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World Intellectual Property Organization (WIPO)  
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CH-1211 Geneva 20  
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27 June, 2025

***Re: Comments on the Initial Report of the WIPO–ICA UDRP Review Project Team***

Dear WIPO–ICA UDRP Review Project Team,

We write on behalf of **HSS IPM GmbH**, a Swiss-based boutique firm offering global reach and specialized expertise in intellectual property law. As a new kind of legal service provider, we combine the precision and efficiency of Swiss values with decades of experience gained in top multinational companies and leading law firms.

We appreciate the opportunity to provide comments on the Initial Report and commend the Project Team for its comprehensive and balanced approach to reviewing the Uniform Domain Name Dispute Resolution Policy (UDRP). We respectfully submit the following feedback, grounded in recent professional experience.

**Registrar Cooperation and ICANN Enforcement**

The Report notes the importance of registrar compliance but stops short of addressing the systemic difficulties faced by complainants after a panel decision is rendered. As a firm routinely engaged in UDRP filings and enforcement, we have observed a recurring pattern of inefficiencies, even where panel decisions are clear and final: registrar non-cooperation remains a critical gap in the UDRP process.

We have seen how the effectiveness of the UDRP can break down at the final stage. Despite obtaining a favorable ruling, complainants often encounter avoidable delays in domain name transfers due to uncooperative registrar behavior. These lapses in enforcement undermine the purpose of the UDRP and unnecessarily prolong the harm suffered by legitimate rights holders.

In one of our recent cases, the concerned registrar failed to implement the panel's transfer order for months. Despite repeated attempts to create the required account and submit documentation (accompanied by screenshots and detailed communication) the concerned registrar provided no functional solution.

This example highlights a broader issue with transfer compliance. As such, we respectfully recommend that Phase 2 include:

- The establishment of **minimum service-level benchmarks** for registrar actions (e.g., timely domain locking, verification, and execution of transfer orders);
- A **clear escalation mechanism** for complainants to trigger ICANN review where registrar cooperation fails; and
- The introduction of **enforceable sanctions**, including warnings, penalties, public tracking of non-compliance, and accreditation review for repeat offenders.



The legitimacy of the UDRP depends not only on sound jurisprudence but on the enforceability of its outcomes. Without practical tools to ensure registrar cooperation, the system falters at the finish line.

Below is a proposal based on key concerns, particularly regarding:

- The lack of compliance following a favorable UDRP decision.
- The resistance of certain registrars.
- The unnecessary burden of requiring the complainant to create accounts for transfers.
- The continued damage that may occur during the post-decision phase

## **1. Proposal for Automatic Transfer Post 10-Day Waiting Period**

### ***Current Situation:***

Once the panel rules in favor of the complainant, the registrar must wait 10 calendar days in case the respondent initiates legal proceedings.

If no court action is filed, the transfer should proceed. However, in practice:

- Some registrars delay unnecessarily.
- Others impose technical hurdles.
- The complainant (or their authorized representative) must pursue execution manually.

### ***Proposal:***

- ICANN should require all registrars to automatically transfer the domain after the 10-day period, with no further action required by the complainant.
- The UDRP provider (WIPO, Forum, etc.) notifies the registrar at the end of the waiting period, and the registrar must then automatically execute the change of ownership or cancellation as ordered.
- A mandatory confirmation system should be in place, with a strict execution deadline (e.g., 3 business days).

## **2. Ban on Conditioning Transfer on Account Creation**

### ***Current Situation:***

Some registrars require the complainant to create an account on their platform to complete the transfer. This results in:

- Unnecessary delays.
- Unnecessary collection and processing of personal information (e.g. some registrars may require ID for account creation)
- Technical problems if their platform malfunctions.
- An implicit violation of the complainant's right to choose their registrar of record.
- No legal basis under the UDRP Policy or Rules for the inclusion of a burdensome obligation to open an account in order to affect the transfer. Paragraph 4(k) of the UDRP merely states that the registrar will "implement the decision" 10 days after notification of the decision if no court proceeding is commenced during that time.



## ***Proposal:***

- The transfer must be executable via authorization code to the registrar designated by the complainant.
- If there are cybersecurity related concerns about emailing the auth-code, alternative safe communication means may be established without requiring the complainant to set up an account with the registrar
- In cases where the registrar's platform fails, ICANN should be authorized to intervene directly.

### **3. Strict Maximum Deadline for Transfer Execution**

To ensure timely enforcement, the domain name transfer must be fully executed within **three (3) business days** following the expiration of the 10-day waiting period. If this deadline is not met:

- The UDRP provider and/or the complainant should have the authority to escalate the matter to ICANN; and
- ICANN should have a transparent and well-communicated escalation/ enforcement mechanism so that the consequences of non-compliance are clear to Registrars.

### **4. Proposal for an Automatic Protocol Between UDRP Provider and Registrar**

We support the creation of a standardized technical protocol between UDRP providers and registrars to streamline decision implementation. This protocol would:

- Automatically trigger the transfer order once the 10-day period expires;
- Confirm execution status in real time; and
- Use secure APIs to reduce human intervention and improve reliability.

### **5. Oversight and Sanctions for Non-Cooperative Registrars**

#### ***Current Situation:***

There are no real or immediate consequences for registrars who:

- Fail to respond.
- Provide evasive or inadequate answers.
- Stall the process using technical or administrative excuses.

#### ***Proposal:***

- Establish a formal mechanism to report registrars who unreasonably delay or obstruct execution of UDRP decisions.
- Create a public "compliance history" score, visible to users and stakeholders.
- Impose proportionate penalties in repeat cases, such as:
  - Temporary limitations on ICANN accreditation.
  - Direct oversight by ICANN in certain procedures.
  - Administrative fines, if applicable.

### **6. Structural Presentation of Recommendations**

As a final non-substantive point, to improve the accessibility and coherence of future documents, we respectfully suggest organizing recommendations according to the procedural stages of the UDRP process. For example:



- ***Phase 1: Pre-filing preparation***
- ***Phase 2: UDRP proceedings (filing through decision)***
- ***Phase 3: Post-decision enforcement***

This framework would reflect the user experience more clearly, enhancing readability for practitioners and stakeholders navigating the system.

## ***Conclusion***

These proposals aim to align UDRP enforcement with the principles of effectiveness, legal certainty, and robust trademark protection. The core purpose of the UDRP is to offer a swift and reliable remedy for abusive domain name registrations. That purpose is undermined when a successful complainant is met with new, unregulated obstacles in the post-decision phase.

We greatly appreciate the efforts of the WIPO-ICA Project Team in initiating this important review and stand ready to contribute further as Phase 2 moves forward.

Sincerely,

On behalf of HSS IPM GmbH:

***Claire Kowarsky***, Director and Co-Owner

***Fernanda Zaragoza Benitez***, Of Counsel

***Kristi Grabovari***, Of Counsel