

# COMPANION TO PANEL DISCUSSION

Complimentary CIIDRC Webinar Series

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## IMPROVING YOUR GAME ADVANCED ISSUES FOR UDRP PRACTITIONERS

### Featured Speakers



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The Canadian  
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Dispute Resolution Centre

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IMPROVING YOUR GAME – ADVANCED ISSUES FOR UDRP  
PRACTITIONERS  
Wednesday, April 13, 2022

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# Uniform Domain Name Dispute Resolution Policy

(As Approved by ICANN on October 24, 1999)

**1. Purpose.** This Uniform Domain Name Dispute Resolution Policy (the "Policy") has been adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), is incorporated by reference into your Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you and any party other than us (the registrar) over the registration and use of an Internet domain name registered by you. Proceedings under [Paragraph 4](#) of this Policy will be conducted according to the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules of Procedure"), which are available at [www.icann.org/udrp/udrp-rules-24oct99.htm](http://www.icann.org/udrp/udrp-rules-24oct99.htm), and the selected administrative-dispute-resolution service provider's supplemental rules.

**2. Your Representations.** By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your Registration Agreement are complete and accurate; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else's rights.

**3. Cancellations, Transfers, and Changes.** We will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:

- a. subject to the provisions of [Paragraph 8](#), our receipt of written or appropriate electronic instructions from you or your authorized agent to take such action;
- b. our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction, requiring such action; and/or
- c. our receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy or a later version of this Policy adopted by ICANN. (See [Paragraph 4\(i\)](#) and [\(k\)](#) below.)

We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your Registration Agreement or other legal requirements.

#### **4. Mandatory Administrative Proceeding.**

This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at [www.icann.org/udrp/approved-providers.htm](http://www.icann.org/udrp/approved-providers.htm) (each, a "Provider").

**a. Applicable Disputes.** You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that

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

In the administrative proceeding, the complainant must prove that each of these three elements are present.

**b. Evidence of Registration and Use in Bad Faith.** For the purposes of [Paragraph 4\(a\)\(iii\)](#), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site 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 your web site or location or of a product or service on your web site or location.

**c. How to Demonstrate Your Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint.** When you receive a complaint, you should refer to [Paragraph 5](#) of the Rules of Procedure in determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of [Paragraph 4\(a\)\(ii\)](#):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

**d. Selection of Provider.** The complainant shall select the Provider from among those approved by ICANN by submitting the complaint to that Provider. The selected Provider will administer the proceeding, except in cases of consolidation as described in [Paragraph 4\(f\)](#).

**e. Initiation of Proceeding and Process and Appointment of Administrative Panel.** The Rules of Procedure state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute (the "Administrative Panel").

**f. Consolidation.** In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by ICANN.

**g. Fees.** All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the complainant, except in cases where you elect to expand the Administrative Panel from one to three panelists as provided in [Paragraph 5\(b\)\(iv\)](#) of the Rules of Procedure, in which case all fees will be split evenly by you and the complainant.

**h. Our Involvement in Administrative Proceedings.** We do not, and will not, participate in the administration or conduct of any proceeding before an

Administrative Panel. In addition, we will not be liable as a result of any decisions rendered by the Administrative Panel.

**i. Remedies.** The remedies available to a complainant pursuant to any proceeding before an Administrative Panel shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the complainant.

**j. Notification and Publication.** The Provider shall notify us of any decision made by an Administrative Panel with respect to a domain name you have registered with us. All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.

**k. Availability of Court Proceedings.** The mandatory administrative proceeding requirements set forth in [Paragraph 4](#) shall not prevent either you or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If an Administrative Panel decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by the applicable Provider of the Administrative Panel's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the complainant in a jurisdiction to which the complainant has submitted under [Paragraph 3\(b\)\(xiii\)](#) of the Rules of Procedure. (In general, that jurisdiction is either the location of our principal office or of your address as shown in our Whois database. See [Paragraphs 1](#) and [3\(b\)\(xiii\)](#) of the Rules of Procedure for details.) If we receive such documentation within the ten (10) business day period, we will not implement the Administrative Panel's decision, and we will take no further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

**5. All Other Disputes and Litigation.** All other disputes between you and any party other than us regarding your domain name registration that are not brought pursuant to the mandatory administrative proceeding provisions of [Paragraph 4](#) shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

**6. Our Involvement in Disputes.** We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include

us in any such proceeding. In the event that we are named as a party in any such proceeding, we reserve the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend ourselves.

**7. Maintaining the Status Quo.** We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in [Paragraph 3](#) above.

**8. Transfers During a Dispute.**

**a. Transfers of a Domain Name to a New Holder.** You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to [Paragraph 4](#) or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

**b. Changing Registrars.** You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to [Paragraph 4](#) or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

**9. Policy Modifications.** We reserve the right to modify this Policy at any time with the permission of ICANN. We will post our revised Policy at <URL> at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to a Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of our change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your domain name registration.

# **Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules")**

As approved by the ICANN Board of Directors on 28 September 2013.

These Rules are in effect for all UDRP proceedings in which a complaint is submitted to a provider on or after 31 July 2015. The prior version of the Rules, applicable to all proceedings in which a complaint was submitted to a Provider on or before 30 July 2015, is at <https://www.icann.org/resources/pages/rules-be-2012-02-25-en>. UDRP Providers may elect to adopt the notice procedures set forth in these Rules prior to 31 July 2015.

Administrative proceedings for the resolution of disputes under the Uniform Dispute Resolution Policy adopted by ICANN shall be governed by these Rules and also the Supplemental Rules of the Provider administering the proceedings, as posted on its web site. To the extent that the Supplemental Rules of any Provider conflict with these Rules, these Rules supersede.

## **1. Definitions**

In these Rules:

Complainant means the party initiating a complaint concerning a domain-name registration.

ICANN refers to the Internet Corporation for Assigned Names and Numbers.

Lock means a set of measures that a registrar applies to a domain name, which prevents at a minimum any modification to the registrant and registrar information by the Respondent, but does not affect the resolution of the domain name or the renewal of the domain name.

Mutual Jurisdiction means a court jurisdiction at the location of either (a) the principal office of the Registrar (provided the domain-name holder has submitted in its Registration Agreement to that jurisdiction for court adjudication of disputes concerning or arising from the use of the domain name) or (b) the domain-name holder's address as shown for the registration of the domain name in Registrar's Whois database at the time the complaint is submitted to the Provider.

Panel means an administrative panel appointed by a Provider to decide a complaint concerning a domain-name registration.

Panelist means an individual appointed by a Provider to be a member of a Panel.

Party means a Complainant or a Respondent.

Pendency means the time period from the moment a UDRP complaint has been submitted

by the Complainant to the UDRP Provider to the time the UDRP decision has been implemented or the UDRP complaint has been terminated.

Policy means the Uniform Domain Name Dispute Resolution Policy that is incorporated by reference and made a part of the Registration Agreement.

Provider means a dispute-resolution service provider approved by ICANN. A list of such Providers appears at <http://www.icann.org/en/dndr/udrp/approved-providers.htm>.

Registrar means the entity with which the Respondent has registered a domain name that is the subject of a complaint.

Registration Agreement means the agreement between a Registrar and a domain-name holder.

Respondent means the holder of a domain-name registration against which a complaint is initiated.

Reverse Domain Name Hijacking means using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name.

Supplemental Rules means the rules adopted by the Provider administering a proceeding to supplement these Rules. Supplemental Rules shall not be inconsistent with the Policy or these Rules and shall cover such topics as fees, word and page limits and guidelines, file size and format modalities, the means for communicating with the Provider and the Panel, and the form of cover sheets.

Written Notice means hardcopy notification by the Provider to the Respondent of the commencement of an administrative proceeding under the Policy which shall inform the respondent that a complaint has been filed against it, and which shall state that the Provider has electronically transmitted the complaint including any annexes to the Respondent by the means specified herein. Written notice does not include a hardcopy of the complaint itself or of any annexes.

## **2. Communications**

(a) When forwarding a complaint, including any annexes, electronically to the Respondent, it shall be the Provider's responsibility to employ reasonably available means calculated to achieve actual notice to Respondent. Achieving actual notice, or employing the following measures to do so, shall discharge this responsibility:

(i) sending Written Notice of the complaint to all postal-mail and facsimile addresses (A) shown in the domain name's registration data in Registrar's Whois database for the registered domain-name holder, the technical contact, and the administrative contact and (B) supplied by Registrar to the Provider for the registration's billing contact; and

(ii) sending the complaint, including any annexes, in electronic form by e-mail to:

(A) the e-mail addresses for those technical, administrative, and billing contacts;

(B) postmaster@<the contested domain name>; and

(C) if the domain name (or "www." followed by the domain name) resolves to an active web page (other than a generic page the Provider concludes is maintained by a registrar or ISP for parking domain-names registered by multiple domain-name holders), any e-mail address shown or e-mail links on that web page; and

(iii) sending the complaint, including any annexes, to any e-mail address the Respondent has notified the Provider it prefers and, to the extent practicable, to all other e-mail addresses provided to the Provider by Complainant under Paragraph 3(b)(v).

(b) Except as provided in Paragraph 2(a), any written communication to Complainant or Respondent provided for under these Rules shall be made electronically via the Internet (a record of its transmission being available), or by any reasonably requested preferred means stated by the Complainant or Respondent, respectively (see Paragraphs 3(b)(iii) and 5(b)(iii)).

(c) Any communication to the Provider or the Panel shall be made by the means and in the manner (including, where applicable, the number of copies) stated in the Provider's Supplemental Rules.

(d) Communications shall be made in the language prescribed in Paragraph 11.

(e) Either Party may update its contact details by notifying the Provider and the Registrar.

(f) Except as otherwise provided in these Rules, or decided by a Panel, all communications provided for under these Rules shall be deemed to have been made:

(i) if via the Internet, on the date that the communication was transmitted, provided that the date of transmission is verifiable; or, where applicable

(ii) if delivered by telecopy or facsimile transmission, on the date shown on the confirmation of transmission; or:

(iii) if by postal or courier service, on the date marked on the receipt.

(g) Except as otherwise provided in these Rules, all time periods calculated under these Rules to begin when a communication is made shall begin to run on the earliest date that the communication is deemed to have been made in accordance with Paragraph 2(f).

(h) Any communication by

(i) a Panel to any Party shall be copied to the Provider and to the other Party;

(ii) the Provider to any Party shall be copied to the other Party; and

(iii) a Party shall be copied to the other Party, the Panel and the Provider, as the case may be.

(i) It shall be the responsibility of the sender to retain records of the fact and circumstances of sending, which shall be available for inspection by affected parties and for reporting purposes. This includes the Provider in sending Written Notice to the Respondent by post and/or facsimile under Paragraph 2(a)(i).

(j) In the event a Party sending a communication receives notification of non-delivery of the communication, the Party shall promptly notify the Panel (or, if no Panel is yet appointed, the Provider) of the circumstances of the notification. Further proceedings concerning the communication and any response shall be as directed by the Panel (or the Provider).

### **3. The Complaint**

(a) Any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules to any Provider approved by ICANN. (Due to capacity constraints or for other reasons, a Provider's ability to accept complaints may be suspended at times. In that event, the Provider shall refuse the submission. The person or entity may submit the complaint to another Provider.)

