

Guidance for Prosecuting UDRP Arbitration Proceedings

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Summary

- ❑ As is evident, the UDRP process requires full compliance with multiple rules, both procedural and substantive.
- ❑ Crafting a complaint properly following an investigation as to the challenged domain, with an understanding of the detailed claim elements that must be satisfied, will lead in most cases to a favorable decision in a relatively short time period.
- ❑ This expedited process provides a valuable and cost-effective tool for trademark owners to remove troubling domains from the public internet and to take back control.



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The [Uniform Domain Name Dispute Resolution Policy](#) (UDRP) is a hybrid arbitration process established by the Internet Corporation for Assigned Names and Numbers (ICANN) and is designed to resolve trademark challenges to the registration of internet domain names that incorporate a protected mark exactly or in a confusingly similar manner. The UDRP applies to all core generic top-level domains (gTLDs) (e.g., .com, .net, and .org), many country code top-level domains (ccTLDs), and a myriad of newer and emerging gTLDs (e.g., .biz, .bot, .store, .online). [A list of ccTLDs that have adopted the UDRP](#) can be found on the website of the World Intellectual Property Organization (WIPO). If the same respondent owns both a gTLD and a ccTLD for the same disputed domain name, the two can be combined in a single UDRP proceeding. All accredited domain registrars must adhere to specific ICANN rules, which require incorporation of the UDRP terms in all domain registration agreements, thus binding all domain registrants to that arbitration process.

Unlike traditional arbitration proceedings that typically allow for limited discovery and evidentiary hearings, UDRP proceedings are streamlined with electronic written and evidentiary submissions and therefore incur much lower prosecution costs than traditional arbitrations. The downside, however, is that UDRP arbitrators (called “panelists”) have only one of two remedies to award—either cancellation of the subject domain registration or transfer of that domain to the claimant. Neither money damages nor any equitable relief is available.

While there are several authorized UDRP arbitration forums, the most widely used forum is the World Intellectual Property Organization, or WIPO, a United Nations agency. WIPO publishes [ICANN’s UDRP Rules](#), as well as WIPO’s Supplemental Rules, a UDRP complaint form, and helpful guidance materials, including the [WIPO Guide to the Uniform Domain Name Dispute Resolution Policy \(UDRP\)](#) and an overview of WIPO case decisions (cited below). WIPO also maintains [a searchable database of UDRP decisions](#), a valuable tool for researching specific issues and pleading requirements.

The guidance that follows focuses on WIPO’s established procedures and requirements for UDRP complaints, including factual allegations that must address specific pleading elements with available evidentiary support. As there is no discovery in UDRP proceedings and reply opportunities are limited, think of a UDRP complaint as a combined pleading and summary judgment motion, where hearsay and other typical court-based evidentiary objections generally are not applicable, although self-serving statements, untrustworthy hearsay, and other documentary and pleading infirmities

can be challenged factually.

Because there are no formal rules of evidence, panels frequently treat as evidence statements of fact in the parties' submissions to the extent such facts reasonably can be expected to be within the knowledge of that party. At the same time, all pleaded facts and allegations by both the claimant and the respondent must be certified, respectively, in a manner that is analogous to Rule 11 of the Federal Rules of Civil Procedure; namely, that (i) the pleaded information is, to the best of the party's knowledge, complete and accurate; (ii) the complaint or response is not being presented for any improper purpose, such as to harass; (iii) and the assertions in the complaint or response are warranted under the rules and applicable law, "as it now exists or as it may be extended by a good-faith and reasonable argument." Rules ¶¶ 3(xiii) and 5(c)(viii). Because this mandatory certification is the only bulwark against fabrication of facts and frivolous arguments, failure to certify a pleading will cause the factual allegations to be given no evidential weight (although WIPO will then provide an opportunity to the submitting party to correct the omission by filing a certified version of the complaint or response).

All WIPO-filed complaints require completion of mandatory sections that are reflected in WIPO's [Model Complaint](#) form. It is strongly recommended that this template be used for all complaints. In addition to the ICANN Rules, WIPO has its own Supplemental Rules, [Supplemental Rules for Uniform Domain Name Dispute Resolution Policy](#), which also must be consulted and complied with.

