

RESOLVING **DOMAIN NAME DISPUTES** UNDER THE UDRP

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A domain name is far more than just a web address. It is a business asset, a reflection of brand identity, and often a first point of contact with clients. As online presence influences reputation and revenue, safeguarding a domain name is as essential as protecting a trademark.

Understanding Domain Names

A domain name functions as an electronic address, making websites accessible in a user-friendly way. While the internet operates on technical frameworks such as TCP/IP, domain names translate numeric IP addresses into recognisable words, such as example.com, that are easier for people to remember. It is an easily recognisable form of Internet address, such as “wipo.int” or “google.com”.

The domain name system is organised hierarchically. Top-level domains are grouped into generic top-level domains (gTLDs) and country code top-level domains (ccTLDs). gTLDs, including .com, .net, .org, and others such as .aero, .biz, .coop, .info, .museum, .name, and .pro, are managed by registry operators overseen by ICANN. ccTLDs are managed by national registration authorities.

Due to the growing commercial use of the Internet, domain names have become important identifiers for businesses. Registering their brands, trademarks and names as domain names, such as “sony.com”, helps businesses ‘connect’ with and attract visitors to their websites.

Premium domain names can have significant value, and disputes over ownership or misuse are increasingly common.

Cybersquatting

Cybersquatting refers to the pre-emptive, bad-faith registration of trademarks as domain names by parties who have no rights to those names. Cybersquatters take advantage of the first-come-first-served nature of domain registrations by registering trademarks, business names, names of well-known individuals, or variations of them.

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Often, cybersquatters aim to sell these domain names back to the trademark owners or attract traffic for unrelated commercial purposes. These actions lead to disputes that traditional judicial systems may not handle efficiently, as courts are territorial and litigation can be slow and costly. As a result, some trademark holders choose to buy back their domain names instead of pursuing lengthy litigation. This highlighted the need for an effective alternative mechanism.

The Uniform Domain Name Dispute Resolution Policy (UDRP): A Fast and Effective Way to Resolve Domain Name Disputes

When a company discovers that a domain name corresponding to its corporate name, product name, or trademark has been registered by someone else, it may adopt a different name, pursue court proceedings, or utilise the Uniform Domain Name Dispute Resolution Policy (UDRP) developed by ICANN.

When a domain name identical or confusingly similar to a registered trademark is registered in bad faith, the UDRP provides a swift and cost-effective remedy. The procedure is administered by the World Intellectual Property Organization (WIPO), which acts as a neutral forum.

The complainant must demonstrate three elements:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.
2. The domain name holder has no rights or legitimate interests in respect of the domain name.
3. The domain name was registered and is being used in bad faith.

Please note that ALL three elements must be proven.

Time and Cost-Effective

Compared with litigation, the UDRP procedure is highly time- and cost-effective, especially in

international contexts. A domain name case filed with the WIPO Center is usually concluded within two months, involving one round of limited pleadings and primarily online procedures. WIPO fees are fixed and moderate.

Enforceable Decisions

A major advantage of the UDRP is the mandatory implementation of its decisions. Since registrars must comply with UDRP transfer decisions, there are no cross-border enforcement issues. However, the losing party may still initiate court proceedings and suspend enforcement.

What Constitutes Bad Faith?

The UDRP operates through the UDRP Rules and supplemental rules issued by service providers. The WIPO Supplemental Rules complement the UDRP on several procedural matters.

Paragraph 4(b) of the UDRP Policy outlines examples of bad-faith registration and use, including:

- registering a domain name primarily to sell or rent it to a trademark owner or competitor
- registering multiple domains to block trademark owners from using their marks
- registering a domain name to disrupt a competitor's business
- using a domain name to attract users for financial gain by creating confusion with an existing brand.

These examples are not exhaustive.

Stages of a UDRP Proceeding

Stage 1

Filing of Complaint → WIPO Center acknowledges receipt

Stage 2

Compliance Review → WIPO checks administrative compliance

Stage 3

Commencement → WIPO notifies the respondent and formally begins the proceeding

Stage 4

Filing of Response → The respondent has 20 days to file a response

Stage 5

Appointment of Panel → WIPO appoints a panel after receiving declarations of impartiality

Stage 6

Panel Decision → The panel issues its decision within 14 days of appointment

Stage 7

Notification → WIPO notifies the parties, the registrar, and ICANN

Stage 8

Implementation → The registrar implements the decision under paragraph 4(k) of the UDRP

The Registrar

The registrar is the entity with which the respondent registered the disputed domain name. All gTLD registrars must be accredited by ICANN, and accreditation requires including the UDRP in the registration agreement. The registrar does not participate in the dispute process or

influence the outcome, but it must lock the domain during the case and execute the final decision. Under paragraph 4(k) of the UDRP, the registrar must enforce the panel's decision within ten business days unless the respondent initiates court proceedings.

Final Note

Protecting a domain name is an essential part of safeguarding a company's identity and intellectual property. The UDRP offers a practical and internationally recognised mechanism to address misuse, providing businesses with a structured and efficient way to respond when their online presence is compromised.

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