

IPC Comments on WIPO eUDRP Proposal

Submitted August 5, 2009

The Intellectual Property Constituency (IPC) supports the proposal submitted by the World Intellectual Property Organization (WIPO) on December 30, 2008, regarding the creation of a “paperless” system for proceedings pursuant to the Uniform Domain Name Dispute Resolution Policy (UDRP).¹ In particular, the IPC supports the “WIPO provisional draft amendment rules for eUDRP” submitted to ICANN on the same date.

The IPC is of the view that the preferable route forward for paperless UDRPs is via a change in the UDRP Rules rather than having each provider amend its Supplemental Rules differently to meet the “hard copy” requirement of the current UDRP Rules. Were the UDRP Rules not to be changed, we could then find ourselves with a landscape where each Provider establishes its own Supplemental Rules for e-filing, leading to an inconsistency in approach.

The IPC agrees with WIPO that a paperless UDRP process is appropriate for all of the reasons set forth in the letter accompanying WIPO’s proposal, namely, that an electronic-filing process would be more environmentally friendly, save time and costs incurred by all parties and Providers, and reflect current preferences of participants in UDRP proceedings.

Given the electronic subject matter of the UDRP, a process that eliminates the need for hard-copy filings and notices is entirely appropriate. The IPC is aware that most parties already submit documents in electronic format and that the requirement for a “hard copy” filing of the Complaint and Response (as set forth in the Rules, paragraphs 3(b) and 5(b)) is an unnecessary expense and burden on all participants in the UDRP.

Because all domain name registrants are required to maintain complete and current contact information, including an e-mail address, in their Registrar’s database (see Registrar Accreditation Agreement, 21 May 2009, paragraphs 3.3 and 3.7), a paperless proceeding will not interfere with a Respondent’s ability to receive a Complaint. (Indeed, it is the experience of IPC members that most Respondents when filing their Responses already indicate a preference for receiving documents electronically, so eliminating the unnecessary and expensive formality of hard-copy filings is consistent with current practices.)

Finally, the IPC observes that a record number of UDRP complaints have been filed with WIPO in recent years, given the rise in cybersquatting to a degree far exceeding that which existed at the time ICANN adopted the UDRP. Accordingly, the financial burden incurred by

¹ ICANN posted the WIPO proposal for public comment on July 13, 2009. See <http://www.icann.org/en/public-comment/#udrp>.

Complainants and Providers has escalated, threatening to undermine the UDRP's design as "a streamlined, inexpensive administrative dispute-resolution procedure."² UDRP Rules that eliminate the need for hard-copy filings would help to ensure that the UDRP remains true to this design.

² *Anheuser-Busch Incorporated v. Fernand Dumas a/k/a The Plant Doctor*, WIPO Case No. D2001-0651.