The following guidance and tips are not meant to be all-encompassing, but are practical points based on the author's experience in litigating UDRP proceedings. Each section below addresses a mandatory section of a UDRP complaint based on the UDRP Rules and WIPO's Supplemental Rules.

Pleading the Parties: The Complainant (Rules, Paragraphs 3(b)(ii) and (iii))

This is relatively straightforward and requires that the following information be provided:

- The complainant's name and contact details, along with the complainant's counsel of record who is filing the complaint.
- The preferred methods of communication by email (for electronic material) and post or courier (hard-copy materials).

Pleading the Parties: The Respondent (Rules, Paragraph 3(b)(v))

This is trickier because in most cases the actual identity of the respondent will not be known as most domains are now registered using privacy proxy services. This was historically the case with rogue actors, but as a result of the European Union's privacy regulations under its General Data Protection Regulation and a growing number of internet spammers and bad actors, the actual identities of domain registrants and their contact details have unfortunately largely disappeared from domain registration data in the global Whois database, a searchable global public database that provides detailed information about a domain registration's ownership and a domain's initial registration and expiration dates. (Whois is generally accessible within the websites of TLD registrars (such as GoDaddy and Network Solutions), ICANN's [registration data lookup tool](#), and various third-party domain search sites, such as DomainTools' [Whois Lookup](#)). Instead, private registration services, which are offered by many domain registrars, have replaced actual registrants' contact details with the privacy registrar's own contact information in the Whois database.

As a result, WIPO permits the initial complaint to name the underlying domain register entity and, optionally, the privacy service provider. Details as to both entities will be accessible in the Whois data for the subject domain. It is recommended to use ICANN's registration data lookup tool (linked above) to identify the domain registrar of record for the particular TLD. The ICANN data will also disclose the identity of the privacy service provider. The author inserts, as the initially named respondents, both the domain registrar and the privacy service provider.

When the complaint is filed, WIPO will send a confirmation email to counsel for the complainant. A copy of the complaint must also be emailed by the complainant to the applicable domain registrar. WIPO also automatically notifies both the domain registrar and the privacy service provider.

WIPO will notify complainant's counsel of any technical or other curable deficiencies in the filed complaint. WIPO will then provide the complainant with the actual identity and address of the real domain registrant (individual or entity). The complainant will then be given the option of deeming the pleading amended to add the actual registrant as the respondent or filing an amended complaint substituting the actual registrant and revising the respondent section of the complaint accordingly. It is recommended to file an amended complaint because it is as of right, and in addition to substituting the real registrant as the respondent in the caption, it also permits conforming and other necessary edits to be made in the body of the complaint.

Identify the Domain Name and Registrar (Rules, Paragraphs 3(b)(vi), (vii))

Identifying the domain name is straightforward. The initial registration creation date should be in the Whois data. It is critical, however, that the challenged domain be created *after* the complainant first established rights in its applicable trademark.

The registrar information also will be in the Whois data. As noted, both the domain registrar and the privacy registration organization should be listed and named as the initial respondents.

Language of Proceedings (Rules, Paragraph 11)

This is straightforward and refers to the language of the applicable registration agreement for the domain registrar. That agreement should be found on the registrar's website, and a PDF copy should be attached as an exhibit in a numbered annex to the complaint. It will almost always be in English, which will be the language of the UDRP proceeding.

Jurisdictional Basis for the Administrative Proceeding (Rules, Paragraphs 3(a), 3(b)(xiv))

WIPO's template form includes language that can be cut and pasted into this and other sections of the complaint. Mandatory terms of all domain registration agreements require domain registrants to be bound by the terms of those agreements and the international UDRP and rules. Those provisions must be referred to in this section of the complaint, with a link to the registrar's terms and the UDRP consent language quoted in the complaint.

A copy of the registrar's domain name dispute policy must be attached as a numbered or lettered exhibit (annex) to the complaint.

Factual and Legal Grounds (Policy, Paragraphs 4(a), (b), (c); Rules, Paragraph 3)

This is the crux of the complaint where both the relevant facts, supported by documentary evidence included as annexes, and legal arguments set forth the grounds for relief. There are three mandatory UDRP core elements that must be satisfied for a

complainant to be entitled to relief. These are addressed below.

