

For more information contact the:  
**World Intellectual Property Organization (WIPO)  
Arbitration and Mediation Center**

**Address:**  
34, chemin des Colombettes  
P.O. Box 18  
CH-1211 Geneva 20  
Switzerland

**Telephone:**  
41 22 338 8247

**Fax:**  
41 22 740 37 00

**e-mail:**  
arbiter.mail@wipo.int

or its New York Coordination Office at:

**Address:**  
2, United Nations Plaza  
Suite 2525  
New York, N.Y. 10017  
United States of America

**Telephone:**  
1 212 963 6813

**Fax:**  
1 212 963 4801

**e-mail:**  
wipo@un.org

Visit the Arbitration and Mediation Center Website at:  
<http://arbiter.wipo.int/domains>

and order from the WIPO Electronic Bookshop at:  
<http://www.wipo.int/ebookshop>

*WIPO Publication N° 494(E)*  
*ISBN: 92-805-1104-4*

*January 2002*

## WIPO ARBITRATION AND MEDIATION CENTER



### Domain Name Dispute Resolution Service in 2001

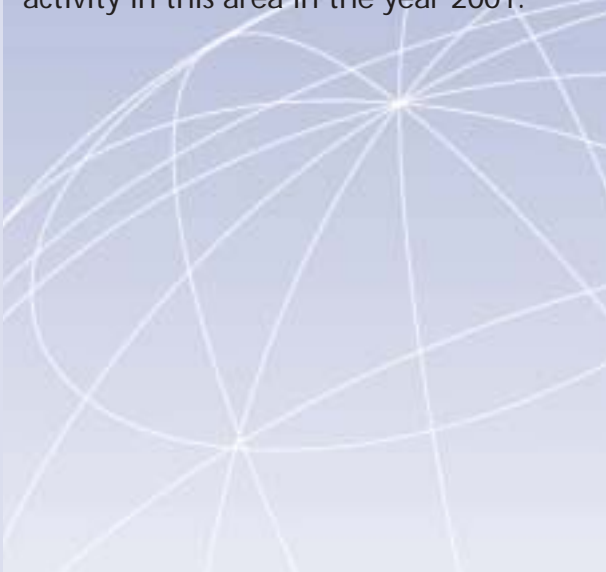
<http://arbiter.wipo.int/domains>



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## Domain Name Dispute Resolution Service in 2001

The WIPO Arbitration and Mediation Center ("Center") is internationally recognized as the leading dispute resolution service provider for challenges related to abusive registration and use of Internet domain names, commonly known as "cybersquatting." The Center's service in this field has expanded in 2001 to include disputes concerning "internationalized" domain names and registrations in new generic top-level domains ("gTLDs") as well as further country code top-level domains ("ccTLDs"). Since commencing this service in December 1999, the Center has received some 5,053 such cases, involving parties from 100 countries. This brochure provides a summary overview of WIPO activity in this area in the year 2001.



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## 1. Domain Name Dispute Resolution Policies

### **Uniform Domain Name Dispute Resolution Policy**

The principal policy administered by the WIPO Arbitration and Mediation Center is the Uniform Domain Name Dispute Resolution Policy (“UDRP”), adopted by the Internet Corporation for Assigned Names and Numbers (“ICANN”) on August 26, 1999. The UDRP, which is modeled on recommendations made by WIPO in the Report of the First WIPO Internet Domain Name Process (WIPO Publication No. 439(E); <http://wipo2.wipo.int/process1>), provides holders of trademark rights with an administrative mechanism for the efficient resolution of disputes arising out of the bad-faith registration and use by third parties of Internet domain names corresponding to those trademark rights. The procedure is designed for domain name disputes that meet the following cumulative criteria: (i) the domain name registered by the domain name registrant is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and (ii) the domain name registrant has no rights or legitimate interests in respect of the domain name in question; and (iii) the domain name has been registered and is being used in bad faith.

The UDRP applies to disputes in the gTLDs *.com*, *.net*, and *.org*, the new gTLDs *.aero*, *.biz*, *.coop*, *.info*, *.museum*, *.name*, and *.pro*, and those ccTLDs that have adopted this Policy on a voluntary basis. The remedies available are limited to the transfer or cancellation of the domain name. Parties to UDRP disputes retain the option to submit their case to a court of competent jurisdiction.

