Zoomerang Survey Results
Locking of a Domain Name subject to UDRP Proceedings - UDRP Providers
Response Status: Completes
Jul 11, 2012 1:45 AM PST

Introduction

1. Name

Respondent #	Response
1	Kristine Dorrain
2	Dennis Cai
3	Tereza Bartoskova
4	WIPO Arbitration and Mediation Center

2. Affiliation

Respondent #	Response
1	National Arbitration Forum
2	Asian Domain Name Dispute Resolution Centre
3	Czech Arbitration Court
4	World Intellectual Property Organization

3. What is the approximate number of UDRP disputes of which you have had experience (specified per year as well as total)?

Respondent #	Response
1	around 1,500-2,000 per year, for seven years
2	Up to 26 March 2012, the ADNDRC handled a total of 920 UDRP disputes. The number of UDRP disputes in the period of 2002 - 2011 is as follows: 2011: 179 2010: 167 2009: 116 2008: 143 2007: 84 2006: 69 2005: 41 2004: 32 2003: 26 2002: 27
3	21/2009, 18/2010, 51/2011, 52/2012, total of 142
4	UDRP-based cases at WIPO, Total (as at July 10, 2012): 23,812 UDRP-based cases at WIPO, by year: 1999: 1 2000: 1,857 2001: 1,557 2002: 1,207 2003: 1,100 2004: 1,176 2005: 1,456 2006: 1,824 2007: 2,156 2008: 2,329 2009: 2,107 2010: 2,696 2011: 2,764 2012 (as at July 10, 2012): 1,582

4. In approximately what percentage of UDRP proceedings that you handle do registrars lock the domain name(s) at issue taken on a representative sample of UDRP disputes that you have had experience with?

Less than 25%	0
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	4
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	0
Total	4

5. In approximately what percentage of UDRP proceedings that you handle do registrars fail to confirm lock of the domain name(s) at issue for purposes of the UDRP dispute within five (5) days of your sending a provider verification request to the concerned registrar, taken on a representative sample of UDRP disputes that you have had experience with?

Less than 25%	3
Between 25% and 50%	1
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	0
Total	4

6. Are you aware of registrars which lock domain names upon receipt of a UDRP complaint from the complainant?

Yes	2
No	2
Other, please specify	0
Total	4

7. If you answered 'yes' to the previous question, in what approximate percentage of UDRP proceedings administered by you are you aware of this having occurred?

Less than 25%	2
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	0
Total	2

8. In approximately what percentage of UDRP proceedings that you have administered are you aware of the registrar having confirmed lock of a domain name in reply to a request for registrar verification from you, but in which there were nevertheless subsequent material changes to the registrant data which impacted administration of the UDRP dispute?

Less than 25%	3
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	1
Total	4

Other: Respondent #	Response
1	Less than 5%

9. Are you aware of registrars which lock domain names only upon receipt of a notice of commencement (i.e. on notification of complaint under UDRP Rules paragraph 4) from you?

Yes	0
No	4
Other, please specify	0
Total	4

10. If you answered 'yes' to the previous question, in approximately what percentage of cases would this occur?

less than 25%	0
between 25% and 50%	0
between 50% and 75%	0
more than 75%	0
requested data not available	0
Other, including your best available estimate if appropriate, please specify	1
Total	1

Other: Respondent #	Response
1	N/A (see question 9 above)

11. How long does it typically take you to issue a request for registrar verification from the time of receipt of a UDRP complaint from a complainant, where the complainant has followed all UDRP Rules and your Supplemental Rules?

Less than 12 hours	2
Between 12 and 24 hours	1
Between 24 and 48 hours	0
More than 48 hours	0
Other, please specify	1
Total	4

Other: Respondent #	Response
1	Majority (55%) of cases in less than 12 hours, with overall average (accounting for weekends, etc, rounded up) approx 15 hours

12. In approximately what percentage of UDRP proceedings that you have administered are you aware of a registrar's confirmed domain name lock failing to prevent an apparently prohibited (e.g. under UDRP paragraph 8(b)) transfer to another registrar during pendency of a UDRP proceeding?

Less than 25%	2
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	2
Total	4

Other: Respondent #	Response
1	Less than 5%
2	This only happened in cases where the registrar provided verification but did not expressly confirm locking.

13. In what percentage of UDRP proceedings that you have administered are you aware of a registrar's confirmed domain name lock having failed to prevent an apparently prohibited (e.g. under UDRP paragraph 8(a) transfer of a domain name registration to another registrant.