(1) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (Policy, paragraph 4(a)(i); Rules, paragraphs 3(b)(viii), (b)(ix)(1))

The complainant should list its relevant trademark registrations, including the names and images of the marks (where the marks are stylized or include designs), the country or territory where registered, the registration number and date, and the International Class and associated goods and services. It is recommended this be done in a table format. Copies of the applicable registration certificates (where available) and applicable registration data from the relevant government trademark offices should be attached collectively in an exhibit (annex).

The facts should plead the length of time complainant's marks have been in use, the relevant markets and channels of trade, and the good will and any fame or notoriety that have developed in the marks over time. If a mark is well known, screenshots can be submitted of famous retail websites where the complainant's marks are being used to sell complainant's goods, with links to those pages and the copies included in an exhibit (annex).

Arguments showing the similarity between the challenged domain and the complainant's marks must be set forth. Under the UDRP, a challenged domain must be identical or confusingly similar to the complainant's domain. This involves a reasoned but relatively straightforward comparison between the complainant's mark and the disputed domain name. It is important to note that non-source identifying components of challenged domains, including punctuation and generic and merely descriptive words, are disregarded because they have no distinguishing value and make no difference where the domain name itself is otherwise clearly confusingly similar to a complainant's registered mark. *See, e.g., Art-Line Ltd. v. Carlo Panaccione*, WIPO Case No. D2025-4143 (Dec. 23, 2025) ("The addition of the descriptive term 'shop'" in the disputed domain name ". . . does not prevent a finding of confusing similarity" between the disputed domain name (cassartshop.com) and the mark (CASS ART) for the purposes of the UDRP.). This holding extends to top-level domain designations as well. *See, e.g., LEGO Juris A/S v. Domain Name Privacy Inc.*, WIPO Case No. D2024-4894 (Jan. 21, 2025) ("The gLTD [sic] is an obligatory part of the domain name and is to be disregarded in assessment of confusing similarity, *see Autodesk v. MumbaiDomains*, WIPO Case No. D2012-0286, since it has no impact on the overall impression of the dominant portion of the Disputed Domain Name."). *See also Microsoft Corp. v. StepWeb*, WIPO Case No. D2000-1500 (Jan. 19, 2001) (assessing "microsofthome.com");

Wal-Mart Stores, Inc. v. Horoshiy, Inc., WIPO Case No. D2004-0620 (Sept. 27, 2004) (assessing “walmartbenefits.com”); *Gen. Elec. Co. v. Recruiters*, WIPO Case No. D2007-0584 (June 7, 2007) (assessing “ge-recruiting.com”).

A challenged domain that “consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.” *Instagram, LLC v. erick Cedillo, securitymailInstagram*, WIPO Case No. D2023-1785 (June 6, 2023) (domain “securitymailInstagram.com” found confusingly similar to “Instagram”). Similarly, “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” *Id.* (“The Panel finds that the addition of terms ‘security’ and ‘mail’ in the disputed domain name does not prevent finding it confusingly similar to the Complainant’s trademark.”).

(2) The respondent has no rights or legitimate interests in respect of the domain name (Policy, paragraph 4(a)(ii); Rules, paragraph 3(b)(ix)(2))

To establish that the owner of the challenged domain has no “rights or legitimate interest,” the complaint should initially plead that the disputed domain was created (A) without license or permission of the complainant, and (B) after the complainant’s mark began use in commerce (as evidenced by one or more trademark registrations). Secondly, it must be established that the domain was not created and is not being used for any legitimate purpose. WIPO considers any of the following three facts, if established by the respondent to the satisfaction of the arbitration panel, sufficient to *defeat* this claim element:

- 1** the domain is being used in connection with a *bona fide* offering of goods or services;
- 2** the respondent has been commonly known by the domain; or
- 3** a legitimate noncommercial or fair use is being made of the domain, without an intent for commercial gain to misleadingly divert consumers or to tarnish the trademark in issue.

Accordingly, a complainant must allege that the disputed domain is being used to deceive the public or to earn revenue that is not tied to any legitimate business, and that the respondent did not register the domain name as a legitimate trademark or acquire any independent trademark rights in the domain. *It is important to understand*

that UDRP arbitrations are not a forum for litigating trademark infringement claims.

Thus, a complainant can lose a UDRP arbitration where the challenged domain is being used for an otherwise legitimate business purpose, but still go on to win a trademark infringement or dilution action in court.

