

Domain Name Dispute resolution

Africa Internet Summit – Nairobi - KENYA

ICANN Day

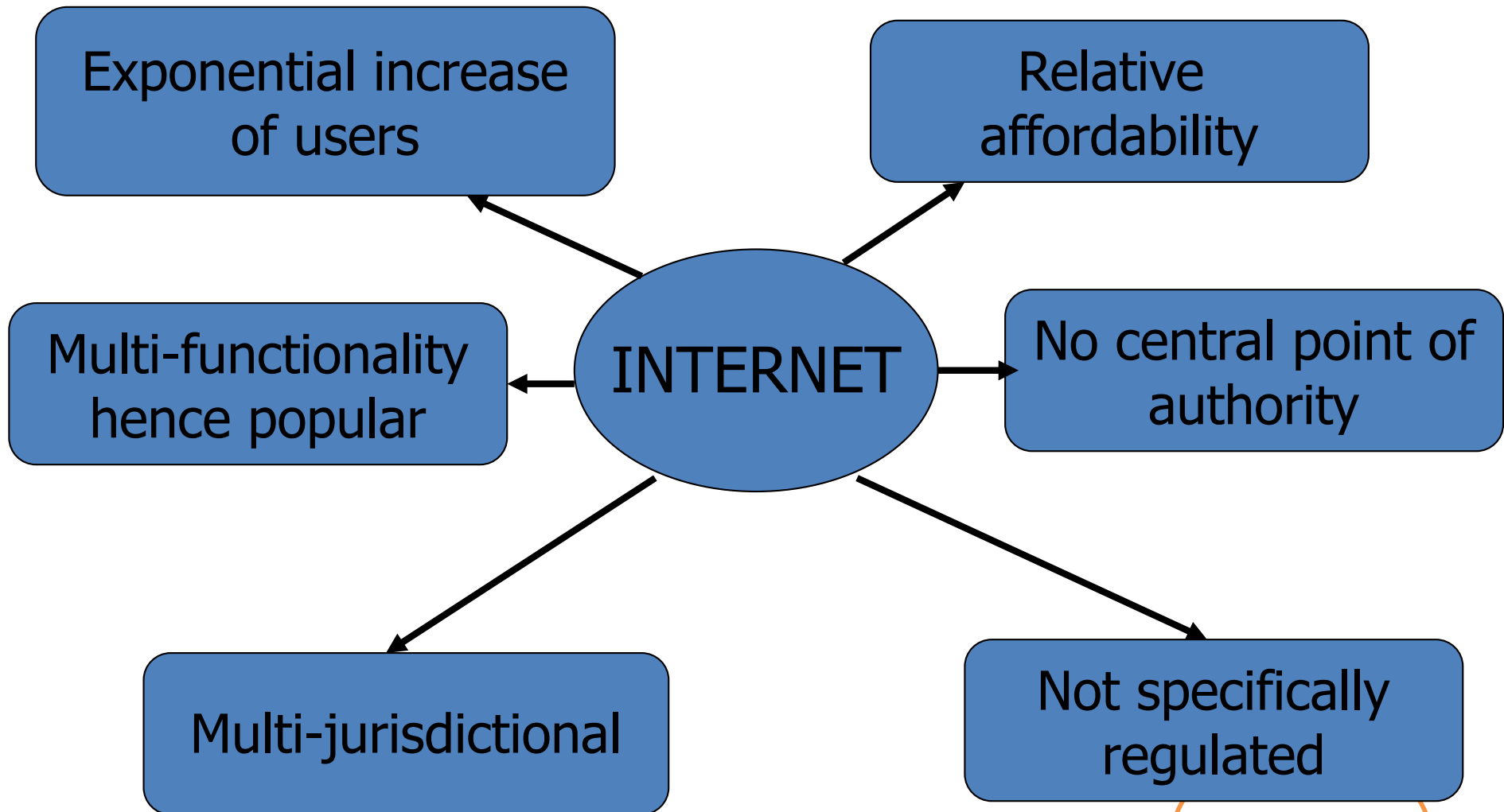
27 May 2017