The UDRP procedure is expeditious and efficient. Under the Rules for the Uniform Domain Name Dispute Resolution Policy, once a complaint is filed, the Respondent has 20 days to file a response. Upon receipt of a response or the expiration of that period, the Center appoints a Panel from its published List of Domain Name Panelists (see Section 7 below). The Panel renders a reasoned decision to the Center for transmission to the parties, the registrar and ICANN. The registrar must implement any transfer decision by the Panel, except if the losing registrant commences court proceedings against the Complainant within ten days. The entire WIPO proceeding is completed within two months. Complainants pay a fixed fee to cover the services of the Center and the Panel; the level of the fee increases with the number of domain names and further depends on whether the case is to be decided by a single or a three-member Panel. With the exception of hard-copy evidence, all case communications are submitted online.

### **Registry-Specific Policies**

Following calls for an extension of the existing domain name space, in November 2000, ICANN decided to introduce seven new gTLDs: *.aero* (for the aviation community), *.biz* (for businesses), *.coop* (for cooperatives), *.info* (unrestricted), *.museum* (for museums), *.name* (for personal names), and *.pro* (for professionals). Most registry operators of these new gTLDs have developed, or are in the process of developing, specific dispute resolution policies designed to resolve disputes occurring during an initial phase of operation. Such mechanisms (which may in some instances condition the applicability of the UDRP) aim to provide trademark holders with additional options for the protection of their rights during the early operation of these domains.

For example, the *.info* Registry implemented a “sunrise” period during which trademark holders were given an early opportunity to register domain names identical to the textual elements of their trademarks registered prior to October 2, 2000. The sunrise period was followed by a sunrise challenge period (from August 28, 2001 to December 26, 2001) that allowed persons to challenge sunrise registrations under the Sunrise Registration Challenge Policy (“SCP”) for non-compliance with the sunrise registration requirements. Having been designated as the exclusive dispute resolution service provider, the Center received 1,579 *.info* SCP challenges, 599 of which were resolved in 2001. Registration of *.info* domain names opened to the general public on September 12, 2001. The UDRP applies to these registrations.

For *.biz*, a procedure was implemented whereby a trademark holder could register an advanced claim in relation to the trademark that it owns. This entitled the trademark holder to initiate a complaint in respect of a registered domain name on the ground that such name was registered or used in bad faith under the Start-Up Trademark Opposition Policy (“STOP”). Under this mechanism, which is comparable to the UDRP and which commenced on November 19, 2001, the Center received 53 cases. Registration of *.biz* domain names is also subject to the UDRP.

In addition to the UDRP option, the *.name* domain offered trademark owners the opportunity during an initial period to apply for a Defensive Registration in order to block second or third level registrations of personal names that include the alphanumeric string registered by the trademark owner. Applicants can overcome this blocking effect by proving, under the new Eligibility Requirements Dispute Resolution Policy (“ERDRP”), their eligibility to register in *.name*. The first such cases are expected to be filed in early 2002.

Registries that are restricted to use for certain purposes will also provide special procedures to resolve disputes concerning compliance with their respective registration restrictions. For example, *.biz* has adopted the Restrictions Dispute-Resolution Policy ("RDRP"); the *.name* ERDRP also contains provisions concerning a registered name's compliance with the particular *.name* conditions.

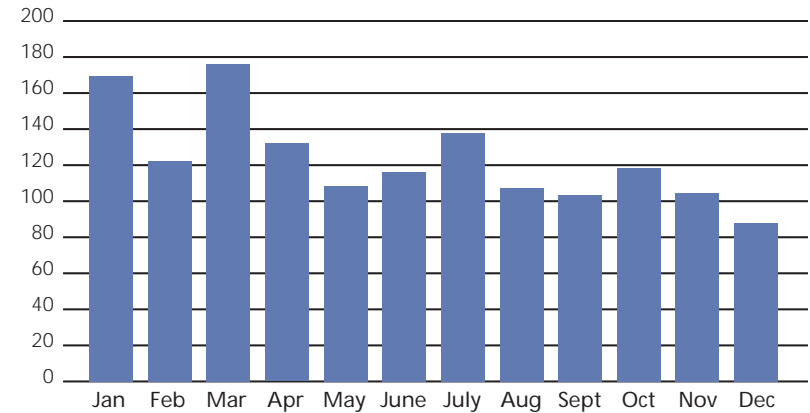
The domains *.aero*, *.coop*, *.museum* and *.pro* are expected to become operational and to introduce their dispute policies in the first part of 2002.

