

Proposal for the Uniform Domain- Name Dispute-Resolution Policy (UDRP) Status Report

Presentation to GNSO Council



23 September 2021

Agenda

- 1. UDRP Overview**
- 2. Proposed Outline for the UDRP Status Report**
- 3. UDRP Data Available**
- 4. Proposed Project Timeline**

1. Overview of the UDRP

Overview of the UDRP

- The Uniform Domain Name Dispute Resolution Policy (the "Policy") is an ICANN consensus policy that went into effect on 24 October 1999.
- The UDRP was created to provide a quick, efficient and more cost-effective way to facilitate trademark protection at the second level of the DNS.
- Two documents are required for universal, uniform operation of the UDRP. The first is the [Policy](#) itself, setting out the scope of relief and the basis for mandatory administrative hearings that may be brought. The second document is the [Rules](#) for the UDRP, which provide the baseline procedural requirements that must be followed in a UDRP proceeding.
- Currently, there are **six** dispute resolution providers authorized by ICANN to conduct administrative proceedings under the UDRP:
 1. [World Intellectual Property Organization](#) (WIPO) approved in 1999
 2. [National Arbitration Forum](#) (NAF) approved in 1999
 3. [Asian Domain Name Dispute Resolution Centre](#) (ADNDRC) approved in 2001
 4. [Czech Arbitration Court](#) (CAC) approved in 2008
 5. [Arab Center for Dispute Resolution](#) (ACDR) approved in 2013
 6. [Canada International Internet Dispute Resolution Centre](#) (CIIDRC) approved in 2019

2. Proposed Outline for the UDRP Status Report

UDRP Policy Status Report Outline

1. Introduction

- Purpose of the UDRP Status Report
 - Help assess effectiveness of the UDRP in terms of its overarching goals as identified in the 2011 Final Issue [Report](#):
 - i) Efficiency
 - ii) Fairness
 - ii) Addressing abuse
 - Share general data on case filings, decisions, etc.
 - Inform the RPM PDP Phase 2
 - Support/review of policies and status report is anchored in the [Consensus Policy Implementation Framework](#)
- UDRP post GDPR
 - Background on GDPR/Temp Spec
 - Impact of Temp Spec for gTLD Registration Data on the UDRP filing process
- Summary of findings
 - High level statistics of data collected for each UDRP goal

UDRP Policy Status Report Outline (cont'd)

2. UDRP Goal: Efficiency

- Assessment of whether the UDRP provides trademark holders with a quick and cost-effective mechanism for resolving domain name disputes.
 - Review of UDRP cases filed per year. Continued growth in UDRP filings worldwide helps demonstrate that the UDRP remains a popular/effective tool to combat cybersquatting.
 - Community views concerning effectiveness
- Analysis of case duration for the UDRP vs. traditional litigation
- Analysis of fees for the UDRP vs. traditional litigation

**Any substantive/procedural issues and potential fixes concerning the efficiency of the UDRP as identified in the 2011 Final Issue [Report](#) on the current state of the UDRP will be subsumed within each goal section.*

UDRP Policy Status Report Outline (cont'd)

3. UDRP Goal: Fairness

- Overview of whether the UDRP is impartial/fair for trademark holders and domain name registrants
- Forum shopping
 - Factors that may influence complainant selection of provider (e.g. filing fees, complainant's winning percentage/case outcome, etc.)
 - Analysis of complaint win percentage for each UDRP provider
 - Review of community concerns and potential fixes as identified in the 2011 Final Issue Report
- Process for selection of panelists by UDRP providers
 - Review of process, available data, community concerns and potential fixes, including those identified in the 2011 Final Issue [Report](#) on the current state of the UDRP
- Overview of Reverse Domain Name Hijacking (RDNH)
 - Analysis of abusive filings at WIPO, community concerns and potential fixes identified in the 2011 Final Issue [Report](#)

UDRP Policy Status Report Outline (cont'd)

4. UDRP Goal: Addressing Abuse

- Overview of Policy effectiveness in targeting straightforward cases of cybersquatting
 - Analysis of yearly panel decisions published by each provider on their website (e.g., transfer/cancellation rates, complaints rejected, split decisions)
- Summary of UDRP-related data from ICANN org departments
 - Analysis of ICANN Contractual Compliance data (e.g., UDRP-related notices and enforcements, complaints received/closed, out of scope UDRP complaints)
 - High-level summary of UDRP-related inquiries received by ICANN's Global Support Center (GSC)
- Education for domain name registrants
 - Overview of the .CL project that links law schools with users of the UDRP to help address cybersquatting and trademark infringement issues

**Any substantive/procedural issues and potential fixes concerning the efficiency of the UDRP as identified in the 2011 Final Issue [Report](#) on the current state of the UDRP will be subsumed within each goal section.*

3. Overview of UDRP Data Collected

UDRP Dataset Available

- UDRP data points that have previously been collected by ICANN Staff to inform other projects/review efforts include:
 - **Number of UDRP complaints filed and decisions rendered** (*source: UDRP Provider websites*)
 - Collected data on UDRP cases also includes case number, complaint/respondent name, disputed domains, commenced/decision date or year, and result (e.g., denied, cancelled, transferred)
 - **Administrative/panelist fees** under the UDRP (*source: UDRP Provider websites*)
 - **UDRP case length** (*source: [National Arbitration Forum](#) website*)
 - **Number of RDNH filings** (*source: [DNDisputes.com](#); note that this data is only available for WIPO*)
 - **UDRP-related complaints** to ICANN (*sources: [Contractual Compliance](#), GSC*)

4. Proposed Project Timeline

Timeline & Data Considerations

- The timeline for completion of this work is provided with the following caveats:
 - Input received on the proposed UDRP Report outline being presented.
 - UDRP data previously collected by ICANN Staff from Provider websites is for the 2013-2020 time period. *Note that the data collection process is entirely manual.*
 - As the UDRP has been in effect for over 20 years, case data prior to 2013 may be sought in order to support a more comprehensive review.
 - To ensure efficiency and accuracy of data, it may be beneficial to work with Providers to obtain any additional historical UDRP data.
 - Process and timing for additional data requested and to confirm accuracy of data collected may vary from Provider to Provider.
 - UDRP-related data previously provided by Compliance and GSC is for the 2013-2018 time period and thus this will also need to be updated.

Initial Target Timeline

#	Action	Date(s)
1	GNSO Council meeting	23 September
2	Begin data collection and report updating	Week of 4 October
3	Provide progress update to the GNSO Council	Week of 11 October
4	ICANN72 meeting	Week of 25 October
5	Finalize Draft Report and share with GNSO Council	Week of 18 October
6	Receive GNSO Council input	Week of 1 November
7	Submit Final Report to GNSO Council	Week of 8 November

Appendix

UDRP Policy Status Report Outline (cont'd)

- Proposed background & scope section of report includes:
 - A brief history of the UDRP
 - Overview of the RPM PDP on the Review of All RPMs in All gTLDs
 - Summary of RPM PDP Phase 1 work
 - Relevant URS final recs/operational fixes for consideration in Phase 2
 - Overview of required documents for operation (Policy and Rules)
 - Applicability of the UDRP via ICANN agreements
 - UDRP substantive elements (i.e. criteria for a Complaint to succeed)
 - UDRP procedural elements (e.g. mark requirements, burden of proof)
 - How it works: basic stages of a UDRP proceeding
 - Timeline of each ICANN-approved dispute resolution provider
 - Overview of the ICANN org approval process for UDRP providers