**Dr Alex Corenthin, Chair EXCOM
Africa Top Level Domains Organization**

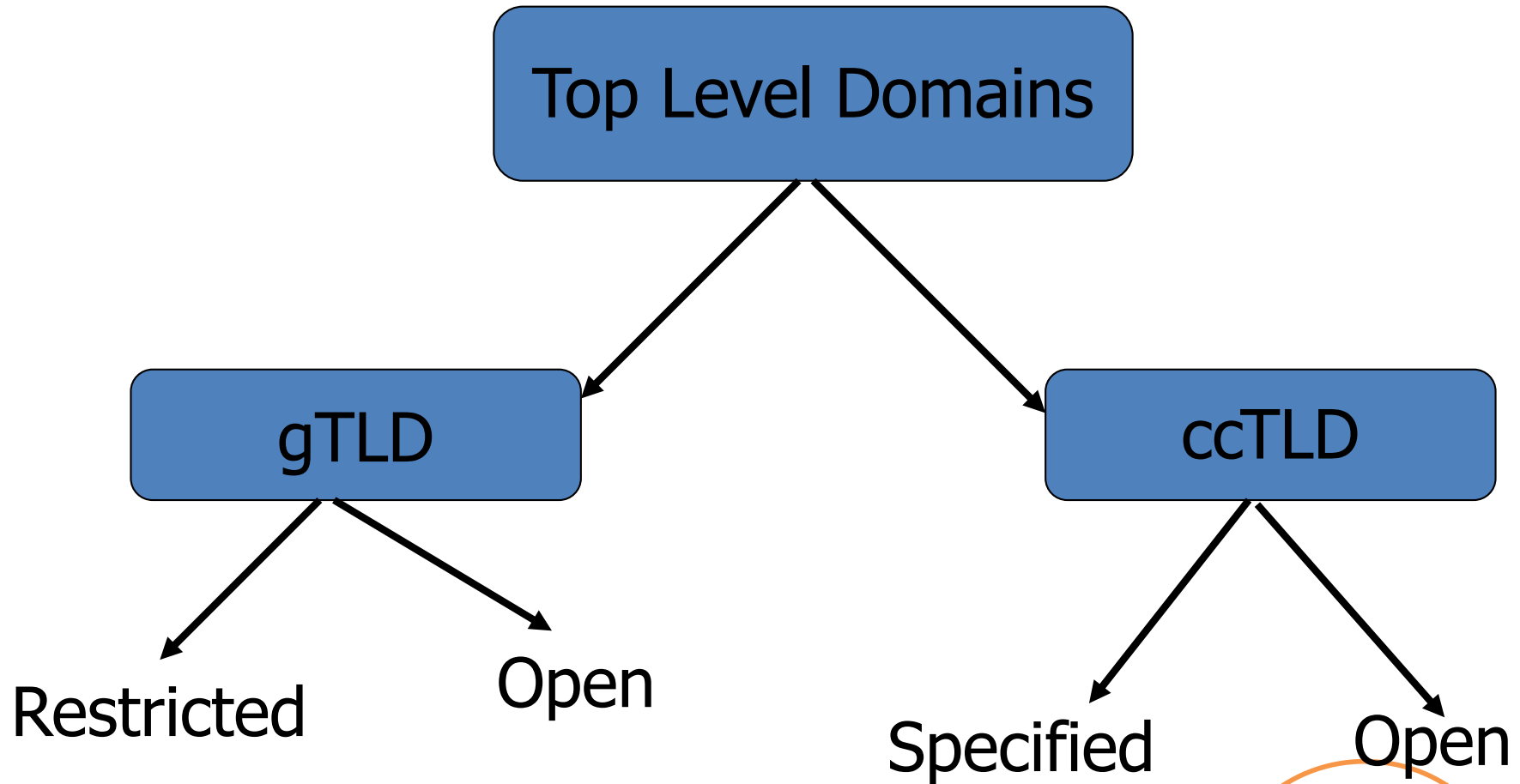
Home of Africa National TLDS



The Domain Name System (DNS)