## 2. Case Facilities

In order to deliver quality services, the Center has further developed its extensive legal, administrative and information technology infrastructure. The Center has constituted an international team of legal and paralegal staff who, supported by a secretariat, ensure the professional administration of the cases in accordance with the applicable Rules. To date, the cases have been administered in nine different languages, namely, in alphabetical order, Chinese, English, French, German, Japanese, Korean, Norwegian, Portuguese, and Spanish, with further languages being added as required. The Center's case management is supported by an online filing facility, e-mail communication facilities for parties and panelists, and a highly popular model complaint and model response. A specially developed case management database was introduced in 2001. More information about the Center's online presence is provided in Section 10.

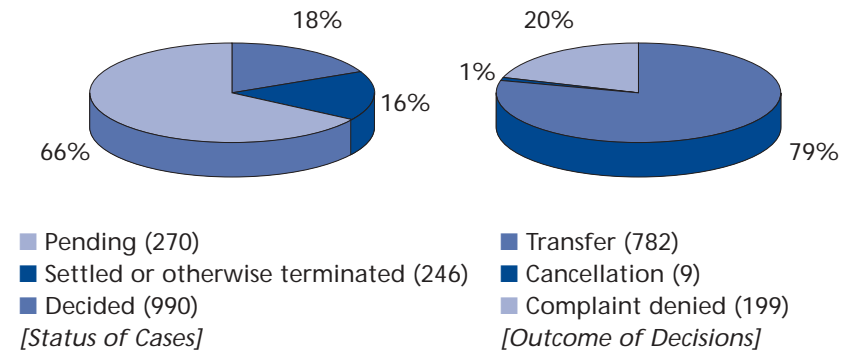
## 3. UDRP Case Filings and Results

In 2001, the Center received 1,506 UDRP cases in the gTLDs, representing 4.1 cases per calendar day. By comparison to other domain name dispute resolution service providers, this represents approximately 61% of all such ICANN cases.



[Monthly UDRP Case Filing in 2001]

Of the UDRP gTLD cases filed, WIPO Panels have rendered decisions on 990 complaints. In 4 out of 5 cases, Complainants have prevailed, obtaining transfer of the domain names. 246 cases were terminated primarily on the basis of transfers agreed between the parties. Thus, in 2001 a total of 1,236 cases (82% of cases filed with the Center in 2001) have been resolved.



■ Pending (270)  
 ■ Settled or otherwise terminated (246)  
 ■ Decided (990)  
 [Status of Cases]

■ Transfer (782)  
 ■ Cancellation (9)  
 ■ Complaint denied (199)  
 [Outcome of Decisions]

## 4. Domain Names Involved

The UDRP gTLD cases filed with the Center in 2001 cover 2,398 separate domain names. The complaints are based on a broad variety of trademarks that include well-known marks, names of small and medium-sized enterprises, and names of individuals, representing a wide range of commercial activity that spans the globe.

### Distribution of gTLDs

Of the total number of domain names disputed with the Center in 2001, 78% are registered in the .com gTLD. The following table shows the number of disputed names per domain and the respective percentages.

GTLD	Number of domain names	Percentage
.com	1,863	77.69%
.net	333	13.89%
.org	184	7.67%
.info	16	0.67%
.biz	2	0.08%

### Number of domain names

A complaint under the UDRP may relate to more than one domain name, provided that the names are registered by the same entity. The following table shows the distribution of names in the cases received by the Center in 2001.

