

Comment on shortened URS response time submitted by Alan Greenberg

I am making this comment on my own behalf, but it also does represent the views of a number of other members of the GNSO Special Trademark Issues Review Team (STI).

This comment focuses on the change to the Applicant Guidebook (AG) section on the Uniform Rapid Suspension System (URS) that reduces the number of days to respond to a URS from 20 to 14 as required by Board Resolution 2010.09.25.03, section 2.6.

I am commenting on two different grounds.

1. Impact of the change

I believe that the Board erred in its decision to make this change. The STI recommendation, which received **Unanimous Consensus** from the STI, read:

The Registrant shall have twenty (20) days to file its answer prior to being declared in default, provided that a decision is rendered on an expedited basis (within 3 - 5 days).

There was a very extensive discussion on this issue within the STI. The recommendation reflected the diverse views, which considered the need to act quickly and the need to give the respondent sufficient time to reply. The compromise did receive Unanimous Consensus because it gave the respondent additional time (over that suggested by the IRT and staff URS version) and because it significantly reduced the amount of time to render judgment after the response was received or the time expired, thus reducing the overall time of the entire process.

I note that the AG kept the short judgment time (in fact, it used the lower bound of 3 days).

The Board resolution noted that there is an option of the respondent requesting a 7 day extension. However, this extension does not at all address the situation of a delay in the respondent receiving the original notification - the very reason that the 20 days was desired.

The change is all the more unreasonable given the AG specifications of the URS complaint notice.

The STI specified that "The form of the complaint should be simple and as formulaic as possible. There should be reasonable limits on the length of complaint and answer. The complaint should allow space for some explanation, and should not be solely a check box."

The AG states that: "The form of the Complaint will be simple and as formulaic as possible. There will be a 5,000 word limit, excluding attachments, for the Complaint."

I do not believe that any member of the STI imagined that "simple", "formulaic" and "reasonable limits" would translate to 5,000 words - about 10 pages single-spaced.

2. Principle of the Board making such a change

The STI was created at the express request of the Board with an extremely tight time-line to address what had been an intractable problem. The group came to general consensus, and on this particular issue, unanimous consensus.

The STI recommendations were subjected to a public comment process and there were comments both supporting and objecting to this particular issue. The outcome of the comment process and the staff completing the implementation plan was that the 20-day period was unchanged.

To have the Board unilaterally make such a change is counter to the avowed intention of the Board to not make policy, with the perhaps exception of cases such as Vertical Integration where the community has failed to reach consensus. To have it do so at such a micro-level, and seemingly without consideration of the trade-offs that were made to reach community consensus makes it even harder to accept.