WIPO Arbitration AND Mediation Center



Guide to WIPO Domain Name Dispute Resolution

http://arbiter.wipo.int



World Intellectual Property Organization

GUIDE TO WIPO DOMAIN NAME DISPUTE RESOLUTION

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INTRODUCTION

The WIPO Arbitration and Mediation Center is internationally recognized as the leading dispute resolution service provider for challenges related to the abusive registration and use of Internet domain names, a practice commonly known as "cybersquatting." This brochure provides a practical guide to the domain name dispute resolution service of the WIPO Center. It contains an overview of the dispute resolution procedure, case-filing guidelines, and information on resources offered. Case statistics of the WIPO Center are also included. More detailed information is available at the WIPO Center's web site at http://arbiter.wipo.int or may be sought by email from arbiter.mail@wipo.int.

World Intellectual Property Organization (WIPO)

The World Intellectual Property Organization (WIPO) is an independent intergovernmental organization headquartered in Geneva, Switzerland, comprising 182 Member States.

WIPO's principal objective is to promote, through international cooperation, the creation, use, dissemination and protection of intellectual property. As part of its activity, WIPO administers more than 20 treaties, including the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Madrid Agreement Concerning the International Registration of Marks and the Protocol to that Agreement, and the Patent Cooperation Treaty.

WIPO Arbitration and Mediation Center

The WIPO Arbitration and Mediation Center, established in 1994 as a unit of WIPO's International Bureau, offers alternatives to court litigation for the resolution of commercial disputes between private parties concerning intellectual property.

The WIPO Center has created – with the active involvement of many of the foremost alternative dispute resolution (ADR) and intellectual property experts – the WIPO Mediation, Arbitration, and Expedited Arbitration Rules and Clauses. The WIPO Rules and Clauses, which exist in several languages, incorporate the latest developments in the area of dispute resolution and can be used in any legal system in the world. The WIPO Center advises on, and administers, procedures conducted under these Rules. In addition, parties can draw upon a growing list of over 1,000 independent WIPO arbitrators and mediators from some 70 countries. The candidates on the WIPO List of Neutrals range from seasoned dispute-resolution generalists to highly specialized practitioners and experts covering the entire legal and technical spectrum of intellectual property.

The WIPO Center also plays a leading role in the design and implementation of tailor-made dispute resolution procedures. The most prominent example is the Uniform Domain Name Dispute Resolution Policy (UDRP) which is based on recommendations made by WIPO to address certain abusive practices in the domain name system. Since commencing its domain name dispute resolution service in December 1999, the WIPO Center has processed well over 22,000 cases.

While the present brochure provides information on the WIPO Center's domain name dispute resolution service, the WIPO Center also makes available the following publications that provide information on the WIPO Center's further activities: Dispute Resolution for the 21st Century; The WIPO Arbitration and Mediation Center; WIPO Arbitration and Mediation Rules; Guide to WIPO Arbitration; and Guide to WIPO Mediation. All publications may be ordered free of charge from the Center's web site.

DOMAIN NAME DISPUTES

.müseum .name

DOMAIN NAMES

A domain name is a human-friendly form of an Internet address that is both easy to identify and to remember, such as <wipo.int> or <vahoo.com>. The domain name system operates on the basis of a hierarchy of names. The top-level domains are divided into two categories: the generic top-level domains (gTLDs) and the country code top-level domains (ccTLDs). The gTLDs .com, .net, .org and the subsequently introduced domains .aero. .biz, .coop, .info, .museum, .name, and .pro are managed by registry operators acting under the authority of the Internet Corporation for Assigned Names and Numbers (ICANN; http://www.icann.org). The ccTLDs are administered by the competent national registration authorities. There are some 243 ccTLDs,

each bearing a two-letter country code, for example .fr for France, .jp for Japan or .mx for Mexico.

As a result of the increased popularity and commercial use of the Internet, domain names have acquired the role of business identifiers and, in certain cases, even trademarks themselves, such as AMAZON.COM. By registering their marks and names as domain names, for instance <sony.com>, businesses attract customers to their web sites.

CYBERSQUATTING

Cybersquatting involves the pre-emptive, bad faith registration of trademarks as domain names by third parties who do not possess rights in such names. Cybersquatters exploit the first-come, first-served nature of the domain name registration system to register as domain names, third parties' trademarks or business names or names of famous people, as well as variations thereof. A common motive for cybersquatting is the intention to sell the domain name back to the trademark owner or to attract web traffic to unrelated commercial offers.