Number of disputed domain names	Number of Cases	Percentage
One	1,154	76.63%
Two	164	10.89%
Three or more	188	12.48%

### “Internationalized” domain names

In a significant development, it has become possible to register domain names in “internationalized” or non-ASCII script. This new option, which is already meeting with considerable demand, has important consequences in terms of trademark use on the Internet. The UDRP applies to such domain name

registrations, provided that they are with an ICANN-accredited gTLD registration authority or that the registration authority has adopted the UDRP. As of December 31, 2001, the Center has received 24 cases concerning “internationalized” domain names registered in Chinese, French, German, Japanese, Korean and Norwegian, with decisions having been rendered in 17 of these cases. The following represents a sampling of the disputed “internationalized” domain names: 醫生指數.com, rémy-cointreau.com, schöps.com, ライブドア.com, 香港網網.com, kværner.net.

## 5. Geographical Distribution in UDRP Cases

Reflecting the global reach of the Internet and the broad acceptance of the UDRP, the geographical spread of the parties to the WIPO UDRP cases covers Complainants from 49 countries in 2001 for a total of 56 Complainant countries through December 2001, and Respondents from 72 countries in 2001 for a total of 92 Respondent countries through December 2001. The UDRP cases filed with the Center so far concerned parties from 94 countries worldwide; in 48% of such cases, the parties came from different jurisdictions.

The following table shows the countries involved most frequently on Complainant’s side and those on Respondent’s side to date. The Annex shows the geographical distribution of all WIPO UDRP case in more detail. (Parties from 6 further countries were involved in cases under policies other than the UDRP, namely Afghanistan, Albania, Bangladesh, Barbados, Brunei Darussalam, and Mauritius.)

Domicile of Complainant	Number of Cases	Percentage	Domicile of Respondent	Number of Cases	Percentage
United States of America	1603	47.68%	United States of America	1614	48.01%
United Kingdom	301	8.95%	United Kingdom	297	8.83%
France	185	5.50%	Spain	191	5.68%
Spain	170	5.06%	Canada	135	4.02%
Germany	150	4.49%	Republic of Korea	133	3.96%

## 6. Country Code Top-Level Domains

In addition to its role as dispute resolution service provider for the gTLDs, the Center is also working with country code top-level domain (ccTLD) registration authorities to provide domain name dispute resolution services. In 2001, WIPO continued to provide advisory services to ccTLDs on intellectual property strategy and management of their domains, including dispute prevention and resolution. WIPO also established the WIPO ccTLD Best Practices, a set of voluntary guidelines for the development of practices and policies to curb and to resolve abusive registrations of protected names.

As of the end of 2001 the following 22 ccTLDs have retained the Center as dispute resolution service provider through their voluntary adoption of the UDRP or of a similar procedure:

.AC (Ascension Island)	.GT (Guatemala)	.PN (Pitcairn Island)
.AG (Antigua & Barbuda)	.LA (Lao People's Democratic Republic)	.RO (Romania)
.AS (American Samoa)	.MX (Mexico)	.SH (St. Helena)
.BS (Bahamas)	.NA (Namibia)	.TT (Trinidad and Tobago)
.BZ (Belize)	.NU (Niue)	.TV (Tuvalu)
.CY (Cyprus)	.PA (Panama)	.VE (Venezuela)
.EC (Ecuador)	.PH (Philippines)	.WS (Western Samoa)
.FJ (Fiji)		

In 2001, the Center received 54 cases involving domain names registered in ccTLDs, representing 3.5% of all UDRP cases filed with the Center. Of these ccTLD cases, 36 were resolved through panel decisions and 8 through settlements between the parties. Ten cases remain pending.

## 7. Panelists

The outcome of the domain name cases is decided by independent panelists, who play a crucial role within the UDRP system. The WIPO List of Domain Name Panelists from which the Center makes appointments comprises, as of the end of 2001, 260 panelists from 43 countries in all regions. WIPO panelists are selected for impartiality, sound judgment and experience as decision-makers, as

well as for substantive experience in the areas of intellectual property law, electronic commerce and the Internet. The Center publishes the professional profile of all panelists on its Web site. The transparency of their role is enhanced by the Center's publication of all panel decisions. The Center organized a second WIPO Domain Name Panelist Meeting on September 18, 2001 at the WIPO Headquarters, enabling the panelists to exchange experiences with regard to the UDRP procedure.

## 8. Events

In addition to the WIPO Panelist Meeting discussed in Section 7, various events were organized in connection with WIPO domain name dispute resolution.