WIPO panels “have held that the use of a domain name for an illegitimate activity can never confer rights or legitimate interests on a respondent. This includes impersonation, passing off, or other types of fraud.” *Art-Line Ltd.*, WIPO Case No. D2025-4143. This also includes, for example, “the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud.” *WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition* [hereinafter WIPO Overview 3.0], [§ 2.13.1](#). The respondent domain registrant must provide credible evidence demonstrating a legitimate intent that the domain registrant does not seek to capitalize on the reputation and goodwill associated with the complainant’s mark.

As further addressed in the section on bad faith below, it is very common to see disputed domains “parked,” with pay-per-click links on the landing page directed to third-party products and services, which may compete with the claimant’s business or offer goods or services within the claimant’s same markets and channels of trade. Numerous WIPO panels have addressed such “parked” sites and generally conclude they are evidence that the respondent has no rights or legitimate interests in the subject domain, particularly where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead internet users. *See, e.g., LEGO Holding A/S v. Domain Admin’r, Fundacion Privacy Servs. LTD*, WIPO Case No. D2025-0960 (May 12, 2025) (“[T]he use of the six out of seven disputed domain names in connection to PPC [pay-per-click] parked pages that promote third parties’ websites unrelated to the Complainant and its reputed trademarks at the time of filing the Complaint, further corroborates the lack of rights or legitimate interests in the Respondent, as well as its intent to mislead Internet users and illegitimately profit from the Complainant’s brand’s reputation.”); *FlexLink AB v. Spenser Millburn*, WIPO Case No. D2024-0014 (Mar. 19, 2024) (“[T]he Panel finds that through the sponsored links appearing on the parked page of the disputed domain name, the Respondent is capitalizing on the reputation and goodwill of the Complainant’s mark and is misleading the Internet users looking for the Complainant, who are likely to believe that the disputed domain name belongs to the Complainant and not to an unrelated third party. Therefore, the use of the disputed domain name to access a parked page displaying PPC links cannot amount to a bona fide offering of goods or services and is not a legitimate noncommercial or fair use of the disputed domain name.”); *Les Parfumeries Fragonard v. Thanh Van Pham*, WIPO Case No. D2020-2920 (Dec. 21, 2020)

("[T]he disputed domain name leads to a parked page with links to third party perfume sites. . . . [T]he use of a domain name to host a parked page with PPC links, apparently to capitalize on the reputation and goodwill of the complainant's mark, has not been viewed as evidencing rights or legitimate interests in the disputed domain name."); *Railteam B.V. v. Internet Media Grp., Domain Admin*, WIPO Case No. DCO2015-0024 (Sept. 25, 2015) ("It is well-established that a domain name which resolves to a parked page with links to competitive products does not establish rights or legitimate interests. . . . Respondent's use of the RAILTEAM mark in the disputed domain name is not a bona fide offering of goods or services.").

Multiple WIPO panels have similarly commented on the parties' respective burdens of proof on this claim element, which often requires proof of "negative" facts: While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative," requiring information that is often primarily within the knowledge or control of the respondent. For that reason, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. *MMJ Apparel IP LLC v. Krix Luther*, WIPO Case No. D2025-3031, ¶ 6.6 (Aug. 28, 2025) (citing WIPO Overview 3.0, § 2.1); *accord Degussa Holding AG v. Daniel Schuller*, WIPO Case No. D2025-4808 (Dec. 26, 2025). (The author was counsel for the complainant in *MMJ Apparel IP LLC v. Krix Luther* with respect to the domain "milly.bot." The arbitrator ruled for the complainant, which owns the well-known mark MILLY for women's apparel.)

(3) The domain name was registered and is being used in bad faith (Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

The "bad faith" element can be established by a factual showing meeting one of the following WIPO criteria:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's

documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

WIPO Overview 3.0, [§ 3.1](#) ("How does a complainant prove a respondent's bad faith?").

WIPO makes it clear that registration in bad faith is generally considered to be possible only when the domain name registration occurs after the complainant's trademark rights have accrued. *See id.* [§ 3.8](#). There is, however, an important, albeit limited, exception to this general rule in the following circumstances:

where the facts establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights. . . . Such scenarios include registration of a domain name: (i) shortly before or after announcement of a corporate merger, (ii) further to the respondent's insider knowledge (e.g., a former employee), (iii) further to significant media attention (e.g., in connection with a product launch or prominent event), or (iv) following the complainant's filing of a trademark application.