This practice of cybersquatting gives rise to disputes between trademark owners and domain name registrants, which present features stretching the capacity of the ordinary judicial system. The judicial system is territorially based and thus cannot always provide a comprehensive solution to a conflict of global dimension. Furthermore, court litigation can be slow and expensive, factors that can produce a de facto situation in which it may be quicker and cheaper for a trademark holder to

buy back its rights to a domain name from the cybersquatter, rather than seek to retrieve those rights through litigation. What was needed was an effective alternative mechanism to deal with what are frequently crossborder disputes.

First WIPO Internet Domain Name Process

WIPO was requested, initially by the United States Government, to explore the possibilities of filling this need, and in 1998 conducted the first WIPO Internet Domain Name Process, an open international process of consultations concerning possible practices and procedures for preventing and resolving domain name disputes.

The resulting Report of the First WIPO Internet Domain Name Process included a series of recommendations dealing with domain name and trademark issues. One of the principal recommendations was the institution of a policy to be followed uniformly by all registrars that would provide an administrative remedy for domain name disputes in all gTLDs. The First WIPO Report also recommended that the scope of such administrative procedure be limited to cases of bad faith, abusive registration of domain names that violate trademark rights.

Preventing Domain Name Disputes: WIPO Trademark Database Portal

Prospective domain name registrants are encouraged to verify whether the domain name they seek to register might infringe the trademark rights of third parties. With a view to the prevention of domain name disputes, WIPO has made available the WIPO Trademark Database Portal (http://arbiter.wipo.int/ trademark/). This portal facilitates access to online trademark databases of a number of national and regional intellectual property offices, allowing any person wishing to register a domain name to perform a trademark search. Additional searches outside the available online trademark databases may also have to be carried out to draw more informed conclusions

UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (UDRP)

Following WIPO's recommendations, ICANN adopted the Uniform Domain Name Dispute **Resolution Policy on August** 26, 1999. The UDRP provides holders of trademark rights with an administrative mechanism for the efficient resolution of disputes arising out of bad faith registration and use by third parties of domain names corresponding to those trademark rights.

Under the UDRP. trademark owners may submit disputes arising from alleged abusive registration of domain names to a mandatory expedited administrative proceeding, by filing a complaint with an approved dispute resolution service provider (provider). For gTLDs these providers are accredited by ICANN, and for those ccTLDs that have voluntarily adopted the UDRP, the providers are accredited by the registration authority of the ccTLD in question.

APPLICABLE TO ALL GTLDS AND CERTAIN CCTLDS

Pursuant to their accreditation agreement with ICANN, all gTLD registrars agree to abide by and implement the UDRP. Accordingly, the UDRP is applicable to the gTLDs .com, .net, .org, and to all more recently introduced gTLDs.

The UDRP is incorporated into the standard dispute resolution clause of all gTLD domain name registration agreements. On this basis, the registrant of a gTLD domain name must submit to any proceeding that is brought under the UDRP, regardless of whether the domain name registration was effected before the entry into force of the UDRP.

Apart from the gTLDs, certain ccTLDs have also adopted the UDRP on a voluntary basis.

GLOBAL SCOPE

The UDRP is international in scope, in that it provides a single mechanism for resolving a domain name dispute regardless of where the registrar, the domain name registrant, or the complaining trademark owner is located Any person or company in the world can file a request for the resolution of a domain name dispute through the UDRP procedure, asserting that each of the UDRP criteria is met in its case. UDRP proceedings administered by the WIPO Center have involved parties from over 120 countries across the world

TIME- AND COST-EFFECTIVE

Compared to court litigation, the UDRP procedure is highly time- and costeffective, especially in an international context. A domain name case filed with the WIPO Center is normally concluded within two months, involving one round of limited pleadings and using mostly online procedures. WIPO fees are fixed and moderate.

ENFORCEABLE DECISIONS

A key advantage of the UDRP procedure is the mandatory implementation of the resulting decisions. There are no international enforcement issues, as registrars are obliged to take the necessary steps to enforce any UDRP transfer decisions, subject to the losing party's right to file court proceedings and suspend the implementation of the decision.