On February 20, 2001, the WIPO Conference on Intellectual Property Questions Relating to the ccTLDs took place in Geneva. The Conference addressed future trends for the ccTLDs and the treatment of intellectual property in their registration operations.

The WIPO Workshop on Domain Name Dispute Resolution, which was held on November 14, 2001 in Geneva, informed interested parties on practical and legal aspects of UDRP proceedings, with a special view to the filing, defending and deciding of WIPO cases.

WIPO, in conjunction with the International Telecommunication Union (ITU), organized a Multilingual Domain Name Symposium on December 6 and 7, 2001 in Geneva. The Symposium addressed technological and regulatory issues related to "internationalized" domain names and intellectual property and dispute resolution issues that are particular to such registrations.

## 9. Second WIPO Internet Domain Name Process

The First WIPO Internet Domain Name Process led to the adoption of the UDRP and similar instruments. Following requests from its Member States, WIPO initiated the Second WIPO Internet Domain Name Process to address the need for protection against abusive domain name registration of certain identifiers other than trademarks, i.e. geographical identifiers, trade names, names of persons, international non-proprietary names of pharmaceutical substances, and names of intergovernmental organizations. On September 3, 2001, WIPO published its Report of the Second WIPO Internet Domain Name Process (WIPO Publication No. 843(E); <http://wipo2.wipo.int/process2/report/>), which is now subject of a comprehensive analysis by the WIPO Standing

Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (“Standing Committee”) in order to determine which, if any, of the identifiers covered by the Report may warrant protection in connection with the domain name system. The WIPO Member States are expected to consider recommendations by the Standing Committee at the next WIPO General Assembly in September 2002.

## 10. Information

By the end of 2001, the Center’s Web site at <http://arbiter.wipo.int> was receiving over 1.4 million hits per month. The site presents full and constantly updated information on the Center’s domain name dispute resolution service under the UDRP and other Policies, including:

- Dispute Resolution Policies, Rules and WIPO Supplemental Rules
- Guide to each domain name dispute procedure
- Model complaint, model response and online filing forms for each dispute resolution procedure
- List of panelists and profiles
- Listing of all domain name cases with full text of decisions and case statistics under each procedure

### A Domain Name Bibliography

(<http://arbiter.wipo.int/center/bibliography/udrp.html>) has been made available offering a regularly updated sampling of references on the subject of domain name dispute resolution. WIPO has newly made available a database portal that facilitates online searches for information on country code top-level domains (<http://ecommerce.wipo.int/databases/cctld/>) and access to national and regional online trademark databases (<http://ecommerce.wipo.int/databases/trademark/>).

To enable interested persons to keep track of the latest UDRP case decisions taken by WIPO panels, daily notifications of the most recently posted UDRP decisions have become available. Requests to be included in this mailing list are made via the Center’s Web site at <http://arbiter.wipo.int/subscribe/decisions.html> or by sending an e-mail to [majordomo@listbox.wipo.int](mailto:majordomo@listbox.wipo.int) (with the text “subscribe domain-updates” in the body of the message). The Center also maintains an electronic mailing list offering general information on Center activities, including in the area of domain names. Requests to be included in this mailing list are made via the Center’s Web site at <http://arbiter.wipo.int/subscribe/general.html> or by sending an e-mail to [majordomo@listbox.wipo.int](mailto:majordomo@listbox.wipo.int) (with the text “subscribe arbiter” in the body of the message).