Id. § 3.8.2.

As with the above pleading element respecting "rights or legitimate interests," the use of a domain for *per se* illegitimate activity, such as the sale of counterfeit goods or other illegal enterprises like phishing, can never confer rights or legitimate interests on

a respondent because such behavior is deemed to be evidence of bad faith. *See id.* § 3.1.4. Note that in some cases, WIPO panels assess the second and third UDRP elements together, such as where clear evidence of bad faith also compels the conclusion that there cannot be any legitimate rights or interests in a domain. *Id.* [§ 2.15.](#)

A respondent's offer to sell a disputed domain to the trademark owner for a price that is more than the respondent's reasonable cost of registering the domain, or threats to "sell to the highest bidder" or otherwise transfer the domain name to a third party, generally constitute bad faith in that such an offer or threats evidence an intent to profit from or exploit the complainant's mark. *Id.* §3.1.1. *See, e.g., CWI, LLC v. Trevor Harmon*, WIPO Case No. DAI2024-0049 (Sept. 3, 2024) (attempt to sell domain, which was "parked" solely for the purpose of selling it, to the mark owner for \$25,000 was deemed bad faith); *Int'l Bus. Machs. Corp. v. Anonymize, Inc. / IC Def.*, WIPO Case No. D2020-1720 (Aug. 17, 2020) ("Complainant argues it is evident from the correspondence that Respondent's offered price [\$850] is based on domain brokers' alleged valuation of the Domain Name, as opposed to any legitimate registration costs incurred by Respondent. Complainant further posits that Respondent's proposed USD 850 resale price shows the intent to sell the Domain Name for valuable consideration in excess of Respondent's out-of-pocket costs directly related to it. In this regard, Complainant maintains that similar domain names . . . are valued at less than USD 15 per year on SecureServer's domain registration website. Based on the evidence of record, the Panel concludes that one intention Respondent had in acquiring the Domain Name was for the purpose of selling it to Complainant for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the Domain Name.").

As noted, "parking" a domain solely to earn click-through revenues is considered evidence of bad faith, as many UDRP decisions have found. *See, e.g., LEGO Holding A/S v. Domain Admin'r, Fundacion Privacy Servs. LTD*, WIPO Case No. D2025-0960 (May 12, 2025) ("The disputed domain name <leggoland.com>, at the time of filing the Complaint, resolved to a park [*sic*] page with no substantive content. Considering the distinctiveness and reputation of the Complainant's trademarks and the composition of this disputed domain name, the Panel finds that the non-use of this disputed domain name under the circumstances of this case constitutes bad faith under the passive holding doctrine.); *FlexLink AB*, WIPO Case No. D2024-0014 ("The disputed domain name resolves to a parking page containing PPC links, including links related to the Complainant's activity. The Respondent is probably deriving an income from each click on these links. Such use amounts to use in bad faith as it capitalizes on the Complainant's mark to attempt to attract, for commercial gain, Internet users to the

Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website."); *The Middleby Corp. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. DCO2022-0099 (Jan. 17, 2023) ("According to the evidence provided by the Complainant, the disputed domain names resolved to PPC advertising webpages. Therefore, the Respondent has registered and used the disputed domain names in bad faith pursuant paragraph 4(b)(iv) of the Policy."); *Facebook, Inc., et al. v. Jisoo Yoon & Jeongwoo Cheon*, WIPO Case No. D2020-1925 (Sept. 16, 2020) ("[T]he Panel finds the Respondents have intentionally attempted to attract, for commercial gain, Internet users to their websites or other online locations, by creating a likelihood of confusion with the Complainants' marks as to the source, sponsorship, affiliation, or endorsement of the websites or locations, earning revenues from PPC advertisements regarding 10 out of 12 disputed domain names.);

Nevertheless, WIPO panels have generally concluded that if a domain registrant has an independent right to, or a legitimate interest in, a domain name under the second pleading element, an offer to sell that domain would not evidence bad faith, regardless of which party initially solicits a prospective sale, including "generalized" offers to sell on a third-party platform." WIPO Overview 3.0, §3.1.1. Note that if a respondent wins any one of the three pleading elements, relief will be denied to the complainant; thus, if the domain registrant establishes it has rights or a legitimate interest in a domain, which it was seeking to sell, then a panel need not address the third "bad faith" factor or may summarily deem that factor overcome by the lack of any bad faith because the respondent has a legitimate interest in the domain.