TRANSPARENT

The UDRP process is transparent. The WIPO Center posts all disputed domain names, case status, case statistics and full-text of decisions on its web site. In addition, the WIPO Center's online Index of WIPO UDRP Panel Decisions, and its jurisprudential overview of key issues offer free and easy access to the jurisprudence developed under the UDRP.

WITHOUT PREJUDICE TO COURT ADJUDICATION

Once a complainant initiates a UDRP proceeding, the registrant of a domain name must submit to the process. However, in line with its administrative character, the UDRP does not preclude the domain name registrant or the trademark holder from submitting the dispute to a court for independent resolution: either party may commence a lawsuit in court before, during, or after a UDRP proceeding. Paragraph 4(k) of the UDRP also allows a losing domain name registrant to challenge the administrative panel's decision by filing a lawsuit in a competent court and thereby suspend the implementation of the panel decision. Although parties retain this court option, in practice this is a rare occurrence. The WIPO Center maintains a selection of court orders and decisions in relation to the UDRP or specific UDRP cases at its web site.



UDRP PROCEDURE

The UDRP as a Policy is given effect by the Rules for Uniform Domain Name **Dispute Resolution Policy** (UDRP Rules) and by the dispute resolution service provider's supplemental rules. The WIPO Center has developed the WIPO Supplemental Rules for Uniform Domain Name **Dispute Resolution Policy** (WIPO Supplemental Rules) which complement the UDRP and the UDRP Rules on a number of procedural issues.

The Three UDRP Criteria

The UDRP procedure is designed for domain name disputes that meet the following cumulative criteria (UDRP, paragraph 4(a)):

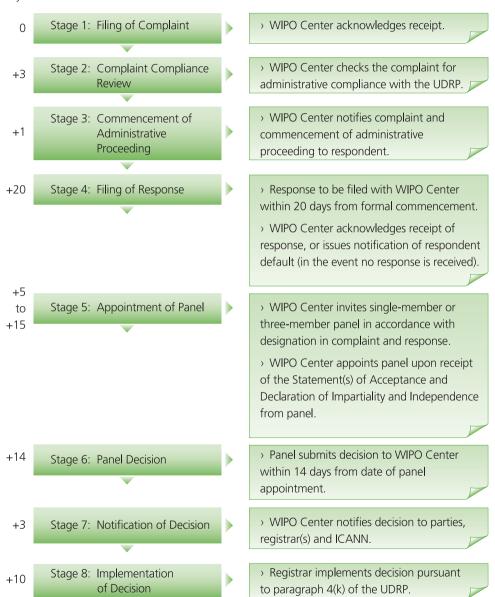
- the domain name registered by the domain name registrant is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the domain name registrant has no rights or legitimate interests in respect of the domain name in question; and
- (iii) the domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the UDRP provides non-exhaustive illustrations (e.g., the domain name has been registered primarily for the purpose of selling it to the trademark owner) which, if found to be present, should be considered as evidence of the registration and use of a domain name in bad faith. Similarly, paragraph 4(c) of the UDRP provides nonexhaustive illustrations of circumstances (e.g., the domain name is used in connection with a bona fide offering of goods) which, if found to be present, should be considered as evidence of the respondent having rights or legitimate interests in the disputed domain name.

A search of the online Index of WIPO UDRP Panel Decisions allows parties and panelists to search decisions of previous panels to examine the facts and circumstances of the case in light of prior WIPO decisions. WIPO also makes available a jurisprudential overview of key issues.

STAGES OF A UDRP PROCEEDING

Days



WHO'S WHO IN A UDRP PROCEEDING

COMPLAINANT

The complainant is any person or entity, claiming trademark or service mark rights, who initiates a complaint concerning a domain name registration in accordance with the UDRP. The WIPO Center processes complaints from a wide array of complainants from around the world, ranging from large multinational corporations (e.g., BMW, Gucci, Tata, Microsoft, and Sony) to small- and medium-size enterprises and to individuals (e.g., Isabelle Adjani, Venus and Serena Williams, Isabel Preysler, Julia Roberts, and Michael Crichton).

RESPONDENT

The respondent is the holder of the domain name registration against which a complaint is initiated. Under the terms of the domain name registration agreement, which the respondent entered into with the registrar, the respondent must participate in the UDRP proceeding. The UDRP Rules provide a twenty-day period for the respondent to file a response to a complaint brought against it under the UDRP. As with complainants in cases filed with the WIPO Center, respondents come from around the world.