(b) The complaint including any annexes shall be submitted in electronic form and shall:

(i) Request that the complaint be submitted for decision in accordance with the Policy and these Rules;

(ii) Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Complainant and of any representative authorized to act for the Complainant in the administrative proceeding;

(iii) Specify a preferred method for communications directed to the Complainant in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy (where applicable);

(iv) Designate whether Complainant elects to have the dispute decided by a single-member or a three-member Panel and, in the event Complainant elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any ICANN-approved Provider's list of panelists);

(v) Provide the name of the Respondent (domain-name holder) and all information (including any postal and e-mail addresses and telephone and telefax numbers) known to Complainant regarding how to contact Respondent or any representative of Respondent, including contact information based on pre-complaint dealings, in sufficient detail to allow the Provider to send the complaint as described in Paragraph 2(a);

(vi) Specify the domain name(s) that is/are the subject of the complaint;

(vii) Identify the Registrar(s) with whom the domain name(s) is/are registered at the time the complaint is filed;

(viii) Specify the trademark(s) or service mark(s) on which the complaint is based and, for each mark, describe the goods or services, if any, with which the mark is used (Complainant may also separately describe other goods and services with which it intends, at the time the complaint is submitted, to use the mark in the future.);

(ix) Describe, in accordance with the Policy, the grounds on which the complaint is made including, in particular,

(1) the manner in which the domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(2) why the Respondent (domain-name holder) should be considered as having no rights or legitimate interests in respect of the domain name(s) that is/are the subject of the complaint; and

(3) why the domain name(s) should be considered as having been registered and being used in bad faith

(The description should, for elements (2) and (3), discuss any aspects of Paragraphs 4(b) and 4(c) of the Policy that are applicable. The description shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

- (x) Specify, in accordance with the Policy, the remedies sought;
- (xi) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;
- (xii) State that Complainant will submit, with respect to any challenges to a decision in the administrative proceeding canceling or transferring the domain name, to the jurisdiction of the courts in at least one specified Mutual Jurisdiction;
- (xiii) Conclude with the following statement followed by the signature (in any electronic format) of the Complainant or its authorized representative:

"Complainant agrees that its claims and remedies concerning the registration of the domain name, the dispute, or the dispute's resolution shall be solely against the domain-name holder and waives all such claims and remedies against (a) the dispute-resolution provider and panelists, except in the case of deliberate wrongdoing, (b) the registrar, (c) the registry administrator, and (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents."

"Complainant certifies that the information contained in this Complaint is to the best of Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."; and
- (xiv) Annex any documentary or other evidence, including a copy of the Policy applicable to the domain name(s) in dispute and any trademark or service mark registration upon which the complaint relies, together with a schedule indexing such evidence.
- (c) The complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder.

#### **4. Notification of Complaint**

- (a) The Provider shall submit a verification request to the Registrar. The verification request will include a request to Lock the domain name.
- (b) Within two (2) business days of receiving the Provider's verification request, the Registrar shall provide the information requested in the verification request and confirm that a Lock of the domain name has been applied. The Registrar shall not notify the Respondent of the proceeding until the Lock status has been applied. The Lock shall remain in place through the remaining Pendency of the UDRP proceeding. Any updates to the Respondent's data, such as

through the result of a request by a privacy or proxy provider to reveal the underlying customer data, must be made before the two (2) business day period concludes or before the Registrar verifies the information requested and confirms the Lock to the UDRP Provider, whichever occurs first. Any modification(s) of the Respondent's data following the two (2) business day period may be addressed by the Panel in its decision.

(c) The Provider shall review the complaint for administrative compliance with the Policy and these Rules and, if in compliance, shall forward the complaint, including any annexes, electronically to the Respondent and Registrar and shall send Written Notice of the complaint (together with the explanatory cover sheet prescribed by the Provider's Supplemental Rules) to the Respondent, in the manner prescribed by Paragraph 2(a), within three (3) calendar days following receipt of the fees to be paid by the Complainant in accordance with Paragraph 19.

(d) If the Provider finds the complaint to be administratively deficient, it shall promptly notify the Complainant and the Respondent of the nature of the deficiencies identified. The Complainant shall have five (5) calendar days within which to correct any such deficiencies, after which the administrative proceeding will be deemed withdrawn without prejudice to submission of a different complaint by Complainant.

(e) If the Provider dismisses the complaint due to an administrative deficiency, or the Complainant voluntarily withdraws its complaint, the Provider shall inform the Registrar that the proceedings have been withdrawn, and the Registrar shall release the Lock within one (1) business day of receiving the dismissal or withdrawal notice from the Provider.

(f) The date of commencement of the administrative proceeding shall be the date on which the Provider completes its responsibilities under Paragraph 2(a) in connection with sending the complaint to the Respondent.

(g) The Provider shall immediately notify the Complainant, the Respondent, the concerned Registrar(s), and ICANN of the date of commencement of the administrative proceeding. The Provider shall inform the Respondent that any corrections to the Respondent's contact information during the remaining Pendency of the UDRP proceedings shall be communicated to the Provider further to Rule 5(c)(ii) and 5(c)(iii).

## **5. The Response**

(a) Within twenty (20) days of the date of commencement of the administrative proceeding the Respondent shall submit a response to the Provider.

(b) The Respondent may expressly request an additional four (4) calendar days in which to respond to the complaint, and the Provider shall automatically grant the extension and notify the Parties thereof. This extension does not preclude any additional extensions that may be given further to 5(d) of the Rules.

(c) The response, including any annexes, shall be submitted in electronic form and shall:

(i) Respond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain-name holder) to retain registration and use of the disputed domain name (This portion of the response shall comply with any word or page limit set forth in the Provider's Supplemental Rules.);

(ii) Provide the name, postal and e-mail addresses, and the telephone and telefax numbers of the Respondent (domain-name holder) and of any representative authorized to act for the Respondent in the administrative proceeding;

(iii) Specify a preferred method for communications directed to the Respondent in the administrative proceeding (including person to be contacted, medium, and address information) for each of (A) electronic-only material and (B) material including hard copy (where applicable);

(iv) If Complainant has elected a single-member panel in the complaint (see Paragraph 3(b)(iv)), state whether Respondent elects instead to have the dispute decided by a three-member panel;

(v) If either Complainant or Respondent elects a three-member Panel, provide the names and contact details of three candidates to serve as one of the Panelists (these candidates may be drawn from any ICANN-approved Provider's list of panelists);

(vi) Identify any other legal proceedings that have been commenced or terminated in connection with or relating to any of the domain name(s) that are the subject of the complaint;

(vii) State that a copy of the response including any annexes has been sent or transmitted to the Complainant, in accordance with Paragraph 2(b); and

(viii) Conclude with the following statement followed by the signature (in any electronic format) of the Respondent or its authorized representative:

"Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument."; and

(ix) Annex any documentary or other evidence upon which the Respondent relies, together with a schedule indexing such documents.

(d) If Complainant has elected to have the dispute decided by a single-member Panel and Respondent elects a three-member Panel, Respondent shall be required to pay one-half of the applicable fee for a three-member Panel as set forth in the Provider's Supplemental Rules. This payment shall be made together with the submission of the response to the Provider. In the event that the required payment is not made, the dispute shall be decided by a single-member Panel.

(e) At the request of the Respondent, the Provider may, in exceptional cases, extend the period of time for the filing of the response. The period may also be extended by written stipulation between the Parties, provided the stipulation is approved by the Provider.

(f) If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint.

## **6. Appointment of the Panel and Timing of Decision**

(a) Each Provider shall maintain and publish a publicly available list of panelists and their qualifications.

(b) If neither the Complainant nor the Respondent has elected a three-member Panel (Paragraphs 3(b)(iv) and 5(b)(iv)), the Provider shall appoint, within five (5) calendar days following receipt of the response by the Provider, or the lapse of the time period for the submission thereof, a single Panelist from its list of panelists. The fees for a single-member Panel shall be paid entirely by the Complainant.

(c) If either the Complainant or the Respondent elects to have the dispute decided by a three-member Panel, the Provider shall appoint three Panelists in accordance with the procedures identified in Paragraph 6(e). The fees for a three-member Panel shall be paid in their entirety by the Complainant, except where the election for a three-member Panel was made by the Respondent, in which case the applicable fees shall be shared equally between the Parties.

(d) Unless it has already elected a three-member Panel, the Complainant shall submit to the Provider, within five (5) calendar days of communication of a response in which the Respondent elects a three-member Panel, the names and contact details of three candidates to serve as one of the Panelists. These candidates may be drawn from any ICANN-approved Provider's list of panelists.

(e) In the event that either the Complainant or the Respondent elects a three-member Panel, the Provider shall endeavor to appoint one Panelist from the list of candidates provided by each of the Complainant and the Respondent. In the event the Provider is unable within five (5)

calendar days to secure the appointment of a Panelist on its customary terms from either Party's list of candidates, the Provider shall make that appointment from its list of panelists. The third Panelist shall be appointed by the Provider from a list of five candidates submitted by the Provider to the Parties, the Provider's selection from among the five being made in a manner that reasonably balances the preferences of both Parties, as they may specify to the Provider within five (5) calendar days of the Provider's submission of the five-candidate list to the Parties.

(f) Once the entire Panel is appointed, the Provider shall notify the Parties of the Panelists appointed and the date by which, absent exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider.

## **7. Impartiality and Independence**

A Panelist shall be impartial and independent and shall have, before accepting appointment, disclosed to the Provider any circumstances giving rise to justifiable doubt as to the Panelist's impartiality or independence. If, at any stage during the administrative proceeding, new circumstances arise that could give rise to justifiable doubt as to the impartiality or independence of the Panelist, that Panelist shall promptly disclose such circumstances to the Provider. In such event, the Provider shall have the discretion to appoint a substitute Panelist.

## **8. Communication Between Parties and the Panel**

No Party or anyone acting on its behalf may have any unilateral communication with the Panel. All communications between a Party and the Panel or the Provider shall be made to a case administrator appointed by the Provider in the manner prescribed in the Provider's Supplemental Rules.

## **9. Transmission of the File to the Panel**

The Provider shall forward the file to the Panel as soon as the Panelist is appointed in the case of a Panel consisting of a single member, or as soon as the last Panelist is appointed in the case of a three-member Panel.

## **10. General Powers of the Panel**

(a) The Panel shall conduct the administrative proceeding in such manner as it considers appropriate in accordance with the Policy and these Rules.

(b) In all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

(c) The Panel shall ensure that the administrative proceeding takes place with due

expedition. It may, at the request of a Party or on its own motion, extend, in exceptional cases, a period of time fixed by these Rules or by the Panel.

(d) The Panel shall determine the admissibility, relevance, materiality and weight of the evidence.

(e) A Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.

## **11. Language of Proceedings**

(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

(b) The Panel may order that any documents submitted in languages other than the language of the administrative proceeding be accompanied by a translation in whole or in part into the language of the administrative proceeding.

## **12. Further Statements**

In addition to the complaint and the response, the Panel may request, in its sole discretion, further statements or documents from either of the Parties.

## **13. In-Person Hearings**

There shall be no in-person hearings (including hearings by teleconference, videoconference, and web conference), unless the Panel determines, in its sole discretion and as an exceptional matter, that such a hearing is necessary for deciding the complaint.

## **14. Default**

(a) In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint.

(b) If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

## **15. Panel Decisions**

- (a) A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.
- (b) In the absence of exceptional circumstances, the Panel shall forward its decision on the complaint to the Provider within fourteen (14) days of its appointment pursuant to Paragraph 6.
- (c) In the case of a three-member Panel, the Panel's decision shall be made by a majority.
- (d) The Panel's decision shall be in writing, provide the reasons on which it is based, indicate the date on which it was rendered and identify the name(s) of the Panelist(s).
- (e) Panel decisions and dissenting opinions shall normally comply with the guidelines as to length set forth in the Provider's Supplemental Rules. Any dissenting opinion shall accompany the majority decision. If the Panel concludes that the dispute is not within the scope of Paragraph 4(a) of the Policy, it shall so state. If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

## **16 Communication of Decision to Parties**

- (a) Within three (3) business days after receiving the decision from the Panel, the Provider shall communicate the full text of the decision to each Party, the concerned Registrar(s), and ICANN. The concerned Registrar(s) shall within three (3) business days of receiving the decision from the Provider communicate to each Party, the Provider, and ICANN the date for the implementation of the decision in accordance with the Policy.
- (b) Except if the Panel determines otherwise (see Paragraph 4(j) of the Policy), the Provider shall publish the full decision and the date of its implementation on a publicly accessible web site. In any event, the portion of any decision determining a complaint to have been brought in bad faith (see Paragraph 15(e) of these Rules) shall be published.

## **17. Settlement or Other Grounds for Termination**

- (a) If, before the Panel's decision, the Parties agree on a settlement, the Panel shall terminate the administrative proceeding. A settlement shall follow steps 17(a)(i) – 17(a)(vii):
  - (i) The Parties provide written notice of a request to suspend the proceedings because the parties are discussing settlement to the Provider.