The Domain Name System (DNS) policies



Domain Name and Business

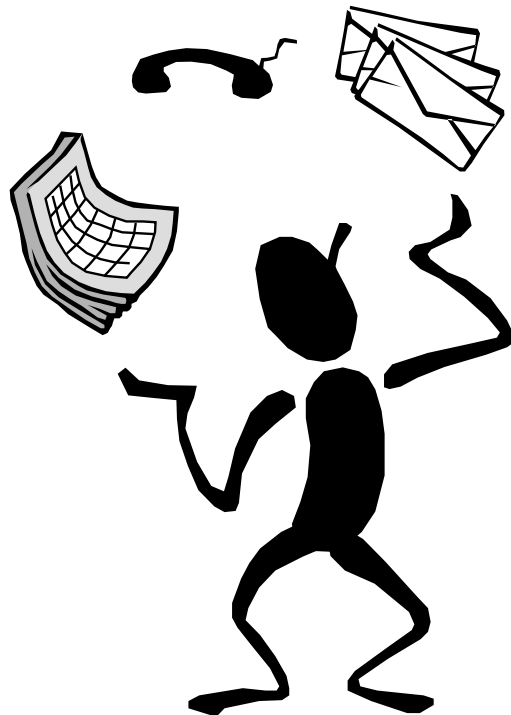
- A Domain name can be a short-cut to *branding*
- Potential of reaching *new markets* increases
- Companies take *extra efforts* to acquire and promote their domain names
- The explosive growth of the Internet leaves *fewer good names* from which to choose.



Relevance of IP

Tension between

Addresses on the internet (power of connotation and identification)



Trademarks, personality rights, Geographical indication (rights of Identification)

Domain Name System

Intellectual Property System



Relevance of IP

Trademark

- Territorial registration and application
- Different classes
- Examination and opposition
- Goods and services in commerce

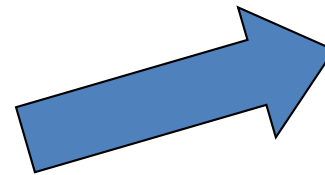
Domain Name

- First come first served
- One unique registration
- Application across jurisdictions
- In principle, no examination
- Broad use

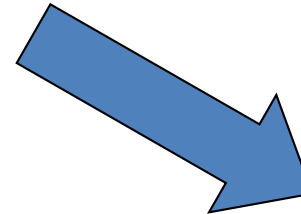
Domain Name Dispute Resolution



Options



Courts



Administrative
procedure



Domain Name Dispute Resolution

- Filing a claim before a court
 - You need a *lawyer*
 - *Lodge a complaint* against the *cybersquatter*
 - Interim measure (*injunction*)
 - Process can be *extremely long*
 - **Won't be able to use your DNS until the end of the process**
 - **The cost of waiting can be extremely high in business term**



Domain Name Dispute Resolution

- WIPO Arbitration and Mediation Center
 - Established *1995*
 - To provide services for the *resolution of commercial dispute* between private parties *involving IP* , through procedure other than court litigation



Domain Name Dispute Resolution

- Administrative procedure: The Uniform Domain Name Dispute Resolution Policy (UDRP)
 - Adopted by *ICANN* effective December *1999*
 - Applicable to *gTLD*
 - May be used by *ccTLD* through voluntary adoption
 - Both parties can *go to court* after UDRP
 - Remedies: *Transfer* or *cancellation* only; No *monetary* damages



Domain Name Dispute Resolution

UDRP procedure is designed for DNS disputes that meet the following cumulative criteria



- **Trademark identical or confusingly similar to domain name**
- **Registrant has no rights or legitimate interest in DN**
- **DN registered and used in bad faith**

Domain Name Dispute Resolution

- **WIPO UDRP** Implementation
 - Web site including *model complaint* and *model response*
 - *Online* case filing and communication (*e-mail and web forms*)
 - *Multilingual* case administration
 - *Non-profit* fees (btw US \$ 1'500 - 4'000)
 - *Impartial* WIPO Panelists



Domain Name Dispute Resolution

- WIPO UDRP Panelists
 - 1 - 3 *independent* and *impartial* (appointed by WIPO)
 - *Intellectual Property* and *Internet specialists*
 - Posted detailed *resumes*
 - *More than 1000* members
 - *Multilingual* capacity (speaking 33 languages amongst them)