Geographical Distribution of Parties

At the end of 2004, the geographical distribution of parties involved in UDRP cases filed with the WIPO Center spanned 120 countries. Statistics show that the following are the top five filing and top five respondent countries, in cases administered by the WIPO Center as of that date:

Domicile of	Number	Domicile of	Number
Complainant	of Cases	Respondent	of Cases
United States of		United States of	
America	3190 (46.2%)	America	2881 (41.8%)
United Kingdom	574 (8.3%)	United Kingdom	594 (8.6%)
France	483 (7.0%)	Spain	374 (5.4%)
Germany	375 (5.4%)	Republic of Korea	359 (5.2%)
Spain	360 (5.2%)	China	319 (4.6%)
Others	1916 (27.8%)	Others	2371 (34.4%)
TOTAL	6898	TOTAL	6898

DISPUTE RESOLUTION SERVICE PROVIDER: THE WIPO CENTER

The WIPO Center was the first domain name dispute resolution service provider to be accredited by ICANN and the first to receive a case under the UDRP.

From such first filing in December 1999, the WIPO Center has been the leading provider of domain name dispute resolution services. Through 2004 WIPO UDRP cases covered 12.637 domain names. Most of these names related to the .com domain (75.1%). followed by .net (12.2%), .org (6.9%), .info (1.9%) and .biz (1.6%). The remaining 2.2% of cases concerned certain ccTLDs, as well as .edu, .aero, and .name. Examples of domain names disputed in UDRP proceedings filed with the WIPO Center include <marlboro.com>, <deutschetelecom.net>. <celinedion.com>, and <恒生指數.com>.

When disputes under non-UDRP, registry-specific policies are included, the total number of domain name cases administered by the WIPO Center through 2004 increases to 22,411.

The WIPO Center's role as a provider is to administer the case, ensuring that the proceeding runs smoothly. fairly and expeditiously. To this end, the WIPO Center verifies that the complaint satisfies the formal requirements of the UDRP. the UDRP Rules and the WIPO Supplemental Rules, coordinates with the concerned registrar(s) to verify that the named respondent is the actual registrant of the domain name(s) in issue, notifies the complaint to the respondent, sends out case-related communications, appoints the panel and notifies the decision to the relevant parties.

The WIPO Center is independent and impartial. It does not itself decide the dispute between the parties. As an administrative body, it can provide guidance on the procedural aspects of the UDRP, but does not give legal advice or views about the strengths and weaknesses of a party's case.

A key objective of the WIPO Center is to provide an efficient and effective procedure. To this end, the WIPO Center has undertaken a range of activities and services that include the following:

- Expert input into the UDRP and the UDRP Rules
- Extensive online guidance about the UDRP system
- Model complaint and response
- Online complaint and response filing
- Online case status information
- Online Index of WIPO UDRP Panel Decisions
- Jurisprudential overview of key issues
- > Non-profit fees
- Multilingual staff with a broad legal background

PANEL

The provider appoints one or three independent and impartial persons to decide a case. During the proceeding, each party has the opportunity, in the complaint or the response, to designate whether it wishes the matter to be decided by a singlemember or a three-member panel. The panel is independent of the provider, ICANN, the concerned registrar, and the parties to the dispute.

WIPO domain name panelists are selected on the basis of their well established reputations, impartiality, sound judgment and experience as decision makers, as well as for their substantive experience in the areas of intellectual property law, electronic commerce and the Internet. This is reflected in the published professional profiles of each of the WIPO Center's panelists. As at the end of 2004, the WIPO list comprised 382 panelists from 53 countries, speaking 35 languages amongst them.

Prior to appointment in a UDRP proceeding, panelists are required to confirm to the WIPO Center the absence of any potential conflict of interest and to disclose any and all facts that should be considered prior to such appointment. The WIPO Center follows a conservative policy in appointing panelists that takes into account not only the panelist's professional skills, linguistic ability, nationality, and geographic location, but also case citations in pleadings and prior case involvement with parties.

To help ensure that decisions are reasoned and consistent, the WIPO Center provides its panelists with a standard decision format, daily notification of new decisions, jurisprudential overview of key issues, a searchable Index of WIPO UDRP Panel Decisions, an online panelist forum, regular panelist meetings and workshops, as well as procedural support upon reguest.