(ii) The Provider acknowledges receipt of the request for suspension and informs the Registrar of the suspension request and the expected duration of the suspension.

(iii) The Parties reach a settlement and provide a standard settlement form to the Provider further to the Provider's supplemental rules and settlement form. The standard settlement form is not intended to be an agreement itself, but only to summarize the essential terms of the Parties' separate settlement agreement. The Provider shall not disclose the completed standard settlement form to any third party.

(iv) The Provider shall confirm to the Registrar, copying the Parties, the outcome of the settlement as it relates to actions that need to be taken by the Registrar.

(v) Upon receiving notice from the Provider further to 17(a)(iv), the Registrar shall remove the Lock within two (2) business days.

(vi) The Complainant shall confirm to the Provider that the settlement as it relates to the domain name(s) has been implemented further to the Provider's supplemental rules.

(vii) The Provider will dismiss the proceedings without prejudice unless otherwise stipulated in the settlement.

(b) If, before the Panel's decision is made, it becomes unnecessary or impossible to continue the administrative proceeding for any reason, the Panel shall terminate the administrative proceeding, unless a Party raises justifiable grounds for objection within a period of time to be determined by the Panel.

## **18. Effect of Court Proceedings**

(a) In the event of any legal proceedings initiated prior to or during an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, the Panel shall have the discretion to decide whether to suspend or terminate the administrative proceeding, or to proceed to a decision.

(b) In the event that a Party initiates any legal proceedings during the Pendency of an administrative proceeding in respect of a domain-name dispute that is the subject of the complaint, it shall promptly notify the Panel and the Provider. See Paragraph 8 above.

## **19. Fees**

(a) The Complainant shall pay to the Provider an initial fixed fee, in accordance with the Provider's Supplemental Rules, within the time and in the amount required. A Respondent electing under Paragraph 5(b)(iv) to have the dispute decided by a three-member Panel, rather than the single-member Panel elected by the Complainant, shall pay the Provider one-half the

fixed fee for a three-member Panel. See Paragraph 5(c). In all other cases, the Complainant shall bear all of the Provider's fees, except as prescribed under Paragraph 19(d). Upon appointment of the Panel, the Provider shall refund the appropriate portion, if any, of the initial fee to the Complainant, as specified in the Provider's Supplemental Rules.

(b) No action shall be taken by the Provider on a complaint until it has received from Complainant the initial fee in accordance with Paragraph 19(a).

(c) If the Provider has not received the fee within ten (10) calendar days of receiving the complaint, the complaint shall be deemed withdrawn and the administrative proceeding terminated.

(d) In exceptional circumstances, for example in the event an in-person hearing is held, the Provider shall request the Parties for the payment of additional fees, which shall be established in agreement with the Parties and the Panel.

## **20. Exclusion of Liability**

Except in the case of deliberate wrongdoing, neither the Provider nor a Panelist shall be liable to a Party for any act or omission in connection with any administrative proceeding under these Rules.

## **21. Amendments**

The version of these Rules in effect at the time of the submission of the complaint to the Provider shall apply to the administrative proceeding commenced thereby. These Rules may not be amended without the express written approval of ICANN.

# CIIDRC Supplemental Rules

**OF THE CANADIAN INTERNATIONAL INTERNET DISPUTE RESOLUTION CENTRE (the “Centre” or the “CIIDRC” or the “Provider”) FOR THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (the “Policy”) AND THE RULES FOR THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY (the “UDRP Rules”) approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”)**

NOTE: The UDRP Rules provide that Supplemental Rules shall not be inconsistent with the Policy or the UDRP Rules and shall cover such topics as fees, word and page limits and guidelines, file size and format modalities, the means for communicating with the Centre and the Panel, and the form of cover sheets.

## **The Supplemental Rules**

*(In effect as of May 9, 2018)*

1. Application
2. Definitions
3. Communications
4. Complaint and Annexes
5. Administrative Review of the Complaint
6. Response and Annexes
7. Case Administrator

8. Panelist Appointment Procedures

9. Panelist Declaration

10. Panel Decisions

11. Settlement and Termination of the Proceeding

12. Fees

13. Word Limits

14. File Size and Format Modalities

15. Amendments of the Supplemental Rules

16. Exclusion of Liability

Schedules Index

**1. APPLICATION**

- a. These Supplemental Rules (the "Supplemental Rules") apply in connection with administrative proceedings for the resolution of disputes under the Policy and also in connection with the UDRP Rules.
- b. To the extent that these Supplemental Rules conflict with the UDRP Rules, the UDRP Rules supersede.
- c. The version of these Supplemental Rules in effect at the time a Complaint is submitted to the Centre applies to the administrative proceeding related to the Complaint.

## **2. DEFINITIONS**

Any word or phrase defined in the Policy or in the UDRP Rules has the same meaning in these Supplemental Rules. A reference to the singular shall include a reference to the plural and vice versa.

## **3. COMMUNICATIONS**

- a. No party to a proceeding or person purporting to represent a party may communicate directly with a Panel, but may do so only via the Centre and initially with the Case Administrator appointed with respect to the administrative proceeding.
- b. Any submission or other communication to the Centre must be made:
  - i. By email to the email address of the Centre; or
  - ii. Via any electronic system established by the Centre for the administration of proceedings; or
  - iii. By any other means or manner agreed with the Centre.
- iv. After an administrative proceeding has been commenced, a party to the proceeding who sends any such communication to the Centre shall at the same time send a copy of that communication to any other party to the proceeding.

### **c. Archive**

The Centre shall maintain an archive of all communications received or made with respect to administrative proceedings conducted by it and all such communications shall be so retained in the archive for three years after their deposit.

## **4. COMPLAINT AND ANNEXES**

- a. The Complaint that institutes the administrative proceeding and its annexes shall be submitted electronically to the Centre and shall request a decision with respect to the disputed domain name in accordance with the Policy, the UDRP Rules and these Supplemental Rules.

- b. The Complaint shall be in compliance with the word and page limits set out in Supplemental Rule 13 and the file size and format modalities set out in Supplemental Rule 14.
- c. A Complaint shall be submitted via the CIIDRC online platform in the form set out in Schedule A to these Supplemental Rules.
- d. A Complaint shall be expressed in the language of the registration agreement of the relevant domain name or in the English language.
- e. Upon receipt of the Complaint, the Centre shall assign it a case number.

## **5. ADMINISTRATIVE REVIEW OF THE COMPLAINT**

- a. As soon as practicable after the Centre receives the Complaint and Annexes, the Centre shall conduct an administrative review of the same to assess compliance with the Policy, the UDRP Rules and these Supplemental Rules.
- b. If the Centre finds that the Complaint is in such compliance, it shall then forward to the Respondent electronically a copy of:
  - i. a completed Notification of Commencement of Proceedings in the form set out in Schedule C to these Supplemental Rules;
  - ii. a Notice with login information and the link to the Complaint and Annexes; and
  - iii. the Written Notice of the Complaint in the form set out in Schedule D or Schedule E to these Supplemental Rules, depending on whether the Complainant has requested a single member or a three-member Panel.
- c. If the Centre finds that the Complaint is not in such compliance, it shall notify the Complainant of all deficiencies and invite the Complainant to rectify them.
- d. If the Complainant rectifies the deficiencies to the satisfaction of the Centre, the Centre shall then forward to the Respondent electronically a copy of:
  - i. a completed Notification of Commencement of Proceedings in the form set out in Schedule C to these Supplemental Rules;

- ii. a Notice with login information and the link to the Complaint and Annexes; and
- iii. the applicable Written Notice of the Complaint referred to in 5 (b) (iii) above.

e. If the Complainant does not rectify the deficiencies to the satisfaction of the Centre within 5 calendar days of notification, the Centre shall notify the Complainant that the Complaint is deemed to have been withdrawn, without prejudice to the right of the Complainant to file a fresh Complaint.

f. Where a Complaint is so deemed to have been withdrawn, the Complainant may within 10 days of being so advised, apply to the Centre for a refund of the whole or a part of the initial fixed fee prescribed in accordance with UDRP Rule 19 and the Centre shall determine the outcome of any such application in the exercise of its discretion.

g. The date of commencement of the administrative proceeding is the date on which the Centre completes its responsibilities under Supplemental Rule 5 in connection with sending a completed Notification of Commencement of Proceedings, login information and the link to the Complaint and Annexes, posted on the CIIDRC online platform, and the Written Notice to the Respondent.

## **6. RESPONSE AND ANNEXES**

The Response and its Annexes shall be submitted via the CIIDRC online platform to the Centre in compliance with the word and page limits and the file size and format modalities set out respectively in Supplemental Rules 13 and 14.

## **7. CASE ADMINISTRATOR**

- a. The Centre shall appoint from its staff a case administrator ("Case Administrator") who shall deal with administrative aspects of the administrative proceeding and the proceedings. The Centre shall advise the parties of the Case Administrator's appointment when it is made.
- b. The Case Administrator may provide administrative assistance to the Panel or a Panelist. The Case Administrator is neutral as between the parties and has no power to make a decision on any substantive issue in an administrative proceeding or influence any such decision.

## 8. PANELIST APPOINTMENT PROCEDURES

a. Proceedings under the UDRP are conducted before single member and three member panels. The Complainant and the Respondent both have the opportunity to request a single member panel or a three-member panel to preside over the administrative proceeding in question.

### b. Single Member Panel

This Supplemental Rule deals with the appointment of the single member Panel when neither party has requested a three-member Panel. The Centre will appoint the single Panelist from its own published list of Panelists:

- i. after the Respondent has submitted a Response and neither party has requested a three-member Panel, or
- ii. when a Respondent does not submit a Response and the time for filing a Response has lapsed, or
- iii. when a Respondent does not make the payment provided by UDRP Rule 5(d) within the time specified.

### c. Three Member panel

This Supplemental Rule deals with the first and second Panelists of a three-member Panel where one or other of the parties have requested a three-member Panel. The UDRP Rules require each party to the administrative proceeding to submit the names of three candidates to serve as one of the three Panelists who will constitute the three-member Panel where:

- i. under UDRP Rule 3(b)(iv) the Complainant has elected to have a three member Panel and the Complainant is required to submit a list of three candidates, from which list, one Panel member will be chosen by the Centre; and under UDRP Rule 5(c)(v) the Complainant having chosen to have a three member Panel, the Respondent must submit a list of three candidates, from which list, one Panel member will be chosen by the Centre; or
- ii. the Complainant has elected to have a single member Panel, but the Respondent has elected under UDRP Rule 5(c)(iv) to have a three member Panel, so that each of the Complainant and the Respondent must submit a list of three candidates from each of which lists one Panel Member will be chosen by the Centre.

d. When the respective party prepares its list of three candidates, the names of the candidates included in the list shall be drawn from the list of Panelists of any of the providers approved by ICANN and not necessarily from the list of Panelists of the Centre.

- e. When the respective party has compiled its list of candidates, it shall send them to the Centre in writing and in the order of its preference for appointment.
- f. In making the appointment of each of the two Panelists appointed pursuant to the UDRP Rules, the Centre shall give due regard to the order of preference expressed by each party in its list of candidates, subject to each candidates' availability to serve on the Panel.
- g. The process just described results in the Complainant and the Respondent each having contributed to the appointment of one of the two members of a three-member Panel.

#### **h. The Third or Presiding Panelist on a Three Member Panel**

This Supplemental Rule now deals with the appointment of the third or Presiding Panelist on a three-member Panel. The third Panelist shall be the Presiding Panelist and shall be responsible for coordinating the functions of the members of the Panel.

- i. The process for the appointment of the third or Presiding Panelist starts with the Centre submitting to each party a list of five candidates in accordance with UDRP Rule 6(e). In response, the parties shall indicate to the Centre their order of preference as between the five candidates.
- j. The Centre will select one from among the submitted list of five candidates in a manner that reasonably balances the preferences of both parties; and the candidate so selected shall be the third or Presiding Panelist.
- k. If a party does not express to the Centre its order of preferences between the five candidates, the Centre will appoint the third or Presiding Panelist without that party's input.

