years of accepted case outcomes, an accurate and accepted consensus be encapsulated and followed. We recommend in that respect that the concept of a [binding] Pan-Provider codification of jurisprudence, building on the consensus views captured in the WIPO Overview be further explored in a similar manner as this WIPO-ICA-led Review Project (i.e., outside of ICANN’s policy development processes).
Free Speech	We would recommend against a change in the language of the Policy with respect to free speech as the current language is adequate to protect legitimate noncommercial free speech.

	Nevertheless, we believe that further discussion on the application of the Policy in such cases might be desirable in order to confirm the degree of consistency amongst panels. We would therefore recommend that an examination of the application of the Policy to free speech issues and a possible codification and clarification of case jurisprudence be deferred to a “Secondary Track” in Phase 2.
Decision Format	Although there was no agreement on the specifics of a technical decision format, we recognize that readability and uniformity of form are desirable. While there was a view expressed that machine readability of decisions to search decisions across all Providers would be useful, the majority view was that this should not impose undue burdens on Providers, and that the idea of a section-by-section template as is e.g., used by WIPO should be followed by all Providers.