

January 20, 2009

Mr. John Jeffrey  
General Counsel, ICANN  
Internet Corporation for Assigned Names and Numbers  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601  
USA

Dear Mr. Jeffrey:

The National Arbitration Forum (“the Forum”) wishes to comment upon the letter sent to you by WIPO (World Intellectual Property Organization) on December 30, 2008 regarding the implementation of an eUDRP (“the WIPO letter”). The WIPO letter sets forth several reasons why ICANN should adopt an improved, modern, green eUDRP process, provides a red-lined copy of the UDRP Rules with suggested changes, and follows up with a proposed set of WIPO Supplemental Rules that purports to create an eUDRP should ICANN choose to refrain from implementing WIPO’s suggestion.

The record is clear that the Forum strongly favors a paperless UDRP process. Over the past ten years of handling UDRP cases, the Forum has seen the paper filing requirements become increasingly burdensome, costly, and unnecessary in this digital age. The Forum agrees with the reasons set forth by WIPO as to why ICANN should consider permitting the UDRP to be amended to eliminate the paper requirement. The Forum anecdotally notes that the statistics provided by WIPO regarding the time delay, the number of pages sent, the accuracy of email communications, and party desire, are in line with our observations. We set forth an additional reason why we would like to encourage ICANN to adopt an eUDRP process: it has effectively fallen on the Provider to provide the number of copies needed in any given case, as can be seen in the two situations below.

1. The UDRP requires a “formalities” or “deficiency” check before a Complaint can be accepted by the Provider and served on the Respondent (UDRP Rule 4). In over 90% of cases (anecdotally), the Complaint has at least one “deficiency” that needs to be corrected. Because the time period proscribed under the Rules is 5 days to submit the Amended Complaint, and because some amendments take several rounds of discussion with a case coordinator, it is frequently impossible for a Complainant to submit hard copies of the Amended Complaint as finally

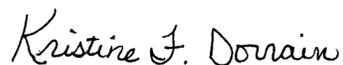
- accepted. To that end, the Forum currently takes on the role to print the needed copies of the Amended Complaint.
2. For a variety of reasons, there are often many addresses associated with a Respondent. The number of copies provided by the Complainant is rarely sufficient to serve the Respondent and retain a copy each for the Panel and the Provider's files. As a result, the Provider is frequently left making the necessary copies to achieve service as required under UDRP Rule 3.

It is the Forum's belief that this was not the intent of the UDRP. The Forum believes that the deficiency period was intended to include time for Complainant to provide the new hard copies and that the Providers were given latitude to request copies as needed in their Supplemental Rules. However, the short timelines of the UDRP are NOT conducive to handling postal mail from around the world on such a short turnaround time and the practical effect has been to pass this burden on to Providers.

Therefore, for the reasons set forth in the WIPO letter and the additional reasons set forth above, the Forum joins in WIPO's request for ICANN to consider a paperless UDRP process. The Forum does not object to WIPO's proposed changes to the UDRP Rules but offers its services to serve on a committee to analyze any proposed UDRP changes should ICANN wish to investigate this further. Indeed, the Forum is willing to undertake heading up such a global committee should ICANN determine it would be beneficial.

The Forum further notes WIPO's proposal to simply cause the same effect by amending its Supplemental Rules and has not yet determined if it intends to follow suit.

Best regards,



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