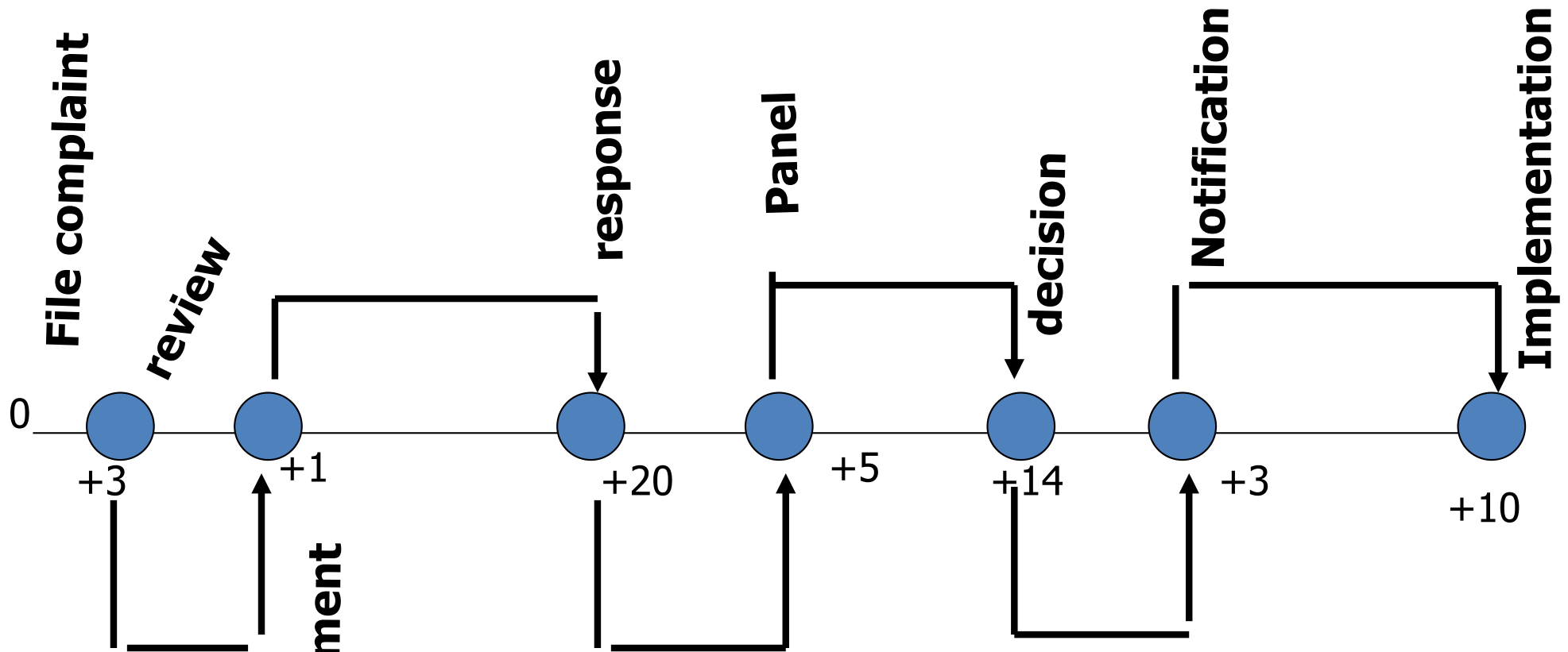


Domain Name Dispute Resolution

- Procedure
 - Complainant files *complaint* with dispute resolution service provider e.g WIPO Center
 - Provider *notifies* DNS registrant of opportunity to respond
 - Provider appoints *independent panel* from list
 - Panel *decides* based on common principles
 - Registrar *implements* panel decision



Domain Name Dispute Resolution



Visual Model of the Procedure



Domain Name Dispute Resolution

- Advantages of UDRP process
 - *Global scope*
 - *Time - and Cost Effective*
 - *Enforceable Decisions*
 - *Transparent*
 - *Without Prejudice to Court Adjudication*



Conclusion

- DN names have *evolved* into strong *business identifiers*
- The potential of *trademark* and other business identifiers being *infringed* have *increased* with the increase popularity of *Internet*
- Basically *two options* are available to settle DN/TM conflict
 - Litigation in *court*
 - *Administrative* procedure



Conclusion

- The *UDRP* offers a *less expensive* option for parties involved in DN/TM dispute
- WIPO's Arbitration and Mediation Center provide services for DN dispute resolution

- More information,

<http://www.wipo.int/amc/en/domains/>



Thank You

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