Evidence of bad faith is also adduced by looking at the following circumstances, as set forth in section 3.2.1 of the WIPO Overview 3.0:

- 1** whether the domain name itself includes a famous or well-known mark, with or without additional descriptive, generic, or geographic terms;
- 2** the nature of the content of a website to which the domain directs, including any changes in such content and the timing thereof;
- 3** the timing and circumstances of the domain registration, such as following a product launch by the trademark owner or the complainant's inadvertent failure to renew its domain name registration;
- 4** "any respondent pattern of targeting marks along a range of factors, such as a common area of commerce, intended consumers, or geographic location";

- 5 the absence of any credible explanation for the respondent's choice of the domain name; or
- 6 other indicia suggesting that the respondent had somehow targeted the complainant.

The Remedy Requested (Rules, Paragraph 3(b)(x))

As noted, there only are two available remedies in UDRP proceedings: either transferring the disputed domain name to the complainant or canceling the domain.

It is strongly recommended that transfer of the domain be elected as the remedy in order to keep it out of the hands of other bad actors, including to prevent the losing respondent from re-registering it promptly under a different name. The complainant can then elect to either park the domain itself, let it lie dormant, or use it in appropriate circumstances to redirect end users to the complainant's primary website.

Administrative Panel and Fees (Rules, Paragraph 3(b)(iv); Supplemental Rules, Paragraph 8(a))

The complainant can elect to have one or a panel of three impartial arbitrators. If three panelists are requested, then the complainant must list its proposed panelists in order of preference, selected from WIPO's approved list. Note that the selection of three panelists substantially increases the filing fee. In most cases, if the complainant's case is strong on its face and only one domain is in issue, a single panelist should suffice.

The filing fee to be paid by the complainant is based on the number of panelists and the number of challenged domains in a single proceeding. Currently, those fees range from \$1,500 for a single arbitrator to \$4,000 for three arbitrators (in both cases, with up to five domains). Once the administrative panel is appointed, no refund will be provided. WIPO will also appoint a case administrator to assist with administrative matters.

If a respondent appears and elects a three-member panel but the complainant elects only a single arbitrator, a three-member panel will be appointed but with both parties sharing the fees equally.

Decisions of a three-member panel are made by a majority.

Panels are required to forward their decisions to WIPO (or another authorized UDRP

arbitration provider) within 14 days of their appointment, which is not done until the parties' pleading and supplemental submissions are complete. This provides for an expedited and cost-effective process that differs significantly from traditional arbitrations. All decisions are made public and are searchable in WIPO's database.

While not bound by precedent, panelists do strive for consistency. Therefore, citing UDRP decisions that address relevant issues and have similar or analogous facts is highly recommended.

Judicial Review

Because UDRP proceedings are hybrid arbitrations without hearings or formal evidentiary rules, they do not have *res judicata* effect in court. Accordingly, the losing party retains a right to seek judicial review by submitting the dispute to a court of competent jurisdiction. In the case of a losing respondent, however, in order for WIPO to stay enforcement of the decision (either to cancel the domain or to transfer it to the complainant), the respondent must act promptly because WIPO will stay enforcement for only 10 business days after notice of the decision is given to the parties. In that case, the respondent must timely commence a lawsuit against the complainant in a jurisdiction to which the complainant has consented (which consent must be in the complaint itself). That jurisdiction is either the location of WIPO's principal office (Geneva) or the respondent's address location as shown in WIPO's Whois database.

Conclusion

As is evident, the UDRP process requires full compliance with multiple rules, both procedural and substantive. Crafting a complaint properly following an investigation as to the challenged domain, with an understanding of the detailed claim elements that must be satisfied, will lead in most cases to a favorable decision in a relatively short time period. This expedited process provides a valuable and cost-effective tool for trademark owners to remove troubling domains from the public internet and to take back control. Needless to say, with so many TLDs now in existence, parties can find themselves in the proverbial "whack a mole" scenario, where infringing domains keep popping up, but the UDRP process is far less expensive than court proceedings and worth pursuing with the right set of facts.

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