#### **i. Further Appointment**

If, after a Panelist has been appointed but before the Panel has rendered its decision, a Panelist dies, is unable to act, or refuses to act, the Centre will, upon request by either party, appoint a replacement Panelist.

### **9. PANELIST DECLARATION**

- a. A candidate for appointment as a Panelist must submit a Declaration of Impartiality and Independence to the Centre in the form of Schedule G to these Supplemental Rules.

b. The Declaration of Impartiality and Independence must be provided to the Centre prior to the appointment of the candidate as a Panelist.

## **10. PANEL DECISIONS**

a. The Panel shall render a decision in the administrative proceeding in accordance with the requirements of UDRP Rule 15.

b. The decision shall be of a length that the Panel deems appropriate.

c. The Centre shall communicate the full text of a decision to each party, the Registrar, and ICANN in accordance with UDRP Rule 16.

**d. Correction of Panel Decision**

Within seven days of receiving the decision, the Centre or a party may, by written notice to a Panel and other parties, request the Panel to correct in the decision any clerical mistake, typographical error, or any errors of a similar nature.

e. Upon request under Supplemental Rule 10(d) or on its own initiative, a Panel may correct any clerical mistake, typographical error, or any errors of a similar nature. Any correction made by a Panel shall become a part of the decision.

f. The Centre shall communicate the full text of any corrected decision to each party, the Registrar(s), and ICANN in accordance with UDRP Rule 16.

g. The Centre will publish the decision on the CIIDRC online platform and the CIIDRC website.

h. All requests pursuant to Policy paragraph 4(j) and UDRP Rule 16(b) to have a portion of a decision redacted, must be made in the Complaint, the Response, or an Additional Submission that is submitted before the Panel's decision is published.

## **11. SETTLEMENT AND TERMINATION OF THE PROCEEDING**

a. UDRP Rule 17 provides for the termination of an administrative proceeding because the parties have agreed on a settlement of the administrative proceeding before the Panel's decision.

b. In those cases where there are settlement discussions and settlement take place, the procedural steps to be followed are set out in UDRP Rule 17.

c. The settlement steps include a Standard Settlement Form of the Centre (<https://ciidrc.org/wp-content/uploads/2019/10/Standard-Settlement-Form-1.docx>) which is to be completed by the parties and submitted to the Centre. That form is set out in Schedule H to these Supplemental Rules.

## 12. FEES

- a. The Complainant shall pay to the Centre an initial fixed fee for the administrative proceeding.
- b. The initial fixed fee is to be paid in accordance with Schedule B of these Supplemental Rules.
- c. Other provisions relating to fees, including any refund, are specified in Schedule B to these Supplemental Rules.

## 13. WORD LIMITS

### **Complaint**

The word limit for the description of the grounds on which the Complaint is made pursuant to UDRP Rule 3(b) (ix) is 5,000 words.

### **Response**

The word limit for the portion of the Response responding to the statements and allegations in the Complaint and including the basis for the Respondent to retain registration and use of the disputed domain names pursuant to UDRP Rule 5(c) (i) is 5,000 words.

### **Panel decisions and dissenting opinions**

With respect to panel decisions and dissenting opinions there shall be no word limit.

## 14. FILE SIZE AND FORMATS

### **Complaint**

The file size and format modalities pursuant to UDRP Rule 3(b) with respect to a Complaint are as follows:

- a. Complainants must file submissions via the CIIDRC online platform.

- b. Annexes may not exceed 10MB each. Larger files may be split and uploaded to the CIIDRC online platform separately.
- c. A Complaint (including the Annexes) may not exceed 50MB, other than by express and prior agreement with the Centre.

#### **Response**

The file size and format modalities pursuant to UDRP Rule 5(c)(i) with respect to a Response are as follows:

- a. Respondents must file submissions via the CIIDRC online platform.
- b. Annexes may not exceed 10MB each. Larger files may be split and uploaded to the CIIDRC online platform separately.
- c. A Response (including the Annexes) may not exceed 50MB, other than by express and prior agreement with the Centre.

#### **15. AMENDMENT OF THE SUPPLEMENTAL RULES**

Subject to the Policy and UDRP Rules, the Centre may amend any provision in these Supplemental Rules in its discretion.

#### **16. EXCLUSION OF LIABILITY**

Except in the case of deliberate wrongdoing, neither a Panelist, a Panel, nor the Centre are liable to a party, a Registrar or ICANN for any act or omission in connection with an administrative proceeding.

#### **SCHEDULES INDEX Schedule A – COMPLAINT**

#### **Schedule B – FEES**

#### **Schedule C – NOTIFICATION OF COMMENCEMENT OF PROCEEDINGS**

#### **Schedule D – WRITTEN NOTICE – SINGLE MEMBER PANEL**

#### **Schedule E – WRITTEN NOTICE – THREE MEMBER PANEL**

**Schedule F – RESPONSE TO COMPLAINT****Schedule G – STATEMENT OF ACCEPTANCE AND DECLARATION OF IMPARTIALITY AND INDEPENDENCE****Schedule H – STANDARD SETTLEMENT FORM****Canadian International Internet Dispute Resolution Centre****SCHEDULE B****FEES**

**A non-refundable filing fee of \$425 USD** is paid by the Complainant when a Complaint is filed in connection with any domain name administrative proceeding under the Rules for Uniform Domain Name Dispute Resolution Policy.

**Panel fees set out below** are in addition to the non-refundable filing fee specified above.

<b>Number of Disputed Domain Names</b>	<b>Single-Member Panel</b>	<b>Three-Member Panel</b>
<b>1 – 3</b>	<b>USD \$1,050</b>	<b>Total: USD \$2,520</b>
<b>4 – 7</b>	<b>USD \$1,260</b>	<b>Total: USD \$2,835</b>
<b>8 or more</b>	Please contact the Centre for a fee quote	Please contact the Centre for a fee quote

**All funds are in U.S Dollars.**

**Applicable taxes are included.**

Payment shall be made via the CIIDRC payment processing platform.

***All bank charges or other amounts that may be levied in connection with a payment made to CIIDRC shall be borne by the party making the payment.***

Notes:

- The Panel fees are payable at the time of the appointment and not in advance.
- Complainants are responsible for all fees unless a Respondent requests a three-member Panel.
- When a Respondent requests a three-member Panel, the Respondent shall submit one half of the total amount payable for a three-member Panel.

## **SCHEDULE C**

### **NOTIFICATION OF COMMENCEMENT OF PROCEEDINGS**

#### **Case Number:**

Attached is a Complaint that has been filed against you with the Canadian International Internet Dispute Resolution Centre ("CIIDRC") (the "Centre") pursuant to the Uniform Domain Name Dispute Resolution Policy (the "Policy") adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on October 24, 1999, Rules for the Uniform Domain Name Dispute Resolution Policy approved by ICANN on September 28, 2013, and in effect as of July 31, 2015 (the "UDRP Rules") and the Canadian International Internet Dispute Resolution Centre's (the "Centre" or the "CIIDRC" or the "Provider") Supplemental Rules for the Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

The Policy is incorporated by reference into your Registration Agreement with the Registrar(s) of your domain name(s), in accordance with which you are required to submit to and participate in a mandatory administrative proceeding in the event that a third party (a Complainant) submits a Complaint to a dispute resolution service provider, such as the Centre, concerning a domain name that you have registered. You will find the name and contact details of the Complainant, as well as the domain name(s) that is/are the subject of the Complaint in the document headed Written Notice that accompanies this Notification of Commencement of Proceedings.

The Centre has checked the Complaint and determined that it satisfies the formal requirements of the Policy, the UDRP Rules and the Supplemental Rules, and it has received the required payment from the Complainant. An official copy of the Complaint is now forwarded to you through the applicable Written Notice. You have 20 calendar days within which to submit a Response to the Complaint in accordance with the UDRP Rules and the Supplemental Rules to the office of the Centre and the Complainant. Should you so desire, you may wish to seek the assistance of legal counsel to represent you in the administrative proceeding.

- The ICANN Policy (the "Policy") can be found at:

<http://www.icann.org/en/help/dndr/udrp/policy> (<http://www.icann.org/en/help/dndr/udrp/policy>)

- The ICANN Rules (the "UDRP Rules") can be found at:

<http://www.icann.org/en/help/dndr/udrp/rules> (<http://www.icann.org/en/help/dndr/udrp/rules>)

- The Supplemental Rules, as well as other information concerning the resolution of domain name disputes can be found at:

<https://www.ciidrc.org/domainnames/ICANN/SupplementalRules> (<https://www.ciidrc.org/domainnames/ICANN/SupplementalRules>)

Alternatively, you may contact the Centre's office to obtain any of the above documents. The contact details are as follows:

Tel: 778-370-1432

Email: [resolution@ciidrc.org](mailto:resolution@ciidrc.org)

A copy of the attached Complaint has also been sent to the Registrar(s) with which the domain name(s) that is/are the subject of the Complaint is/are registered.

By submitting the attached Complaint to the Centre, the Complainant has agreed to abide and be bound by the provisions of the Policy, the UDRP Rules and the Supplemental Rules.

## **SCHEDULE D**

### **WRITTEN NOTICE – SINGLE MEMBER PANEL**

## Case Number:

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**1. Notification.** You, the Respondent, are hereby notified that an administrative proceeding has been commenced against you pursuant to the Uniform Domain Name Dispute Resolution Policy, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on October 24, 1999 (the “Policy”) (<https://www.icann.org/resources/pages/policy-2012-02-25-en> (<https://www.icann.org/resources/pages/policy-2012-02-25-en>)), the Rules for Uniform Domain Name Dispute Resolution Policy (the “URDP Rules”) as approved by ICANN on September 28, 2013, and in effect as of July 31, 2015 (<https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en> (<https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en>)), and the Canadian International Internet Dispute Resolution Centre (the “Centre” or the “CIIDRC” or the “Provider”) Supplemental Rules for the Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”) in effect as of May 9, 2018. ([www.ciidrc.com/domainnames/ICANN/SupplementalRules](http://www.ciidrc.com/domainnames/ICANN/SupplementalRules)).

The Policy is incorporated by reference into your Registration Agreement with the Registrar of your domain name(s), pursuant to which you are required to submit to and participate in a mandatory administrative proceeding in the event that a third party (the “Complainant”) submits a Complaint to an ICANN-approved dispute resolution service provider (<https://www.icann.org/resources/pages/providers-6d-2012-02-25-en> (<https://www.icann.org/resources/pages/providers-6d-2012-02-25-en>)) concerning your domain name(s).

(Please note that the administrative proceeding has been commenced against the registrant of the domain name(s) that is/are the subject of the Complaint and not the technical contact, zone contact, administrative contact or billing contact, if different from the domain name registrant. The technical contact, administrative contact or billing contact, if different from the domain name registrant, are requested to forward this notification and any attachments to the registrant of the domain name(s) in question.)

Pursuant to UDRP Rule 4 and Supplemental Rule 5, we have now had forwarded to you with this Written Notice an electronic copy of the Complaint (including any Annexes).

**If you would like a copy of the Complaint (including any annexes) forwarded to an alternate email address(es), please advise the Centre’s office of this as soon as possible. Such request may be sent by email to the Centre at: [resolution@ciidrc.org](mailto:resolution@ciidrc.org), referring to the above case number.**

**2. Date Complaint Received.** The Complaint submitted by [identify complainant(s)] was received by email on [Date] Pacific Time by the Centre [Identify related submissions and dates of receipt.] A copy of the Complaint [and related submission] accompanies this notification.

**3. Formal Requirements Compliance Review.** In accordance with UDRP Rule 4(c) and Supplemental Rule 5, the Centre has verified that the Complaint satisfies the formal requirements of the Policy, URDP Rules and Supplemental Rules. The Complainant has made payment of the required amount to the Centre.

**4. Commencement of Administrative Proceeding.** In accordance with UDRP Rule 4(f), the formal date of the commencement of the administrative proceeding is [Date] Pacific Time.