REGISTRAR

The registrar is the entity with which the respondent registered a domain name that is the subject of a complaint. Every gTLD registrar must be accredited by ICANN. A condition for ICANN accreditation of a gTLD registrar is the incorporation of the UDRP into the registrar's domain name registration agreement.

The registrar of the disputed domain name does not participate in the administration or conduct of a UDRP proceeding, and cannot be held liable as a result of any decision rendered by a panel in such a proceeding. The registrar does, however, play the crucial role of locking the domain name registration pending a UDRP proceeding and implementing any decision rendered by a panel in a UDRP proceeding.

GUIDE TO PARTY FILING

COMPLAINT

The WIPO Center makes available a Model Complaint which provides a framework for drafting a complaint in accordance with the LIDRP criteria and rules Most complainants download the WIPO Model Complaint as a Word document, so that they may complete it for subsequent submission. However, some complainants choose to submit the Model Complaint online through the form also made available by the WIPO Center. In either case. the complaint must be submitted electronically and in hardcopy to the WIPO Center, and a copy must be sent to the respondent and the registrar.

The Model Complaint together with more detailed filing guidelines is available at the WIPO Center's web site.

RESPONSE

Similar to the Model Complaint mentioned above. the WIPO Center's Model Response facilitates the task of a filing respondent. The Model Response is mostly downloaded and submitted as a completed Word document, although it may also be submitted online by completing the response filing form available at the WIPO Center's web site. Either way, the response must be submitted to the WIPO Center electronically and in hardcopy, with a copy to the complainant.

The Model Response together with more detailed information is available at the WIPO Center's web site.

FILING PREPARATION

In preparing their filings, parties may want to consult the online Index of WIPO UDRP Panel Decisions which facilitates access to the arowing jurisprudence under the UDRP For instance, a complainant may wish to find out whether a particular use of a domain name has been considered to be in bad faith. Likewise, a respondent may wish to investigate whether his situation demonstrates a legitimate right or interest in the domain name. In addition to the Index. the WIPO Center has posted a jurisprudential overview of key issues.



Language of a UDRP Proceeding

The language in which a UDRP proceeding is conducted is dependent on the language of the disputed domain name's registration agreement. Under the UDRP Rules, unless the parties to the proceeding agree otherwise or the panel determines otherwise, the language of the UDRP proceeding shall be the same language as that of the domain name registration agreement. The WIPO Center's multilingual staff and facilities enable it to handle domain name cases in many different languages. Through December 2004, the WIPO Center has administered cases in 12 different languages, namely, Chinese, Dutch, English, French, German, Italian, Japanese, Korean, Norwegian, Portuguese, Russian and Spanish. Further languages may be added as required.

FEES

The WIPO Center operates on a not-for-profit basis. It maintains a UDRP Schedule of Fees at its web site, which also contains information on methods of payment. The filing fee in a WIPO case depends on two factors: the number of domain names included in the dispute, and the number of panelists (one or three) elected by the parties. The large majority of WIPO cases concern 1-5 domain names and a single-member panel. The applicable fee for such a case at the end of 2004 was USD 1,500. The WIPO Center retains some of the fee as an administration charge and forwards the largest part to the panelist(s). In the case of a single-member panel, the full fee is payable by the

complainant. If a threemember panel is requested by the complainant, the fee is also paid in full by the complainant. In the case where a three-member panel is requested by the respondent, the fee is split equally between the complainant and the respondent.

DECISIONS

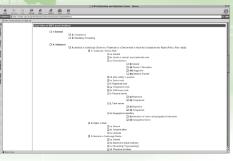
Disputes under the UDRP are decided by independent panels appointed by the WIPO Center. The remedies available to a complainant in a UDRP proceeding are limited to the transfer of the disputed domain name registration to the complainant, or the – rarely requested – option of cancellation of the domain name registration. Neither monetary nor injunctive relief is available. Panels decide on the basis of the submitted complaint and response, without oral hearing. If a panel decides that a disputed domain name registration should be cancelled or transferred to the complainant. the concerned registrar will normally implement the decision after ten business days. If the complaint is denied, the registrar will unlock the domain name for the benefit of the respondent.