## ANNEX Geographical Distribution of WIPO UDRP cases through December 2001

List of Countries	Domicile of Complainant		Domicile of Respondent	
Algeria	0	0.00%	1	0.03%
Andorra	0	0.00%	2	0.06%
Antigua and Barbuda	1	0.03%	8	0.24%
Argentina	14	0.42%	16	0.48%
Armenia	0	0.00%	9	0.27%
Australia	75	2.23%	70	2.08%
Austria	22	0.65%	9	0.27%
Bahamas	2	0.06%	8	0.24%
Bahrain	0	0.00%	1	0.03%
Belarus	0	0.00%	1	0.03%
Belgium	19	0.57%	14	0.42%
Belize	0	0.00%	17	0.51%
Bolivia	0	0.00%	2	0.06%
Brazil	50	1.49%	32	0.95%
Bulgaria	0	0.00%	2	0.06%
Canada	63	1.87%	135	4.02%
Chile	10	0.30%	3	0.09%
China	26	0.77%	91	2.71%
Colombia	5	0.15%	3	0.09%
Costa Rica	0	0.00%	6	0.18%
Croatia	0	0.00%	6	0.18%
Cyprus	1	0.03%	5	0.15%
Czech Republic	2	0.06%	6	0.18%
Denmark	12	0.36%	6	0.18%
Dominican Republic	1	0.03%	1	0.03%
Ecuador	0	0.00%	2	0.06%
Egypt	2	0.06%	2	0.06%
El Salvador	0	0.00%	2	0.06%
Finland	28	0.83%	14	0.42%
France	185	5.50%	66	1.96%
Georgia	0	0.00%	1	0.03%
Germany	151	4.49%	26	0.77%
Greece	0	0.00%	4	0.12%
Guatemala	1	0.03%	1	0.03%
Hungary	1	0.03%	4	0.12%
Iceland	0	0.00%	1	0.03%
India	61	1.81%	42	1.25%

**ANNEX** Geographical Distribution of WIPO UDRP cases through December 2001

List of Countries	Domicile of Complainant		Domicile of Respondent	
Indonesia	0	0.00%	14	0.42%
Iran	0	0.00%	4	0.12%
Iraq	0	0.00%	1	0.03%
Ireland	29	0.86%	36	1.07%
Israel	4	0.12%	21	0.62%
Italy	92	2.74%	58	1.73%
Jamaica	6	0.18%	2	0.06%
Japan	66	1.96%	32	0.95%
Jordan	3	0.09%	0	0.00%
Kenya	0	0.00%	2	0.06%
Kuwait	0	0.00%	2	0.06%
Lebanon	2	0.06%	2	0.06%
Libyan Arab Jamahiriya	0	0.00%	1	0.03%
Liechtenstein	4	0.12%	1	0.03%
Luxembourg	2	0.06%	1	0.03%
Malaysia	8	0.24%	9	0.27%
Malta	1	0.03%	1	0.03%
Mexico	10	0.30%	20	0.59%
Monaco	20	0.59%	1	0.03%
Morocco	0	0.00%	1	0.03%
Nepal	0	0.00%	1	0.03%
Netherlands	86	2.56%	34	1.01%
New Zealand	4	0.12%	13	0.39%
Nicaragua	0	0.00%	2	0.06%
Norway	13	0.39%	13	0.39%
Oman	0	0.00%	1	0.03%
Pakistan	0	0.00%	3	0.09%
Panama	0	0.00%	5	0.15%
Peru	1	0.03%	1	0.03%
Philippines	0	0.00%	7	0.21%
Poland	1	0.03%	16	0.48%
Portugal	12	0.36%	8	0.24%
Qatar	0	0.00%	1	0.03%
Republic of Korea	5	0.15%	133	3.96%
Republic of Moldova	0	0.00%	1	0.03%
Romania	0	0.00%	2	0.06%
Russian Federation	0	0.00%	37	1.10%

List of Countries	Domicile of Complainant		Domicile of Respondent	
Saint Lucia	0	0.00%	1	0.03%
Saudi Arabia	2	0.06%	5	0.15%
Singapore	14	0.42%	9	0.27%
Slovenia	0	0.00%	4	0.12%
South Africa	11	0.33%	3	0.09%
Spain	170	5.06%	191	5.68%
Sri Lanka	0	0.00%	2	0.06%
Sweden	42	1.25%	38	1.13%
Switzerland	96	2.86%	40	1.19%
Thailand	2	0.06%	10	0.30%
Turkey	7	0.21%	21	0.62%
Ukraine	0	0.00%	1	0.03%
United Arab Emirates	2	0.06%	3	0.09%
United Kingdom	301	8.95%	297	8.83%
United States of America	1603	47.68%	1614	48.01%
Uruguay	2	0.06%	5	0.15%
Uzbekistan	1	0.03%	0	0.00%
Venezuela	8	0.24%	11	0.33%
Zambia	0	0.00%	1	0.03%