**5. Deadlines.** You have 20 calendar days from the date of commencement of this administrative proceeding (see paragraph 4 above) within which to submit to us any Response (copying the Complainant) according to the requirements that are described in UDRP Rule 5. The email address to which you should send your Response (copying the Complainant) is [resolution@ciidrc.com](mailto:resolution@ciidrc.com). Any request to the Centre for an extension pursuant to UDRP Rule 5(b) and 5(e), may be submitted to the same email address. The Respondent may expressly request an additional four (4) calendar days in which to respond to the Complaint, and the Centre shall automatically grant the extension in accordance with UDRP Rule 5(b). This extension does not preclude any additional extensions that may be given further to UDRP Rule 5(e). In the absence of any extension, the last day for sending any Response (copied to the Complainant) to us is [Date] Pacific Time. This is also the last date by which you should make any required payments to us if you choose to designate a three-member Panel (see paragraphs 8 and 10 below). In filing your Response, you may refer to the Model Response and filing guidelines made available on the Centre's website.

**6. Consent to remedy.** You may consent to the remedy requested by the Complainant and agree to [transfer/cancel] the disputed domain name(s).

**7. Default.** If your Response is timely submitted by the specified due date, the Centre will duly acknowledge receipt. In the absence of any submitted Response (or evidence of its transmission), the Centre will forward a notice of the Respondent's default. In either case, the Centre will proceed to appoint a Panel to review the facts and to decide the case. The Panel will not be required to consider a late-filed Response, but will have the discretion to decide whether to do so and, as provided for by UDRP Rule 14, may draw such inferences from your default as it considers appropriate. There are other consequences of a default, including no obligation on the Centre's part to consider any designations you have made concerning the appointment of the Panel or to observe any guidelines you have provided concerning case-related communications.

**8. Panel.** The dispute between you and the Complainant will be decided by a Panel consisting of either one or three impartial and independent decision-makers. The Complainant in this administrative proceeding has elected for a Panel consisting of a single Panelist.

If you would also like the case to be decided by a single Panelist, the appointment of that Panelist will be made by us from the Centre's published list of Panelist. The fees for the administrative proceeding will be paid in their entirety by the Complainant.

Despite the Complainant's designation of a single Panelist, you can choose to have the case decided by a Panel consisting of three persons. If you choose this option, you will be required to pay half of the applicable fees for the administrative proceeding (see paragraph 10 below). The payment must be made at the time you submit your Response. Failure to submit the required payment at that time may, along with other considerations, be taken as grounds for proceeding with a single Panelist. If you choose a three-member Panel and make the required payment when you submit your timely Response, you should indicate the names and contact details of three persons in order of preference in your Response. These three persons can be selected from our published list or that of any other ICANN-accredited dispute resolution service provider

(<https://www.icann.org/resources/pages/providers-6d-2012-02-25-en>). We will try to appoint one of the three persons you have nominated to the Panel. If we are unsuccessful, we shall make an appropriate appointment from the Centre's published list. If you choose a three-member Panel, but do not provide us with the names and contact details of any candidates, we shall make the appointment from our published list.

Please note that if you choose a three-member Panel, the Complainant will be requested also to provide the names of three candidates, who can be taken from our published list or that of any other ICANN-accredited dispute resolution service provider. We will try to appoint one of these three persons to the Panel. If we are unsuccessful, we shall make an appropriate appointment from our published list. If the Complainant does not provide us with the names of its candidates, we shall make the appointment from the Centre's published list.

If the case is to be decided by a three-member Panel, you and the Complainant will be contacted concerning the procedures for the appointment of the Presiding Panelist (*i.e.*, the third Panelist).

**9. Communications.** Your Response should be communicated to us according to the requirements of UDRP Rule 5(c) (e.g., in electronic form (including the Annexes)) via email pursuant to Supplemental Rules 3 and 6. All case-related filings or submissions to the Centre in addition to the submission of your Response should be made according to the Supplemental Rule 3(b). The email address to use for both purposes is:

**resolution@ciidrc.org.**

If you have a preferred address for communication other than that used in this Written Notice and the Notification of Commencement of Proceedings, this preferred address should be indicated in your Response.

All communications that are required to be made to the Complainant under the UDRP Rules and Supplemental Rules, including your Response, should be made according to the contact details and methods specified in the Complaint. Any corrections or updates to the Respondent's contact information during the remaining pendency of this administrative proceeding should be communicated to the Centre in accordance with UDRP Rule 5(c)(ii) and 5(c)(iii).

Questions about your case or other general queries may be emailed to:

**resolution@ciidrc.org.**

**10. Fees.** In accordance with UDRP Rule 5(d), payment to us in the following amount must be made at the time of the submission of your Response, if you designate a three-member Administrative Panel:

[Enter amount]

Payment methods and other relevant details can be found in Schedule B of the Supplemental Rules. Please identify in your Response the method by which payment is made. If you do not submit the required payment to us, we shall proceed to appoint a single member Panel.

**11. The Administrative Proceeding.** If this case is to be decided by a single member Panel, we shall appoint the Panel within five days following receipt of your Response, or the lapse of the time period for the submission thereof. If the case is to be decided by a three-member Panel and you have submitted a Response, after appointing two of the Panelists (see Paragraph 8 above) we shall send to you and to the Complainant a list of five candidates for the Presiding Panelist. You will each be asked to indicate your order of preference from among the five candidates. Unless we are notified of an agreement between you and the Complainant as to the identity of the Presiding Panelist, we shall make the appointment taking into consideration the preferences indicated by you and the Complainant.

The Panel will typically have 14 days from the date of its appointment to issue a decision in the case. Under normal circumstances, we will forward the decision to you, the Complainant, the Registrar(s) and ICANN within three business days of receiving it from the Panel. Should the decision require that the domain name(s) in question be either transferred or cancelled, the Registrar(s) will notify all parties concerned of the date that the decision will be implemented if the Registrar(s) does/do not receive notification and the required documentation from you in accordance with Paragraph 4(k) of the Policy. We will then post the decision on a publicly accessible web site, unless the Panel has directed us otherwise.

**12. Case Administrator.** The Centre, which is a neutral dispute resolution provider, has appointed a Case Administrator who is in charge of administering your case. The Case Administrator's details appear below. Please note that, while the Case Administrator is at your disposal to answer questions relating to such matters as filing requirements and applicable procedure, he / she is not the decision-maker on the merits of this case, and cannot provide you with legal advice or make any representations to the Panel or otherwise on your behalf.

Case Administrator:

Address: Canadian International Internet Dispute Resolution Centre

500 – 666 Burrard Street,

Vancouver, British Columbia,

V6C 3P6 Canada

Telephone: 778-370-1432

Email Address: [resolution@ciidrc.org](mailto:resolution@ciidrc.org)

**13. Additional Information.** Additional information about the UDRP administrative procedure is available at <https://www.icann.org/resources/pages/help/dndr/udrp-en> (<https://www.icann.org/resources/pages/help/dndr/udrp-en>) and about the Centre's Domain Name Dispute Resolution Service at [www.ciidrc.org](http://www.ciidrc.org).

## Canadian International Internet Dispute Resolution Centre

### SCHEDULE E

#### WRITTEN NOTICE – THREE MEMBER PANEL

##### Case Number:

1. **Notification.** You are hereby notified that an administrative proceeding has been commenced against you pursuant to the Uniform Domain Name Dispute Resolution Policy, approved by the Internet Corporation for Assigned Names and Numbers (ICANN) on October 24, 1999 (the "Policy") (<https://www.icann.org/resources/pages/policy-2012-02-25-en> (<https://www.icann.org/resources/pages/policy-2012-02-25-en>)), the Rules for Uniform Domain Name Dispute Resolution Policy (the "UDRP Rules") as approved by ICANN on September 28, 2013, and in effect as of July 31, 2015 (<https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en> (<https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en>)), and the Canadian International Internet Dispute Resolution Centre (the "Centre" or the "CIIDRC" or the "Provider") Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules") in effect as of May 9, 2018. ([www.ciidrc.com/domainnames/ICANN/SupplementalRules](http://www.ciidrc.com/domainnames/ICANN/SupplementalRules)).

The Policy is incorporated by reference into your Registration Agreement with the Registrar of your domain name(s), pursuant to which you are required to submit to and participate in a mandatory administrative proceeding in the event that a third party (the "Complainant") submits a Complaint to an ICANN-approved dispute resolution service provider (<https://www.icann.org/resources/pages/providers-6d-2012-02-25-en>) concerning the domain name(s).

(Please note that the administrative proceeding has been commenced against the registrant of the domain name(s) that is/are the subject of the Complaint and not the technical contact, zone contact, administrative contact or billing contact, if different from the domain name registrant. The technical contact, administrative contact or billing contact, if different from the domain name registrant, are requested to forward this notification and any attachments to the registrant of the domain name(s) in question.)

Pursuant to UDRP Rule 4 and Supplemental Rule 5, we have now had forwarded to you with this Written Notice an electronic copy of the Complaint (including any annexes).

If you would like a copy of the Complaint (including any annexes) forwarded to an alternate email address(es), please advise the Centre of this as soon as possible. Such request may be sent by email to the Centre at:

[resolution@ciidrc.org](mailto:resolution@ciidrc.org).

referring to the above case number.

2. **Date Complaint Received.** The Complaint submitted by [identify complainant(s)] was received by email on [Date] Pacific Time by the Centre. [Identify related submissions and dates of receipt.] A copy of the Complaint [and related submission] accompanies this notification.

3. **Formal Requirements Compliance Review.** In accordance with UDRP Rule 4(c) and Supplemental Rule 5, the Centre has verified that the Complaint satisfies the formal requirements of the Policy, URDP Rules and Supplemental Rules. The Complainant has made payment of the required amount to the Centre.

4. **Commencement of Administrative Proceeding.** In accordance with UDRP Rule 4(f), the formal date of the commencement of the administrative proceeding is **[Date]** Pacific Time.

5. **Deadlines.** You have 20 calendar days from the date of commencement of this administrative proceeding (see paragraph 4 above) within which to submit to us any Response (copying the Complainant) according to the requirements that are described in UDRP Rule 5. The email address to which you should send your Response (copying the Complainant) is • . Any request to the Centre for an extension pursuant to UDRP Rule 5(b) and 5(e), may be submitted to the same email address. The Respondent may expressly request an additional four (4) calendar days in which to respond to the Complaint, and the Centre shall automatically grant the extension in accordance with UDRP Rule 5(b). This extension does not preclude any additional extensions that may be given further to UDRP Rule 5(e). In the absence of any extension, the last day for sending any Response (copied to the Complainant) to us is **[Date]** Pacific Time. In filing your Response, you may refer to the Model Response and filing guidelines made available on the Centre's website.

6. **Consent to remedy.** You may consent to the remedy requested by the Complainant and agree to transfer/cancel the disputed domain name(s).

7. **Default.** If your Response is timely submitted by the specified due date, the Centre will duly acknowledge receipt. In the absence of any submitted Response (or evidence of its transmission), the Centre will forward a notice of the Respondent's default. In either case, the Centre will proceed to appoint a Panel to review the facts and to decide the case. The Panel will not be required to consider a late-filed Response, but will have the discretion to decide whether to do so and, as provided for by UDRP Rule 14, may draw such inferences from your default as it considers appropriate. There are other consequences of a default, including no obligation on the Centre's part to consider any designations you have made concerning the appointment of the Panel or to observe any guidelines you have provided concerning case-related communications.

8. **Panel.** The Complainant in this administrative proceeding has elected for a Panel consisting of three Panelists. The dispute between you and the Complainant will be decided by a Panel consisting of three members.

The Complainant has provided us with the names and contact details of three candidates to serve on the Panel, and has indicated its order of preference. We will try to appoint one of these three candidates. If we are unsuccessful, we shall make the appointment from the Centre's published list of Panelist. The fees for the administrative proceeding will be paid in their entirety by the Complainant.