Less than 25%	2
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	2
Total	4

Respondent #	Response
1	Less than 5%
2	This only happened in cases where the registrar provided verification but did not expressly confirm locking.

14. In what percentage of UDRP proceedings that you have administered are you aware of a registrar's confirmed domain name lock having failed to prevent modification of any materially relevant WHOIS data, e.g. registrant contact information?

Less than 25%	3
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	1
Other, including your best available estimate if appropriate, please specify	0
Total	4

15. In approximately what percentage of UDRP proceedings that you have administered are you aware of a "privacy" or "proxy" registration service appearing in the Whois at the time of filing and being named as Respondent in a filed Complaint, in which the registrar discloses an "underlying" or "actual" registrant and confirms lock on that basis, in response to your registrar verification request?	
Less than 25%	2
Between 25% and 50%	2
Between 50% and 75%	0
More than 75%	0
Requested data not available	0
Other, including your best available estimate if appropriate, please specify	0
Total	4

16. In approximately what percentage of UDRP proceedings that you have administered are you aware of a registrar's confirmed domain name lock pursuant to a UDRP proceeding having apparently prevented expiration (e.g. registrar confirms no further steps necessary to keep domain name "active" and subject to UDRP proceedings) of a domain name that passes its expiration date (without renewal) while a UDRP proceeding is pending (or in the 10/15 day "wait period" thereafter) (e.g. registrar does not appear to require payment by either UDRP party pursuant to the Expired Domain Deletion Policy (EDDP) to keep the disputed domain name "active" and subject to the UDRP proceeding)?	
Less than 25%	3
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	1
Other, including your best available estimate if appropriate, please specify	0
Total	4

17. If the UDRP proceeding is decided in favor of the complainant, in approximately what percentage of cases are you aware of the registrar or the registrar's lock having hindered transfer of the domain name to the complainant after the 10 day "wait period" expires?

Less than 25%	1
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	1
Other, including your best available estimate if appropriate, please specify	2
Total	4

Other: Respondent #	Response
1	the lock is never the issue. Unlocking is part of the transfer process. Either a Registrar responds or doesn't.
2	It is very rare that the registrars do not comply with the decision at all (less than 5 % of cases), however there are many cases where they wait for much more than 10 business days (estimation of 25%-50% cases) to implement the decision.

18. If the UDRP proceeding is decided in favor of the registrant, in what percentage of cases are you aware of where the registrar would not have unlocked the domain name once the 15 day 'wait' period has expired?

Less than 25%	3
Between 25% and 50%	0
Between 50% and 75%	0
More than 75%	0
Requested data not available	1
Other, including your best available estimate if appropriate, please specify	0
Total	4

19. Are there any other issues or information the WG should take into account as part of its deliberations?

Respondent #	Response
1	1. Question 18: the wait period is 10 calendar days, not 15 days. And I'm not aware of a registrar EVER failing to unlock when a respondent has prevailed. 2. While the percentage of lock hassles might be relatively few, the time, hassle, and cost for complainants and the Provider in dealing with the issues far eclipses (by orders of magnitude) the time, cost, and effort required for a case that doesn't present a problem. 3. The biggest problem is NOT the effectiveness of the lock once it's in place, or the fact that the domain name has to be unlocked to transfer. The biggest problem is Registrars taking many days to lock (coupled with the fact that complainant has to serve respondent)--THIS is the deadly combination that breeds cyberflight and wastes everyone's time.
2	In addition to issues rasied and information supplied during Working Group deliberations as a WG member, and as a UDRP provider in response to this survey, WIPO stands ready to provide additional (including more statistically detailed) provider data (as also mentioned at the Prague meeting seesion) if considered helpful by the WG to further assist its deliberations.

20. Whether the creation of an outline of a proposed procedure, which a complainant must follow in order for a registrar to place a domain name on registrar lock, would be desirable.

