

Registrar UDRP Compliance Workshop

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Understanding Domain Name Disputes

- **Involve commonly multinational aspects/parties**
 - ▶ Registrant
 - ▶ Registrar
 - ▶ Alleged rights' holder
- **Which court to go, in which country (jurisdiction)**
- **Courts v. UDRP**

Courts v. UDRP

- Which jurisdiction
- Which legislation, are there specific national laws available
- In-person hearings, physical attendance in far away locations
- ICANN-accredited UDRP-providers (4)
- UDRP
- On-line procedure, no physical attendance

Courts v. UDRP

- Legal expenses, often obligation to use attorneys
- More or less lengthy proceedings, depending of jurisdiction
- Enforcement of court decisions
- Moderate fees, no obligation to use a lawyer
- 45-90 days
- Immediate enforcement of the UDRP decision (after the 10 business-day-period)

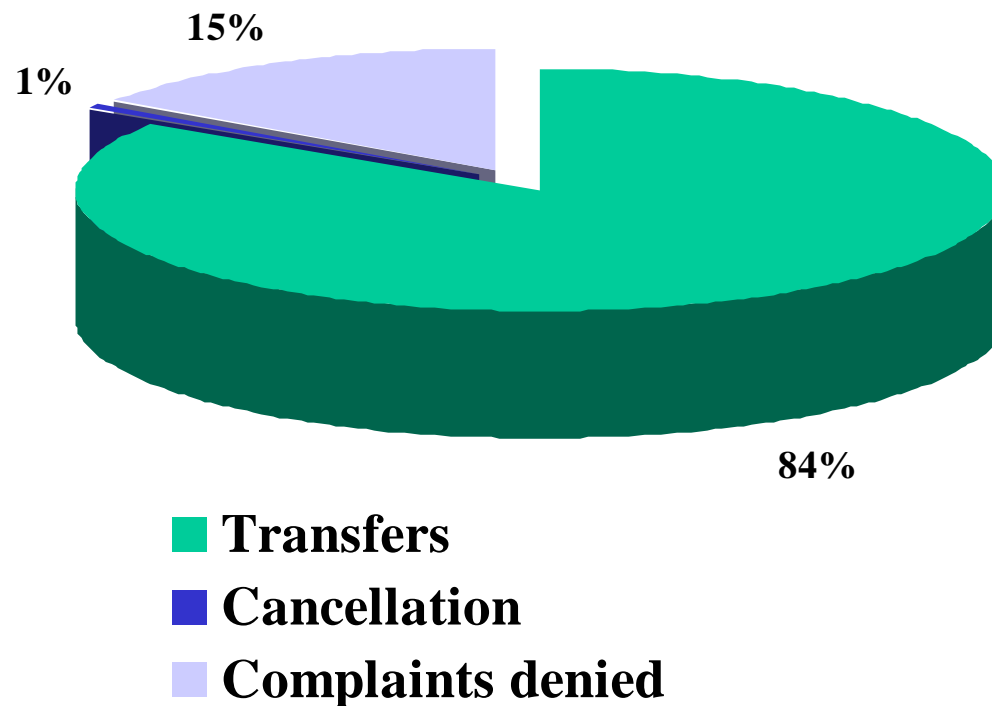
Has UDRP met the expectations?

- Yes, for the specific type of disputes it was designed for
 - ▶ UDRP is a procedure permitting trademark owners to resolve clear cases of deliberate, bad faith abusive domain name registrations in violation of rights in trademarks and service marks (cybersquatting) without going to court
- Over 20,000 UDRP disputes resolved since the UDRP was adopted in 1999

WIPO UDRP Disputes

Year	UDRP Cases
1999+2000	1'858
2001	1'557
2002	1'207
2003	1'100
2004	1'176
2005	1'456
2006	1'824
2007	2'156
2008	1081
Total	13'415

WIPO UDRP Disputes Outcome of Cases



Who makes UDRP happen ?

- Parties
- Providers
- Panelists
- Registrars

Registrars Role in UDRP

Most important role in:

- Providing correct and timely information on domain name registration to the provider (e.g. status of the domain name, whois, billing contact, possible privacy shield disclosure)
- Securing the locking of the disputed domain name
- Informing the date of implementation of the UDRP decision; implementation (after the 10 business-day-period)

Registrars Role in UDRP What Can Go Wrong ?

- Incorrect or untimely reply to provider
- Omission to lock the disputed domain name, allowing transfer, deletion or expiry
 - ▶ *ICANN Expired Domain Deletion Policy* at <http://www.icann.org/registrars/eddp.htm>
- Omission to implement the UDRP decision

All the above cause irregularities and delays in UDRP proceedings.

Provider Frustrations - Registrar Actions

- F: Domain name transferred during a pending proceeding to a different registrant

- F: Upon notice of the dispute to the registrar, the registrant information is changed to refer to that of the filing complainant

- A: '[Registrar] reserve[s] the right to cancel any transfer of a domain name registration to another holder that is made in violation of [para 8(a) of the UDRP Rules]'.

Provider Frustrations - Registrar Actions

F: Registrar's Registration Agreement does not include an appropriate submission to the jurisdiction at the location of the registrar, causing amendments to complaints (further legal expenses to filing parties) and thus delays to UDRP proceedings

A: Registrars should include in their Registration Agreement the mandatory provision (RAA, para 3.7.7.10)

'For the adjudication of disputes concerning or arising from use of the Registered Name, the Registered Name Holder shall submit, without prejudice to other potentially applicable jurisdictions, to the jurisdiction of the courts (1) of the Registered Name Holder's domicile and (2) where Registrar is located.'

Future of UDRP

- UDRP will be as functioning as the registrars overall level of compliance with their obligations as ICANN-accredited registrars

Future of UDRP Concerns

- Ever increasing number of uninformed registrars, non-compliance
- ICANN lack of oversight in accrediting new registrars
- Registrars involvement to domain name warehousing (also through privacy shield registrations), front- and back-running
- Issues creating inconsistencies left unattended (privacy shield matters)

Future of UDRP Positive Actions

- Various stakeholders raising awareness of the utility of a functioning UDRP
- ICANN taking steps to monitoring registrar compliance
 - ▶ Training programs for registrars
 - ▶ Contractual Compliance Newsletter
(<http://www.icann.org/compliance/newsletter/>)
 - ▶ UDRP Intake Report System
(<http://www.internic.net/UDRPIntakeReportSystem.html>)
 - ▶ Complaint Escalation Process (from public notices to de-accreditation)

Further Information

- <http://www.wipo.int/amc>
- Index of WIPO UDRP Panel Decisions
 - ▶ 'Registrar Issues'
<http://www.wipo.int/amc/en/domains/search/legalindex.jsp#11040>
- **Decision mailing list:**
<http://www.wipo.int/amc/en/subscribe/index.html>
- arbiter.mail@wipo.int
- leena.ballard@wipo.int