You are required to provide the names and contact details of three persons in order of preference in your Response. These three persons may be selected from the Centre's published list or that of any other ICANN-accredited dispute resolution service provider (<https://www.icann.org/resources/pages/providers-6d-2012-02-25-en>). We will try to appoint one of the three persons you have nominated to the Panel. If we are unsuccessful, we shall make an appropriate appointment from our published list. If you do not provide us with the names and contact details of any candidates, we shall make the appointment from our published list.

Once we have appointed two Panelists, both you and the Complainant will be contacted concerning the procedures for the appointment of the Presiding Panelist (*i.e.*, the third Panelist).

**9. Communications.** Your Response should be communicated to us according to the requirements of UDRP Rule 5(c) (e.g., in electronic form (including the Annexes)) via email pursuant to the Supplemental Rule 3. All case-related filings or submissions to the Centre in addition to the submission of your Response should be made according to the Supplemental Rule 3(b). The email address to use for both purposes is [resolution@ciidrc.com](mailto:resolution@ciidrc.com).

If you have a preferred address for communication other than that used in this Written Notice and the Notification of Commencement of Proceedings, this preferred address should be indicated in your Response.

All communications that are required to be made to the Complainant under the UDRP Rules and Supplemental Rules, including your Response, should be made according to the contact details and methods specified in the Complaint. Any corrections or updates to the Respondent's contact information during the remaining pendency of this administrative proceeding shall be communicated to the Centre in accordance with UDRP Rule 5(c)(ii) and 5(c)(iii).

Questions about your case or other general queries may be emailed to: [resolution@ciidrc.com](mailto:resolution@ciidrc.com)

**10. Fees.** Please note that the fees for the administrative proceeding will be paid in their entirety by the Complainant.

**11. The Administrative Proceeding.** As this case is to be decided by a three-member Panel, we shall send to you and to the Complainant a list of five candidates for the Presiding Panelist. You will each be asked to indicate your order of preference from among the five candidates. Unless we are notified of an agreement between you and the Complainant as to the identity of the Presiding Panelist, we shall make the appointment taking into consideration the preferences indicated by you and the Complainant.

The Panel will typically have 14 days from the date of its appointment to issue a decision in the case. Under normal circumstances, we will forward the decision to you, the Complainant, the Registrar(s) and ICANN within three (3) business days of receiving it from the Panel. Should the decision require that the domain name(s) in question be either transferred or cancelled, the Registrar(s) will notify all parties concerned of the date that the

decision will be implemented if the Registrar(s) does/do not receive notification and the required documentation from you in accordance with Paragraph 4(k) of the Policy. We will then post the decision on a publicly accessible web site, unless we have been directed otherwise by the Panel.

**12. Case Administrator.** The Centre, which is a neutral dispute resolution provider, has appointed a Case Administrator who is in charge of administering your case. The Case Administrator's details appear below. Please note that, while the Case Administrator is at your disposal to answer questions relating to such matters as filing requirements and applicable procedure, he / she is not the decision-maker on the merits of this case, and cannot provide you with legal advice or make any representations to the Panel or otherwise on your behalf.

Case Administrator:

Address: Canadian International Internet Dispute Resolution Centre

500 – 666 Burrard Street,

Vancouver, British Columbia,

V6C 3P6 Canada

Telephone: 778-370-1432

Email Address: [resolution@ciidrc.org](mailto:resolution@ciidrc.org)

**13. Additional Information.** Additional information about the UDRP administrative procedure is available at <https://www.icann.org/resources/pages/help/dndr/udrp-en> (<https://www.icann.org/resources/pages/help/dndr/udrp-en>) and about the Centre's Domain Name Dispute Resolution Service at [www.ciidrc.com](http://www.ciidrc.com)

**Canadian International Internet Dispute Resolution Centre**

**SCHEDULE G**

**STATEMENT OF ACCEPTANCE AND DECLARATION OF IMPARTIALITY AND INDEPENDENCE**

**Case Number:**

I, the undersigned, \_\_\_\_\_ (Last Name, First Name),

[ ] declare that I accept to serve as a Panelist under the Uniform Domain Name Dispute Resolution Policy (the "Policy"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "UDRP Rules"), and the Canadian International Internet Dispute Resolution Centre (the "Centre" or the "CIIDRC" or the "Provider") Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules"), currently in effect. By making this declaration, I confirm that I have familiarized myself with the principles, standards, requirements and fees set out in the aforementioned instruments and that I am available to serve as a Panelist in accordance therewith. I further declare that, by accepting to serve as a Panelist in this case, I shall execute my responsibilities honestly, fairly and within the time periods required by the UDRP Rules and the Supplemental Rules.

- I particularly declare that I am available to start work on the administrative proceeding forthwith and that my commitments are such that I am able to devote the time to the delivery of the Panel decision within the prescribed time limit.

Please check the appropriate box below, taking into consideration, *inter alia*, whether there exists any past or present relationship, direct or indirect, with either of the parties, whether financial, professional or of another kind and whether the nature of any such relationship is such that disclosure is called for. **[Any doubt should be resolved in favour of disclosure].**

[ ] I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future that need be disclosed as they might be of such a nature as to call into question my independence in the eyes of one or both of the parties.

[ ] I am independent of each of the parties. However, I wish to disclose the circumstances described in the attachment hereto (attach separate sheet) as they might be of such a nature as to call into question my independence in the eyes of one or both of the parties.

[ ] hereby declare that I decline to serve as a Panelist in the present case. (Disclosure of the reasons for declining to accept the appointment should be made on a separate sheet and attached hereto.)

Place: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Canadian International Internet Dispute Resolution Centre**

**SCHEDULE H**

**STANDARD SETTLEMENT FORM**

Standard Settlement Form Pursuant to UDRP Rule 17

**Case No.**

This Standard Settlement Form is submitted by the Parties pursuant to Rule 17(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "UDRP Rules") as approved by the Internet Corporation for Assigned Names and Numbers ("ICANN") on September 28, 2013, and in effect as of July 31, 2015.

This form does not embody an agreement to settle the administrative proceeding but is to note the essential terms of a settlement agreement requiring Registrar action specified below.

The Canadian International Internet Dispute Resolution Centre (the "Centre") will not disclose the completed Standard Settlement Form or its contents to any third-party.

The Parties have reached an agreement regarding the following disputed domain name(s):

**[<disputed domain name(s)>]**

Pursuant to such agreement, the Parties request the Registrar to take the following action **[select one of the following options]:**

The disputed domain name(s) should be transferred from the Respondent's control to the Complainant. **[If there are multiple complainants, please indicate the complainant to which the disputed domain name(s) is/are to be transferred.]**

The disputed domain name(s) should be cancelled.

Unless the parties' settlement agreement provides otherwise, the Centre will dismiss the administrative proceeding in compliance with the parties' agreement without prejudice.

/s/\_\_\_\_\_

/s/\_\_\_\_\_

On behalf of Complainant

On behalf of Respondent

Date:

Date:

# WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”)

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*Resulting from WIPO’s care for effective remedies under a sustainable UDRP, this WIPO Jurisprudential Overview reflects, and assists the predictability of, UDRP decisions by panels appointed in WIPO cases.*

## Introduction

The World Wide Web in 2014 celebrated its [25th anniversary](#). Its ubiquity both as a commercial medium – facilitating trillions of dollars in trade annually – and as a means of disseminating information globally is self-evident. Sometimes heralded as one of mankind’s greatest innovations, for all of its positive attributes, even looking back to its early days the Internet has also provided a platform for a range of bad-faith practices across territorial borders including Intellectual Property infringement.

To help maintain the overall integrity of the Internet’s Domain Name System (DNS), at the [request of the United States Government](#) supported by all Member States, in 1999 following [an extensive process of international consultations](#), the World Intellectual Property Organization (WIPO) created the Uniform Domain Name Dispute Resolution Policy (UDRP) to address cross-border trademark-abusive domain name registrations, a practice widely known as cybersquatting. Adopted by ICANN as a much needed standardized alternative to multi-jurisdictional court litigation, the UDRP provides an efficient remedy for brand owners and predictability for domainers, fosters consumer protection for end users, and acts as a safe harbor for DNS registration authorities. As a globally recognized best-practice, it is also the basis for a significant number of country code top-level domain (ccTLD) dispute resolution policies.

Since creating the [blueprint for the UDRP](#), WIPO as of early 2017 has processed over 37,000 UDRP-based cases decided by nearly 500 experts covering some 65 nationalities and 21 languages, and involving parties from over 175 countries.

As the DNS expands, including as an engine for economic growth, and further to ICANN’s approval of scores of new Top Level Domains, the potential for cybersquatting and resulting consumer harm persists – making WIPO’s not-for-profit institutional investment in continued UDRP predictability, for all DNS stakeholders, all the more important.

In furtherance of transparency and accessibility, this WIPO investment includes a keyword-searchable Legal Index of WIPO UDRP Panel Decisions, a full-text search facility on all posted decisions, real-time WIPO case statistics, UDRP training Workshops, WIPO Panelists Meetings, and this WIPO Jurisprudential Overview. Beyond these resources, WIPO has successfully initiated paperless e-filing, case language, and settlement practices.

Understanding the relationship between UDRP operations and policy, WIPO notes that the fabric of UDRP jurisprudence, carefully woven over many years, can easily be torn apart. It is hoped that as ICANN embarks on a review of the UDRP, resources such as this WIPO Jurisprudential Overview 3.0 assist responsible decision-making that works for all DNS stakeholders.

Under the UDRP, decision-making authority rests exclusively with the appointed external panels, based on the facts and circumstances of each case. While the UDRP does not operate on a strict doctrine of binding precedent, it is important for the overall credibility of the UDRP system that filing parties can reasonably anticipate the result of their case. Often noting the existence of similar facts and circumstances or identifying distinguishing factors, WIPO panels strive for consistency with prior decisions. In so doing, WIPO panels seek to ensure that the UDRP operates in a fair and predictable manner for all stakeholders while also retaining sufficient flexibility to address evolving Internet and domain name practices.

With this collective aim, the WIPO Arbitration and Mediation Center has produced the present WIPO Jurisprudential Overview version 3.0, to summarize consensus panel views on a range of common and important substantive and procedural issues. Following a review of thousands of WIPO panel decisions issued since WIPO Overview 2.0, this edition has been updated to now include express references to almost 1,000 representative decisions (formerly 380) from over 265 (formerly 180) WIPO panelists. The number of cases managed by the WIPO Center has nearly doubled since its publication of WIPO Overview 2.0; as a result, the number of issues covered in this WIPO Jurisprudential Overview 3.0 has significantly increased to reflect a range of incremental DNS and UDRP case evolutions.

While the overall purpose of the WIPO Jurisprudential Overview is to assist in predictability, it is important to point out that – as with any legal system – differences of opinion may exist on some specific issues and in certain outlier cases; all the more so as the UDRP operates across fact patterns and jurisdictions. Furthermore, neither this WIPO Jurisprudential Overview nor prior UDRP decisions are strictly binding on panelists, who will consider the particular facts and circumstances of each individual proceeding in a manner they consider fair. At the same time, panel findings tend to fall within the views summarized in this WIPO Jurisprudential Overview 3.0. Finally, parties should note that the WIPO Jurisprudential Overview cannot serve as a substitution for each party's obligation to argue and establish their particular case under the UDRP, and it remains the responsibility of each party to make its own independent assessment of prior decisions relevant to its case.

The consensus views laid out in this WIPO Jurisprudential Overview 3.0 have been welcomed by UDRP Panelists *inter alia* at WIPO's Panelists Meetings convened in Geneva through 2016. The contents reflect the Meetings' constructive dialogue, as well as substantial contribution and informal review from a number of the most experienced WIPO panelists. As WIPO UDRP

jurisprudence matures, the WIPO Center, in consultation with its panelists, will on appropriate occasions consider undertaking further updates in whole or in part to this WIPO Jurisprudential Overview 3.0. (The [original edition](#) and [WIPO Overview 2.0](#) will continue to be accessible on the WIPO Center's website for reference.)

## IMPROVING YOUR GAME – ADVANCED ISSUES FOR UDRP PRACTITIONERS

The Panel will consider a number of topics from each of the three Paragraph 4(a) requirements and complete its discussion with a return to reverse domain name hijacking.