As required by the UDRP Rules, the WIPO Center posts all panel decisions in full on its web site, except when a panel determines in an exceptional case to redact portions of its decision.

Online Index of WIPO UDRP Panel Decisions

To assist the parties in formulating the complaint and response, the panelists in drafting well-reasoned and consistent decisions, and the general public in attaining easier access to the growing jurisprudence under the UDRP, the WIPO Center provides an Index of WIPO UDRP Panel Decisions at its web site. This unique search tool, which is available free of charge, offers structured access to the large quantity of legal and other data contained in WIPO Panel decisions under the UDRP. The Index covers all WIPO UDRP decisions, including the latest ones issued. In addition to the Index, users may access an informal WIPO overview of recurring substantive and procedural issues. The overview also shows how WIPO Panelists have decided those issues by reference to key precedents.

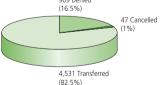
The Index features two search functions: a "Search by Domain Name Categories" (e.g., entertainment, luxury items, telecommunications) and a "Legal Index" that allows an extensive search of decisions by substantive and procedural legal issues (e.g., deliberately misspelled trademarks in domain names, domain name use by authorized distributor, burden of proof). The search functions and key words may also be combined. Furthermore, it is also possible to search WIPO UDRP decisions by case number, domain name, and text of decision.



WIPO CASE RESULTS

The total number of UDRP cases filed with the WIPO Center through December 31, 2004 is 6,898. By March 2005, over 99.5% of those cases had been resolved, through 5,487 decisions and through 1,381 terminations primarily based on transfers agreed between parties.





Country code TOP-LEVEL DOMAINS

A ccTLD is a country code top-level domain, for example .au for Australia, .md for Moldova, .tv for Tuvalu and .ve for Venezuela. These ccTLDs are administered independently by nationally designated registration authorities, also known as ccTLD administrators.

The management of intellectual property in ccTLDs has emerged as one of the key policy questions for ccTLD administrators. The WIPO ccTLD Program offers ccTLD administrators the opportunity to seek advice on intellectual property strategy and management of their domains, including dispute resolution and prevention. To this end, WIPO has published the "WIPO ccTLD Best Practices for the Prevention and Resolution of Intellectual Property Disputes." This voluntary guide focuses on areas relevant to the protection of intellectual property in the domain name system, such as the maintenance of accurate information in the publicly available Whois registration databases.

WIPO also makes available the WIPO ccTLD Database, which links to relevant web pages of all ccTLD registries, allowing the searcher to determine the availability of a registration agreement, the existence of a Whois service and the adoption of alternative dispute resolution procedures.

MD .SC MW .SH MX .TT .NA .TV NU .UG .PA .VE PH .WS PN .RO A growing number of ccTLD registration authorities have decided to adopt the UDRP or a 'localized' variation thereof and have retained the WIPO Center as a dispute resolution service provider.

By December 2004, the WIPO Center was acting as dispute resolution service provider for the following ccTLDs:

.AC (Ascension Island) .LI (Liechtenstein) .AE (United Arab Emirates) .MD (Republic of Moldova) .AG (Antigua and Barbuda) .MW (Malawi) .AM (Armenia) .MX (Mexico) .AS (American Samoa) .NA (Namibia) .AU (Australia) .NL (Netherlands) .BS (Bahamas) .NU (Niue) .BZ (Belize) .PA (Panama) .CC (Cocos Islands) .PH (Philippines) .CD (Democratic Republic .PL (Poland) .PN (Pitcairn Island) of the Congo) .CH (Switzerland) .RE (Reunion Island) .CY (Cyprus) .RO (Romania) .DJ (Djibouti) .SC (Seychelles) .EC (Ecuador) .SH (St. Helena) .TK (Tokelau) .FJ (Fiji) .FR (France) .TM (Turkmenistan) .GT (Guatemala) .TT (Trinidad and Tobago) .IE (Ireland) .TV (Tuvalu) .IR (Islamic Republic of Iran) .UG (Uganda) .KI (Kiribati) .VE (Venezuela) .WS (Western Samoa) .LA (Lao People's Democratic Republic)

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1. Where can information about the registrant and/or the registrar of a domain name be found?

Registrar information can be obtained for domain names registered in .com, .net, .org, .biz, .info and .name by conducting a search at *http://www.internic.net/whois.html*. Once the registrar has been identified, the concerned registrar's Whois service (accessed via the registrar's web site) may be used to obtain information on the registrant of the domain name.

