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June 25, 2025

Comment On The  
INITIAL REPORT OF THE WIPO-ICA  
UDRP REVIEW PROJECT TEAM

References:

Proposals for Limited Procedural Improvements to the UDRP: <https://udrp.group/>  
How To Lose A UDRP Case. <https://udrp.group/how-to-lose-a-udrp-case/>

Introduction:

The UDRP is a very strong policy which should not be tampered with. However, the processes around the Policy could use some improvements to make for a more effective and efficient vehicle for resolving domain name disputes. As a member of the UDRP.group team, I support the proposals that have been taken up by the WIPO-ICA group and I commend the group for its efforts at seeking consensus and paving the way for a more efficient Phase II of the ICANN RPM Working Group.

Although many of the proposals have great merit, for purposes of this comment, I'd like to focus on two of what I consider to be the most important proposals which address the very foundation of the UDRP's mission to promote the fair and equitable administration of justice. Those titled Educational Materials and Registrars to Provide Additional Notice.

Educational Materials:

The need to create and provide easy access to educational and training materials to help participants (complainants, respondents, and panelists) improve the quality of both UDRP pleadings and decisions should not be underestimated. I am a retired long-standing brand-side UDRP representative and have taken great pride in the quality of pleadings and evidence I submitted on behalf of complainants. For the past ten years I have had the privilege of being a panelist and have issued a substantial number of decisions. During this time, however, I have seen a troubling trend in the overall quality of pleadings and especially in the scope of evidence presented in cases under the Policy. This may be due to a number of factors including the limited financial incentives for UDRP representatives as compared to those of court litigation. Less time may be spent understanding the nuances of the UDRP and the penalties for failing to do so are, at least for complainants and their representatives, quite mild. This has even been commented on in *Vorwerk International AG v. Xu Liju*, D2025-1260 (WIPO June 10, 2025) where it was

noted that “[i]t is also the Panel’s sad experience that Complaints are too often delegated to junior lawyers whose work is inadequately supervised.” Another contributing element may be the differences in how participants from different legal systems approach the Policy regarding the need to submit full supporting evidence versus an expectation that jurists/panelists will conduct their own investigations or assume certain fact claims (i.e., common law vs. civil law or adversarial vs. inquisitorial approach). Regardless of the reason, it is clear that more robust education of all participants and better communication of the minimum standards and requirements of the Policy would yield a higher quality of pleadings and decisions. This would serve to promote the fair and equitable administration of justice which is at the heart of any legal system such as the UDRP. As the ultimate locus of authority for the UDRP, ICANN should take an active role in promoting its efficient and just use including the commitment of funds dedicated to education.

Any such effort would need to provide practical information to all participants to meet them where they are and not necessarily expect them to seek out such educational materials (as many of them currently are apparently not doing so with available resources). This means that some materials would need to be accessible to *pro se* parties who are not legally trained but others could be at a level commensurate with more experience in legal advocacy. This could involve the simple step of dispute providers offering a prominent link to standard, pan-provider educational materials (at the ICANN website?) or even a required checkbox stating that a party has reviewed certain materials and checklists, etc. through prominent links at points of contact on dispute provider emails or on web pages where pleadings and evidence are uploaded or sent. This small speed bump on the road to submitting pleadings could raise the quality level of submissions and even prevent ill-conceived strategies and pleadings. An example of such pragmatic materials, based on actual experience, may be found in my article titled How To Lose A UDRP Case. <https://udrp.group/how-to-lose-a-udrp-case/>

#### Enhanced Notice of Complaints:

The fair and equitable administration of justice would be greatly enhanced by a higher rate of participation by respondents in cases that don’t involve obvious cybersquatting. While rare, there have been poorly decided default cases where a simple few lines of explanation from a respondent might have alerted a panel to a substantial and legitimate defense. The cost of losing a UDRP case is typically rather low for a complainant but it can be extraordinarily high for a respondent whose legitimate business may be decimated by the sudden and improper transfer of a domain name and the prospect of expensive litigation to recover their domain name after a transfer order. Increasing the participation and engagement of respondents through enhanced notification of disputes by a trusted source, such as registrars, could reduce the impact of these infrequent but high-impact default situations. Registrars could also see a reputational benefit from an enhanced dispute notification system and it would be well worth the minimal cost of implementing such a system on top of their existing UDRP-related process (e.g., locking domains, providing Whois verification, processing transfer orders).

#### Conclusion:

For the most part, the UDRP has functioned quite well over its 25 years of existence and it should not be tampered with lightly. But, despite the perspectives of those, like myself, who live and breathe domain name disputes on a daily basis, the reality of the UDRP is that it is a rather obscure and niche area of the law for the vast majority of domain name owners and legal professionals. As such, there is a great need for measures to help less experienced participants participate in the process and produce the best

possible pleadings and evidence for each case. Improvements to the processes around the Policy, particularly in education for all and notice to respondents, could yield great results at very little cost.