### Introduction: Expectations of Complainant and its professional representatives. Consequences

- What is Reverse Domain Name Hijacking? Discussion will settle on the evidentiary demands and parties responsibilities in commencing a proceeding.
  - Rule 1: Reverse Domain Name Hijacking means using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name.
  - Rule 15(e): If after considering the submissions the Panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the Panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.
  - The penalty of RDNH can be tied to the certification requirement in Rule 3(c) (for complainants) and 5(c)(viii) (for respondents) that the pleading is “complete and accurate, that this Complaint/Response is not being presented for any improper purpose, such as to harass...”
  - Attorneys And Other Professional Representatives Held To A Higher Standard: *Pick Enterprises, Inc. v. Domains by Proxy, LLC, DomainsByProxy.com / Woman to Woman Healthcare / Just Us Women Health Center f/k/a Woman to Woman Health Center*, D2012-1555 (WIPO Sep. 22, 2012) (Attorneys held to a higher standard. After 10+ years, professional representatives should be familiar with the UDRP, its rules, and its body of decisions. Ignorance is no longer a viable excuse: “The Policy has been in force for more than a decade and the thousands of cases decided under it now constitute a workable body of (to use a legal term) precedent. In my opinion any complainant, and even more so any professional representative of a complainant, should be at least minimally versed in the Policy, the Rules, their scope, and their limits. It is no excuse that a party or its representative is unfamiliar with clear Policy precedent, much less the clear language of the Policy and the Rules themselves....”)
  - Unfamiliarity With The Policy: *HSIL Limited, Somany Home Innovation Limited / SHIL Ltd., Brilloca Limited v. GOTW Hostmaster, Get On The Web Limited*, D2020-3416 (WIPO Apr. 4, 2021) (“[T]he Complainant’s professional representative betrays an alarming unfamiliarity with the UDRP and the two decades of precedent under it...”)
- Drafting Pleadings: Why is a Complaint or Response the equivalent of a motion for summary judgment?
  - Different from notice pleading in the courts. Additional pleadings are highly disfavored, there is no discovery or other compelled disclosure, and Panels have very limited ability to make inquiries of the parties.
  - Complainants are expected to anticipate defenses and address them in the Complaint.
  - Only One Chance To State Your Case: *5 PRE VIE W AB v. Diego Manfreda*, D2013-1946 (WIPO December 27, 2013), citing *Grove Broadcasting Co. Ltd. v. Telesystems Commc'ns Ltd.*, D2000-0703 (WIPO Nov. 10, 2000) (“A Complainant should ‘get it right’ the first time and should have provided all the information necessary to prove its case from the material contained in the Complaint and its annexes alone”).
  - Also see, *Meguiar's, Inc. v. W3Company*, DNL2021-0046 (WIPO Mar. 1, 2022) (“The basic premise of the Regulations is that both parties may file only one submission – the Complaint

and the Response respectively. This implies that it may not always be possible for a complainant to anticipate all defenses in the Response. Even so, it is standard precedent under the Regulations that further submissions must be motivated by exceptional circumstances.”)

- Supplemental Pleadings Are Disfavored: *Viacom v. Rattan Singh Mahon*, D2000-1440 (WIPO Dec. 22, 2000) (“There can be no doubt that neither the Complainants nor the Respondent has a right to file supplementary submissions subsequent to the Complaint and the Response. If requesting supplementary submissions were to become unexceptional, the dispute resolution procedure under the Uniform Policy and Rules would most likely become significantly more resource-consuming to all the actors.)

#### Paragraph 4(a)(i) Issues (Confusingly Similar To A Trademark In Which Complainant Has Rights.)

- Two components: 1) proof of Complainant’s trademark rights, and 2) domain name is confusingly similar to the mark
- Trademark registrations are usually accepted but, if there are none, how do you prove common law trademark rights?
  - Evidence must include proof that the claimed trademark is distinctive and has achieved secondary meaning. The date on which trademark rights began is not important as 4(a)(i) is merely a threshold standing requirement. **In our later discussion on bad faith under par. 4(a)(iii) we will talk about a domain name that pre-dates trademark rights.**
  - Submit a variety of evidence including images of products bearing the mark (similar to trademark specimens), examples of advertising and promotion (print, TV, social media, billboards, etc.), sales figures, proof of the mark’s longevity, customer testimonials (such as social media and other online comments and reviews), news articles acknowledging the mark, and search engine results demonstrating recognition of the mark.
  - *Bijouterie Langlois v. Webproaction*, 15634-UDRP (CIIDRC Aug. 1, 2021) (“Relevant evidence demonstrating such acquired distinctiveness includes a range of factors such as (i) the duration and nature of use of the trademark, (ii) the amount of sales under the trademark, (iii) the nature and extent of advertising using the trademark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.”)
- Demonstrating that a domain name is “identical or confusingly similar to a mark...”
  - The bar for “confusingly similar” is not very high. If the mark is recognizable in the domain name this element should be satisfied.
  - *BBDOWestAfrica v. Abiola Abioye*, 15628-UDRP (CIIDRC Dec. 6, 2021) (<bbdowestafrica.com>, <ddblagos.com>, and others found confusingly similar to BBDO trademark as they only add geographically descriptive terms to the mark)
  - *Walbro Engine Management, LLC v. Registration Private, Domains By Proxy, LLC / Shahrokh Gabbaypour, Express Fuel Pumps*, D2021-2409 (WIPO Oct. 29, 2021) (“The addition of the words ‘fuel’ and ‘pumps’ within the disputed [<walbrofuelpumps.com>] domain name does not prevent a finding of confusing similarity” to Complainant’s WALBRO trademark).
  - In contrast, see *Philipp Plein v. Kimberly Webb*, D2014-0778 (WIPO July 30, 2014) (“The disputed domain name [<peopleincasinos.com>] incorporates the Complainant’s PLEIN trademark entirely. However, this is not a typical case... \* \* \* [T]he disputed domain name consists of a meaningful phrase (‘people in casinos’), and is likely to be pronounced in that way by an Internet user.”)

- New gTLDs and Confusing Similarity

- [Micro Electronics, Inc. v. Shawn Downey / Sensible.Domains](#), FA 1829812 (FORUM April 11, 2019) (domain name <micro.center> held confusingly similar to trademark MICRO CENTER). Even though the second level domain “micro” is a dictionary word and, by itself, may not qualify for trademark rights, the domain name is identical to the mark when read as a whole - i.e., “spanning the dot”.

Paragraph 4(a)(ii) issues (Respondent’s Rights or Legitimate Interests)

- What evidence does Complainant need to establish that Respondent lacks rights or legitimate interests in the domain name? What evidence does a Respondent need to establish rights or legitimate interests in a domain name?

- Par. 4(c) provides examples of how a Respondent can demonstrate that it has rights or legitimate interests in a disputed domain name. These include i) making or preparing to make a *bona fide* offering of goods or services; ii) being commonly known by the domain name; and iii) making a fair use of the domain name without intent for commercial gain.
- As it is difficult to prove a negative (the absence of rights or legitimate interests), Complainant only bears the initial burden of making a *prima facie* case. The burden then shifts to Respondent to come forth with evidence to rebut this case and prove that it does possess such rights or legitimate interests. Defenses must be proven with evidence, not merely with unsupported statements.
- Respondent’s Family Name: [D’Agostinos Markets, Inc. d/b/a D’Agostino Supermarkets v. Louise Murphy / WebSiteText](#), FA 1889900 (FORUM Apr. 29, 2020) (Respondent’s full name is Louise “Lulu” D’Agostino Murphy. “Respondent by competent evidence demonstrated that ‘D’Agostino’ is her family name, that <dagostino.com> was registered in 1996 by Respondent’s father in connection with a then operating business in the computer services field, and subsequently transferred to Respondent in 2006.”)
- Professional Seller Of Domain Names: [Digel Aktiengesellschaft v. Vinay Shan](#), D2018-1328 (WIPO Aug. 9, 2018) (“the registration of large numbers of domain names for the purpose of offering them for sale to third parties is not an inherently objectionable activity under the Policy (subject to the caveat below) and is capable of comprising a *bona fide* offering of goods and services.”) The referenced “caveat” is “so long as they do not encroach on third parties’ trade mark rights.”
- Nominative Fair Use Of Trademark By Reseller: [Oki Data Americas, Inc. v. ASD, Inc.](#), D2001-0903 (WIPO Nov. 6, 2001) (<okidataparts.com> Four-part test for nominative fair use of a trademark by resellers: i) does Respondent’s site actually offer the goods or services at issue?; ii) does the site sell *only* the trademarked goods? (no goods of Complainant’s competitors); iii) does it accurately disclose the Respondent’s relationship with the trademark owner? (e.g., prominent notice of a non-affiliated reseller); and iv) does Respondent seek to “corner the market” by registering domain names with multiple variations of the trademark?)
- Secondary School Admission Test Board, Inc. v. Joanna Severino and Richard Hosko, FA 408094 (FORUM March 24, 2005) Respondent registered the disputed domain name <prepsat.com> to offer services assisting students in preparing for Complainant’s SSAT (“Secondary School Admission Test.”) “Respondent does not hold itself out as a provider of the Secondary School Admission Test, or indeed of any other test. Rather, it holds itself out as a provider of services designed to help students prepare for the SSAT.” In this class of dispute, the law recognizes rights to incorporate a mark “in a truthful, nominative sense” without offending the mark owner or deceiving consumers.

- Is It A Legitimate Fan Site?: [The Liverpool Football Club and Athletic Grounds Limited v. Darren Mills, Mills NZ](#), D2021-4132 (WIPO Mar. 5, 2022) (“a respondent’s fan site must be active, genuinely noncommercial, and clearly distinct from any official complainant site. The Panel finds that in the present case the disputed domain name registered by a group of the Complainant’s fans does not meet the above requirements, since it remains inactive after the registration.”)
- Lack Of Targeting Also Informs The 4(c)(i) (*bona fide* offering) Analysis: [Wisconsin Emergency Medical Technicians Association, Inc. DBA Wisconsin Emergency Medical Services Association, Inc. \(WEMSA\) v. Marsha Everts, EMS Professionals, Inc.](#), D2018-2841 (WIPO Feb. 7, 2019) (<emsprofessionals.net>). “The mere use by Respondent of EMS PROFESSIONALS as a name on a sales catalog related to Respondent’s legitimate business does not establish, without more, that Respondent lacks legitimate interests in using the name EMS PROFESSIONALS for the completely different purpose of selling products online, nationwide, to emergency medical providers, first responders and law enforcement professionals. Again, what is missing is evidence that Respondent’s use of EMS PROFESSIONALS with its online supply services is being done to take advantage of Complainant’s rights in EMS PROFESSIONALS as the name of a publication with a limited distribution.”

#### Paragraph 4(a)(iii) issues (Bad Faith Registration and Use)

- Stated in the conjunctive. Must prove *both* registration *and* use in bad faith so timing of events can be critical.
- A Predicate – Targeting of Complainant’s Trademark. Respondent had actual knowledge of or *should have known* of the mark.

- Targeting – Long history of cases on this topic. See [Mountain Top \(Denmark\) ApS v. Contact Privacy Inc. Customer 0133416460 / Name Redacted, Mountaintop Idea Studio](#), D2020-1577 (WIPO Sep. 1, 2020) (Claim against <mountaintop.com> denied. “To succeed in a complaint under the Policy, it is well established that under the third element of the Policy, a complainant must prove on the preponderance of the evidence is [sic] that the domain name in issue was registered in bad faith, *i.e.*, was registered with the complainant and/or its trade mark in mind.”)
- TM Registration ≠ Brand Reputation. Submission of a trademark registration proves the existence of trademark rights. It does not, however, prove the reputation or scope of that trademark.
- Evidence should be submitted to demonstrate that the trademark was recognized as such by the relevant public *prior* to the registration of the disputed domain name. This can include proof of advertising and promotion, prominence and exclusivity within Complainant’s industry, news articles about the mark, independent customer reviews, and the like.
- [DALKIA v. Nhan Nguyen](#), 16873-CDRP (CIIDRC Feb. 13, 2022) (Complainant claims that its mark is well known but it “submits only screenshots evidencing four of its trademark registrations. It has not provided a screenshot of its own website or any other evidence of its actual use of the mark. While trademark registrations certainly demonstrate the existence of trademark rights, they do not speak to the results of any advertising, marketing, promotional, or sales efforts nor the level of reputation with the public claimed by Complainant for the DALKIA mark.”)
- The same can be true for a common-law trademark. [Kentech Group Limited v. Qtechweb](#), D2019-1609 (WIPO Aug. 30, 2019) (“As Complainant has failed to establish the reputation or extent and scope of its use of its claimed common law or unregistered KENTECH mark as of November 2003, and given that there is evidence that there were, and had been, multiple other uses of “kentech” by parties unrelated to Complainant, including a company by the

name of Kentech, Inc. that had once owned the disputed domain name, it is difficult for the Panel to conclude that Respondent registered the disputed domain to take advantage of any rights Complainant had in the KENTECH mark in 2003.”)