1	I do not think this will be helpful. The complainants do not request the lock and many are not as sophisticated as their frequent-filer counterparts. The providers may be asked to follow a specific format, etc., (we currently use a specified list of email addresses provided by ICANN), but requiring complainants to jump through more hoops will not be helpful.
2	Yes,it would be helpful, if such an outline of procedure is simple and can be easily followed by a complainant.
3	It is first of all questionable if it is indeed the complainant who should take the steps. Currently, it is the UDRP provider who asks for the locking of the domain name. Most UDRP providers require the complainants to provide the registrar with a copy of the complaint, however the Czech Arbitration Court does not have such a requirement in its Supplemental Rules so it is the provider from whom the registrar learns for the first time that an administrative proceeding has been initiated. We believe that the current system where the providers notify registrars of filed complaints and ask them for verification and locking the domain name works well and in addition, the registrars are thereby required to communicate with 4 providers only. If the locking of the domain name is to become an obligation of the complainant, registrars might be facing a lot of various notices which might not necessarily follow the same pattern and structure. Moreover, the providers will need to address the registrar anyway in order to verify contact details of the respondent (domain holder) therefore the registrars would have to react to two different requests. To sum up, creating a procedure to be followed by the complainant could constitute an additional burden not only for the complainants but also for the registrars. It is recommendable that any procedure that will be developed regarding locking of the domain name should be as simple as possible so that the risk of non-compliance of the registrars is minimized.
4	With respect to questions 20 to 25, the WIPO Center stands ready to continue to contribute our time and UDRP experience directly as a participating member of the WG.

21. Whether the creation of an outline of the steps of the process that a registrar can reasonably expect to take place during a UDRP dispute would be desirable.

1   I think this would be very helpful and I'd be happy to participate in that. (NAF)

2   Yes.

3   That would be a good step in our view as it is probable that a lot of instances of registrars´ misconduct that occurs in relation to UDRP are not caused by "bad faith" but simply as a result of a lack of information about the procedure. In addition, ICANN staff did work on the creation of the registrar best practices regarding UDRP in the past (discussed on Sydney ICANN meeting back in 2009). This document could possibly serve as a starting point for this process.

22. Whether the time frame by which a registrar must lock a domain after a UDRP has been filed should be standardized.

1   Yes, that would be helpful. UDRP cases often take as few as 40 days. When you have a registrar taking 5-10 days to reply, you can see that the provider and the parties are not the holdup.

2   Yes.

3   That would probably help the UDRP providers to comply with their obligations under UDRP a lot. The provider has 3 days of the payment of the fee to notify the complainant of any administrative non-compliance of the complaint. If the complaint is administratively compliant, the provider should commence the proceedings (notify the respondent of the proceeding) within the same timeframe. It would be advisable to have the domain name locked before the proceeding is announced to the respondent so that the cyberflight is prevented.

23. Whether what constitutes a "locked" domain name should be defined.

1   Absolutely. This would help reduce angst by all parties.

2   Yes, it should.

3   Given that the word "lock" could be confusing as to whether it only concerns the transfers to different registrant or registrar or the use of the domain name as well, clarification of the term should be a prerequisite for creating any rules regarding lockage.

24. Whether, once a domain name is 'locked' pursuant to a UDRP proceeding, the registrant information for that domain name may be changed or modified.

1   The registrant information should not be changed. ICANN characterized the registrant data in the Whois to be the "registrant." Changed data indicates a change in ownership or transfer and is treated by panels as cyberflight. Re-defining a "transfer" may be beyond the scope of this WG.

2   The registrant information should not be changed.

3   It should be noted that the change of registrant's details after lockage is rarely a practical problem. Usually, the change is made in cases where the domain name is originally registered in the name of a privacy/proxy registration service and as soon as the registrar is notified of the proceeding the privacy shield is removed and the whois data are changed to those of the actual registrant. Then, the providers do not usually check the whois data regularly during the proceedings so if changed, the provider (and the panel) is not likely to find out. Therefore it would be better if there was a rule that the change after locking of the domain name is not allowed as there would be no risk of any change unnoticed by the panel.

25. Whether additional safeguards should be created for the protection of registrants in cases where the domain name is locked subject to a UDRP proceeding.

1   Cannot answer that as I am not sure what the dangers (from which registrants must be protected) are.

2   If the domain name may be locked upon the notification by the complainant to the registrar and without confirmation by a UDRP provider that the complaint has been filed properly under the UDRP, The Rules and Supplemental Rules (i.e. it is an applicable dispute and the fees have been paid accordingly), additional safeguards may need to be created to protect the registrant.

3   It would be good to have an example so as to better understand what kind of safeguards the drafter of the questionnaire had in mind. We suppose that the question is if the registrants could possibly face ungrounded locking (e.g. in instances of reverse domain name hijacking) and if there is a way how to prevent such situations. Unfortunately it is highly difficult as the question of whether the locking is grounded or not is resolved only in the UDRP decision. If anyone (the registrar, the provider or the panel) would be required to address it earlier, it would be necessary to estimate the result of the dispute in advance which is not only impossible but inappropriate as well.