



Registrar Compliance and the UDRP A FORUM Perspective

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The UDRP: 8+ years of success

- UDRP has served as a model for all other Policies and most other Policies change very little
- The FORUM has handled over 10,000 gTLD and .us ccTLD cases since it was accredited in December 1999.
- The FORUM has issued decisions on over 8,000 cases; a good portion of those cases that were withdrawn (over 2,000) settled.

UDRP Compliance

- It's important to note that in many instances a registrar is unaware of what it needs to do to be in compliance with the UDRP; simply educating registrars has proven effective in many cases.
- In many cases, registrars do not look for, or respond promptly to, requests for registrant contact information and a domain name lock; even after repeated requests
- In many cases, registrars do not implement the decision of panel; most notably, they do not respond to prevailing complainants regarding what the complainants need to do to get the domain name transferred.

Regarding UDRP misinterpretation—room for improvement

- The UDRP requires interpretation at varying stages throughout the process; one person's interpretation may be another's misinterpretation.
- Policy paragraph 8 isn't clear about when a party can transfer, but allowing transfer after a case is filed frustrates the process and permits cyberflying.
- The FORUM does its best to work with registrars that have simply misinterpreted, or misunderstood, their role and offers several chances for a registrar to correct the mistake before engaging ICANN.

Future of the UDRP

- Procedurally, the UDRP is outdated. It requires mail and fax of documents, when the fact that the parties are participating in the DNS implies the capacity to work paperless.
 - FORUM has the capacity to go paperless with its new system it's rolling out at the end of the year and strongly advocates for that.
- The UDRP doesn't explicitly lay out the Registrar's obligations. The obligations are inferred through the requirements of the policy.
 - Service to billing address
 - "No Transfer" rule
 - Language of the proceedings

Future of the UDRP

- It would help to standardize the domain name statuses (one man's "pending delete" is another's "redemption grace period"); furthermore, Whois rarely reflects these statuses accurately with what is reported.
- It would help to clarify that the domain name should be locked, and any privacy service lifted, as of the first email we send. If changes are made after that, the domain name should revert.

Positive experiences

- FORUM has handled over 4,500 cases since I arrived in 2005. Of those cases, we have reported fewer than 50 problems to ICANN. That is around 1%.
- We have educated several registrars about their role and now achieve significant success from our interactions with those registrars. Most notably, two registrars in China.
- IP rights holders have praised the speed of the process...some cases take as few as 30 days.

Negative experiences

- Registrars simply ignoring our emails (worst case...Red Register).
- Parties that transfer the domain name to a third party after commencement of a case (cyberflying).
- Rogue domain expiration/deletion “policies” amongst various registrars.

Overall

- UDRP is a success and fulfills its purpose
- Changes should not be taken lightly and if any changes are made, they should be for clarification and to bring the procedural rules into the 21st century.



THANK YOU

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