- However, where there is evidence of abusive conduct, actual knowledge is often presumed: [Amadeus IT Group, S.A. v. WhoisGuard, Inc., WhoisGuard, Inc. / PAVEL TREMBLAY, TREMBLAY WORLDWIDE CORPORATION](#), D2019-0744 (WIPO May 15, 2019) (<amadeus.host> ordered to be transferred. While the second-level domain in this case is a personal name that would generally be thought of as generic and lawful for registration, the Panel points out that AMADEUS is a well-known trademark and states that “[i]n this case where the Complainant is active in the field of hosting services, the use of the term ‘host’ as gTLD extension increases the confusion. The Respondent has used the disputed domain name to redirect to the Complainant’s actual main website. This implies also bad faith....”)
- What level of evidence supports the conclusion that the respondent had actual notice of the mark? [Scott Dylan v. K-Ventures FZE LLC](#), D2021-2977 (WIPO Dec. 6, 2021) (<caribou.com> consists of a descriptive word and there is insufficient evidence that Complainant’s brand reputation is such that Respondent, located in the United Arab Emirates, must have known of and been targeting the trademark. “The evidence of media attention is meagre, consisting of three articles published on logistics industry websites and one article in a local newspaper, all in the United Kingdom.”)
- Timing of trademark rights: Acquisition of a domain name that predates a Complainant’s trademark most often cannot be in bad faith as Respondent could not have been targeting rights that didn’t exist at that time. [Vacation Pig, LLC d.b.a OOVO v. elmer rubio](#), FA 1981434 (FORUM Feb. 14, 2022) (RNDH found where domain name predicated Complainant’s trademark rights despite Respondent renewing the domain name during its grace period after trademark rights existed). Even if the mark predicated the domain name, the Complainant failed on multiple levels. There is “no evidence that the domain name’s website has never displayed any content that touched on Complainant or its field of business, Respondent never offered to sell the domain name to Complainant (it was Complainant who initiated the dialog with Respondent in late 2019 and Respondent never stated a price or even indicated its willingness to sell to Complainant). In such dialog, Complainant never identified itself as a company that is using or has trademark rights in the term OOVO – it approached Respondent only as “Patrick” and mentioned that “my partner and I have a company we’re starting up and running from our one bedroom apt.””)
- A very narrow exception may exist where Respondent knowingly anticipates Complainant’s the development of trademark rights.
- Anticipation of Trademark Rights: [Khloe Kardashian, Whalerock Celebrity Subscription, LLC, Khloemoney, Inc. v. Private Registrations Aktien Gesellschaft / Privacy Protection Service Inc. d/b/a Privacyprotect.Org](#), D2015-1113 (WIPO Aug. 14, 2015) (“The Domain Name was registered just two weeks after Ms. Kardashian first appeared on the show” called Keeping up with the Kardashians, leaving “little doubt that the Respondent must have had the Complainant and its rights in the KHLOE KARDASHIAN name in mind when it registered the Domain Name.”)
- Par. 4(a)(iii) requires proving bad faith registration *and* use in the conjunctive. For comparison, in .ca disputes, Complainant must prove bad faith registration alone. If used in bad faith, registrant implicitly registered the domain name in bad faith.
- Plan “B”: A common error by Complainants is filing a UDRP complaint after unsuccessful negotiations to purchase a domain name where trademark rights do not pre-date Respondent’s acquisition of the domain. This is referred to as a “Plan B” case and it often results in a finding of RDNH.
- [Klir Platform Europe Limited v. David Hendrix](#), UDRP-15008 (CIIDRC April 20, 2021) (“Complainant has made several attempts to acquire the <klir.com> domain name from the

- Respondent through the GoDaddy Auction website....") *citing Daniel Biro / RealtyPRO Network, Inc. v. Ben Kueh / Computerese*, FA 1929289 (FORUM Mar. 29, 2021) ("here there is the added factor that Complainant had made unsuccessful attempts to purchase <realtypro.com> from Respondent. It would not have been exhausting to learn from a modicum of research that initiating a UDRP proceeding under these circumstances fits the definition of a Plan B scheme to deprive Respondent of his property.") Also, the domain name predates Complainant's trademark rights. "It is clear from the evidence that the Respondent could not have acquired the Domain Name primarily for the purpose of selling it to the Complainant, since the Complainant has not demonstrated any right or ownership in the KLIR mark at that time."
- Offer to sell the domain name at a high price: [The WIPO Jurisprudential Overview 3.0](#), Par. 3.1.1 states that, after taking into account certain scenarios, panels have generally found that "where a registrant has an independent right to or legitimate interest in a domain name, an offer to sell that domain name would not be evidence of bad faith for purposes of the UDRP, irrespective of which party solicits the prospective sale. This also includes 'generalized' offers to sell, including those on a third-party platform."
- [Whispering Smith Limited v. Domain Administrator, Tfourh, LLC](#), D2016-1175 (WIPO Sep. 27, 2016) (Transfer of <bravesoul.com> denied. Domain name predicated trademark. "Respondent was engaged in legitimate speculation and the Complainant can only fault itself for not contacting the Respondent prior to adopting its brand.")
- Non-Use of the domain name: [Telstra Corporation Limited v. Nuclear Marshmallows](#), D2000-0003 (WIPO Feb. 18, 2000) (Despite the fact that none of the representative examples of Paragraph 4(b) are directly implicated, the Policy "recognizes that inaction (e.g., passive holding) in relation to a domain name registration can, in certain circumstances, constitute a domain name being used in bad faith.... [I]n considering whether the passive holding of a domain name, following a bad faith registration of it, satisfies the requirements of paragraph 4(a)(iii), the Administrative Panel must give close attention to all the circumstances of the Respondent's behaviour.") See also, [Teachers Insurance and Annuity Association of America v. Wreaks Communications Group](#), D2006-0483 (WIPO June 15, 2006) and [Autoshop 2 Di Battaglia Ferruccio C. S.N.C. v. Willamette RF Inc.](#), D2004-0250 (WIPO June 2, 2004) (collecting cases citing *Telstra*).

#### RDNH, the concept and consequences of a poorly considered or drafted complaint

- Avoid the following mistakes, some of which have been made by otherwise well-regarded trademark litigation law firms:
  - Law firm fails while representing itself as Complainant. [Bartko Zankel Bunzel & Miller v. Perfect Privacy, LLC / Jan Bartko](#), D2022-0043 (WIPO Mar. 17, 2022) (Law firm's website, bzbm.com, mentions specialization in real estate and intellectual property litigation. But it couldn't prove common-law trademark rights in the word "Bartko" alone. Further, Respondent is commonly known by the <bartko.com> domain name (his family name), and there is no bad faith as the domain name predicated any claimed trademark rights by Complainant. The Panel found RDNH.)
  - "Plan B" cases and trademark rights that post-date the domain name. See, e.g., [Electrossoft Services, Inc. v. TechOps / SyncPoint](#), FA 1969515 (FORUM Dec. 9, 2021) (*pro se* Complaint filed after unsuccessful purchase negotiations but failed to submit proof of its claimed common-law trademark rights. Respondent asserted that the domain name predicated Complainant's trademark and claimed RDNH. Complainant then retained counsel who disputed RDNH but failed to cure deficiencies in the Complaint.)

- Name the proper Complainant, typically the entity listed as the owner of the trademark registration. See, e.g., [Ballet Makers, Inc. v. Yasutaka Sakatani / ThinKraft, Inc.](#), URS FA 1844823 (FORUM June 18, 2019) (Complainant submitted copy of its trademark registration certificate which shows the original trademark owner. Failed to submit proof of assignments to the present owner – the named Complainant – and the Panel found insufficient evidence of trademark rights under Paragraph 4(a)(i).)
- Website content targets Complainant but the domain name, itself, is not confusingly similar to the asserted trademark. See, e.g., [. The International Olympic Committee \(IOC\) v. Domain Administrator, See PrivacyGuardian.org / Kilibuy Jin Xin](#), DCC2021-0010 (WIPO Dec. 11, 2021) (<soccerstore.com> not confusingly similar to THE OLYMPIC STORE trademark despite use of the OLYMPIC mark and imagery on the website itself.)
- Submit a complete and reliable case. Missing or misrepresented evidence can doom an otherwise good claim. See, e.g., [AMUNDI ASSET MANAGEMENT v. Above.com Domain Privacy](#), 104074 (CAC Nov. 10, 2021) (Did Respondent have knowledge of Complainant's mark? Submission into evidence of a trademark registration certificate and a screenshot of the Complainant's website home page "clearly exhibits rights in its claimed trademark" but it "does not adequately speak to the reputation that the trademark may have achieved with the relevant segment of the public.")
- Don't file a complaint against a registrant whose personal name is the same as the domain name. See, e.g., [Normann Copenhagen ApS v. Peter Normann](#), D2017-0829 (WIPO June 14, 2017) (Complainant claims that "Respondent has no legitimate interest in the use of the disputed domain name <normann.com>, since the Respondent has owned the disputed domain name for 21 years without ever establishing a functioning website, or indicating to the world that he either runs a business or intends to run a business." But Respondent's family name is "Normann" so it is commonly known thereby.)
- Cover all of the 4(a) elements in the Complaint. Neglecting to argue any one of them can lead a Panel to deny the claim as insufficient. See, e.g., [Advance Auto Parts, Inc. d/b/a Advance Auto Innovations, LLC v. PPA Media Services / Ryan G Foo](#), FA 1441330 (FORUM June 25, 2012) (Claim denied for failure to allege bad faith. The Complainant simply mentioned that the Respondent has engaged in typo-squatting – registering typographical variations of a trademark – but there was no mention of any specific action or use of the domain name in bad faith.)
- Are there any other pending legal actions that bear on the trademark or the domain name? See, e.g., [Southern Land Company, LLC v. Lisa Alyn / Benchmark Realty](#), FA 1547956 (FORUM Apr. 18, 2014) ("Complainant stated in its original complaint that there were no other legal proceedings that have been commenced or terminated in connection with or relating to the domain names that are the subject of the Complaint." But there was a pending trademark cancellation action against Complainant's trademark.)
- Is this really a domain name dispute? Contractual and other business claims are outside the scope of the UDRP. See, e.g., [Swisher International, Inc. v. Hempire State Smoke Shop](#), FA 1952939 (FORUM Jul. 27, 2021) (<hempirestatesmokeshop.com> used for Respondent's shop selling hemp and smoking products. Too many issues surrounding Complainant's HEMPIRE trademark that are beyond the scope of the UDRP. This is really a claim of trademark infringement that is best decided in the courts.)
- Be prepared for surprises and new facts if a Response is filed. It may be wise to suspend the case and discuss settlement rather than proceed with the case. See, e.g., a. [LivingSocial, Inc. v. chris jensen](#), FA 1456244 (FORUM Sep. 10, 2012) (Complainant's mark is LIVINGSOCIAL. Respondent's <livingsocal.com> website resolved to a pay-per-click page and Complainant claimed typo-squatting. In its Response, it asserted operation of a real estate business in Southern California, i.e., "SoCal". Claim denied.)
- Consider pre-UDRP demand letters, but be careful
- Use available search tools as part of your due diligence and case preparation