2. Can a complaint concern more than one domain name?

Under paragraph 3(c) of the UDRP Rules, the complaint may relate to more than one domain name, so long as the domain names are registered by the same person or entity.

3. How is the applicability of the UDRP to a specific domain name determined?

The UDRP is applicable to all gTLDs such as .com, .net, .org, .biz, and .info, regardless of the date of the domain name registration. In addition, the WIPO ccTLD Database indicates which ccTLD administrators have voluntarily adopted the UDRP.

4. Must the complaint or the response be prepared and submitted by a lawyer?

While the assistance of a lawyer may be helpful, there is no requirement that parties' filings be prepared or submitted by a lawyer.

5. How must a complaint be submitted?

The complaint must be submitted both in hardcopy and by email to the WIPO Center. The hardcopies (one signed original and four copies) including all annexes should be sent to the WIPO Center by postal or courier service. The complaint must also be sent to the respondent and the registrar with whom the domain name is registered. More detailed filing guidelines are available at the web site of the WIPO Center.

6. Can the prevailing party recover incurred filing or legal fees from the losing party?

The administrative panel cannot render any monetary judgments. Decisions that can be made by the administrative panel are limited to ordering transfer of the domain name to the complainant, ordering cancellation of the domain name registration, or denying the complaint. Parties seeking any other remedies would have to seek redress through other means.

7. Can a party file supplemental information, pleadings or documents after filing the complaint or the response?

The UDRP Rules only provide for the submission of the complaint by the complainant, and the response by the respondent. No provision is made for supplemental filings by either party, except in response to a deficiency notification or if requested by the panel. The admissibility of any unsolicited supplemental filings is subject to the discretion of the panel.

8. How is a UDRP decision implemented? Is it possible to challenge a decision?

Paragraph 4(k) of the UDRP requires the registrar to implement the panel's decision ten business days after it receives notification of the decision from the provider, save where the registrar receives information from the respondent within such ten-day period that it has commenced a lawsuit challenging the decision, in a jurisdiction to which the complainant has submitted under paragraph 3(b)(xiii) of the UDRP Rules.

There is no appeal procedure provided for within the UDRP system. However, as an administrative mechanism, the UDRP leaves open the option by a party to seek recourse through a court proceeding.

9. How long does the UDRP procedure take?

The procedure normally should be completed within two months of the date the WIPO Center receives the complaint.

10. How can a party assess the merits of its case?

The searchable Index of WIPO UDRP Panel Decisions, as well as the WIPO Center's jurisprudential overview of key issues, both available at the WIPO Center's web site, may guide parties to prior decisions on comparable facts and arguments.

11. Who decides the case?

The case is decided by an independent and impartial panel consisting of one or three members appointed by the WIPO Center.

12. How do I communicate with the WIPO Center on case-related matters?

Communications in hardcopy should be forwarded to:

WIPO Arbitration and Mediation Center 34, chemin des Colombettes P.O. Box 18 CH-1211 Geneva 20 Switzerland

Telephone: +41 22 338 8247 or 0800 888 549 Fax: +41 22 740 3700 or 0800 888 550

Communications by email should be directed to *domain.disputes@wipo.int* (see below for the WIPO Center's email contact details for general queries).

13. Where can I get additional information about domain name dispute resolution?

Extensive information about domain name dispute resolution is available at the Domain Names Resources area of the WIPO Center's web site *http://arbiter.wipo.int*. In addition, general queries may be emailed to *arbiter.mail@wipo.int*.



WIPO Web Resources

The WIPO Center's web site receives thousands of visits each day. The site is available in English, French and Spanish, and domain name related information is also available in Japanese, Korean and Portuguese. The site presents constantly updated information on the WIPO Center's domain name dispute resolution service under the UDRP and other policies, including:

- > Dispute resolution policies, rules and related WIPO supplemental rules
- > Guide to the UDRP and other domain name dispute resolution policies
- > Model Complaint, Model Response, and online filing forms
- > List of WIPO domain name panelists and their professional profiles
- > Listing of all WIPO domain name cases with full text of decisions
- > Online Index of WIPO UDRP Panel Decisions
- > Jurisprudential overview of key issues
- > Bibliography of selected articles on domain name dispute resolution
- > WIPO case statistics
- > WIPO Trademark Database Portal
- > WIPO ccTLD Database

WIPO Arbitration and Media	ation Center - Domain Name Disputes - Microsoft Internet Explo	rer provided by WIPO				
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WIPO Arbitration and	Mediation Center	Search Contact Home				
Activities & Services Español - Français						
Domain Name Dispute Resolution Service						
This area is dedicated to the services established by the WIPO Arbitration and Mediation Center for the resolution of domain name disputes.						
About the Center	,					
Arbitration	What's New					
Mediation	WIPO Continues Efforts to Curb Cybersquatting (Press Update)					
Recommended Clauses	¢					
Domain Names						
gTLDs	Resources	Procedures				
<u>ccTLDs</u>	 Domain Name Dispute Resolution Resources 	 Generic Top Level Domains (αTLDs) 				
Cases	Frequenty Asked Questions	Country Code Top Level Domains (ccTLDs)				
Decisions	ccTLD Database	 Filing 				
Resources	Internationalized Domain Names	Panelists				
Filing	Trademark Database Portal	WIPO Guide to the UDRP				
Panelists	WIPO Internet Domain Name Processes	Fees				
Search	Logal Index of WIRO LIDER Decisions					

DOMAIN NAME DEVELOPMENTS

DISPUTE RESOLUTION IN NEW GTLDS

Following ICANN's decision of November 2000 to introduce seven further gTLDs (.aero, .biz, .coop, .info, .museum, .name, .pro). WIPO has assisted in the implementation of dispute resolution mechanisms developed by the operators of these domains. The UDRP applies to .com, .net, .org, and to each of these subsequently introduced aTLDs. In addition to the UDRP. most new qTLD registry operators adopted specific dispute resolution policies applicable during a start-up or "sunrise" phase. Furthermore, registries that are restricted to certain purposes (e.g., .biz for commerce) provide special proceedings to resolve disputes concerning compliance with such registration conditions. The Start-up Trademark **Opposition Policy (STOP) is** the introductory dispute resolution policy that was adopted by the .biz registry

operator. Under this policy, the WIPO Center has administered 338 cases involving 355 domain names.

In addition, the WIPO Center in 2002 completed 15,172 cases received under the Afilias Sunrise Registration Challenge Policy for .info established by the registry operator for .info.

Up-to-date information about each of the subsequently introduced gTLDs is made available at the WIPO Center's web site. This includes reports on the WIPO Center's experience in the administration of disputes under introductory mechanisms such as .biz STOP and the .info Sunrise Policy.

In 2004, ICANN invited applications for new sponsored top-level domains (also known as sTLDs) and entered into commercial and technical negotiations with several applicants, including .jobs, .mobi, .post and .travel. Information on the status of new sTLDs is available on ICANN's web site (http://www.icann.org).

"Internationalized" Domain Names

"Internationalized" domain names refer to domain names in non-Roman ("non-ASCII") scripts, such as Arabic or Chinese. The UDRP applies to all domain name registrations in the gTLDs, including "internationalized" domain names, and the WIPO Center's dispute resolution services include such domain names. At the end of December 2004, the WIPO Center had received 49 complaints in relation to "internationalized" domain names in Chinese, Danish, French, German, Japanese, Korean, Norwegian, Spanish and Swedish scripts. Examples of "internationalized" domain names disputed before the WIPO Center include <丸三証券.com>, <ライブドア.com>, <kværner net> and <åhlens.com>.



Second WIPO Internet Domain Name Process

After the First WIPO Report made recommendations for the protection of trademark rights in the domain name system, the Second WIPO Internet Domain Name Process considered the relationship between the domain name system and other types of identifiers, namely:

- International nonproprietary names for pharmaceutical substances (INNs)
- Names and acronyms of international intergovernmental organizations
- > Personal names
- > Geographical identifiers
- > Trade names

Based on WIPO's Report on this Second Process. WIPO Member States decided to recommend that names and acronyms of international intergovernmental organizations and country names should be protected against abusive registration as domain names. These recommendations have been transmitted to ICANN in February 2003 and are, at the time of publication, being considered by ICANN (for further information, see http://arbiter.wipo.int/processes/

process2/).

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

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Visit the WIPO Arbitration and Mediation Center website at: http://arbiter.wipo.int

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

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