



The Internet Corporation for Assigned Names and Numbers

11 June 2008

Mr. Francis Gurry
Deputy Director General
World Intellectual Property Organization (WIPO)
34, chemin des Colombettes
1211 GENEVE 20 (SUISSE)

Dear Mr. Gurry,

Thank you for your letter of 16 April 2008, sharing WIPO's observations of registrar trends related to the Uniform Domain Name Dispute Resolution Policy (UDRP). I appreciate the considerable detail and dedication taken to prepare this analysis. WIPO's observations and concerns are important to ICANN and particularly timely as ICANN considers ways to enhance its services and programs.

ICANN has commenced a number of activities and initiatives to increase our efforts to enforce UDRP decisions. A website has been developed to allow UDRP service providers and parties to UDRP disputes to file complaints with ICANN. In cases where UDRP noncompliance by a registrar is clear, ICANN will commence enforcement and escalation action. This system is designed to provide timely resolution of noncompliance matters. Additionally, this system allows ICANN to capture statistics regarding the type and volume of UDRP complaints filed with ICANN. It would be extremely helpful to ICANN if WIPO staff could be encouraged to use the system, which can be accessed at the following address: <http://reports.internic.net/cgi/uir>. To ensure the continual improvement of this system, we would welcome any feedback or suggestions WIPO staff may care to provide.

You may be aware that ICANN recently sent a notice of breach to ICANN-accredited registrar Red Register, Inc. based on its failure to comply with the UDRP. Consistent with the breach provisions of the Registrar Accreditation Agreement ("RAA"), ICANN requested that Red Register, Inc. act within 15 days to cure the cited breaches. If Red Register, Inc. fails to cure the breaches cited in ICANN's notice of breach, ICANN will pursue all remedies available under the terms of the RAA, including termination.

To fully understand WIPO's concerns, ICANN staff carefully read and reviewed each of the examples noted in your letter and attachment. Of the 33 cases cited in your letter, we noted that WIPO's website indicates that 28 were resolved and registrars transferred the domain names pursuant to the UDRP decisions. However, we agree with your concerns regarding the issues you highlighted in these cases, such as registrar failure to timely lock disputed domain names, registrar failure to implement UDRP decisions and delayed registrar response, among others.

As part of its ongoing program, ICANN staff conducts analyses of UDRP complaints referred to ICANN by dispute resolution providers. The results revealed similar instances to the examples expressed in your letter such as: registrar failure to timely lock disputed domain names, registrar failure to implement UDRP decisions and delayed registrar response. We concur with your view that these issues require consistent follow through. In order to improve enforcement, ICANN plans to undertake a collaborative examination and in depth analysis with dispute resolution providers, registrars and other interested parties into these issues. We would welcome WIPO's participation in these upcoming efforts; additional information will be provided to you separately on this.

As a pre-emptive measure, ICANN is developing a registrar education plan which will include outreach events and training materials aimed to better inform registrars of their UDRP-related contractual obligations and is also developing new registrar orientation materials that will include a summary of UDRP obligations and links to related resources. ICANN's Contractual Compliance staff is developing an ongoing UDRP outreach initiative to take place in conjunction with the regional registrar/registry gatherings held by ICANN in Asia, Europe, and North America each year. Additionally, staff is hosting a UDRP Compliance workshop at the ICANN 2008 meeting in Paris and I understand WIPO has been invited to attend this workshop in addition to other interested parties.

In an effort to enhance contractual compliance efforts to focus on registrars that consistently violate the terms of the UDRP, we have increased staffing levels to conduct registrar audits and oversee enforcement of the UDRP. I understand the contractual compliance team has been in contact with WIPO staff to gain a better understanding of, and be more responsive to, WIPO issues related to the UDRP.



ICANN is committed to ensuring that the UDRP remains a viable avenue for resolution of domain name trademark disputes and we believe the measures described in this letter will help work toward this outcome. In addition, ICANN has also committed greater resources in the next fiscal year to the contractual compliance function, in order to enable ICANN to aggressively address UDRP concerns. The budget can be viewed at <http://www.icann.org/financials/proposed-opplan-budget-v2-fy09-17may08.pdf> and is open for public comment. WIPO's input to this process, and support for the contractual compliance resource commitment in particular, would be welcomed.

ICANN appreciates and respects the work WIPO does in this area and I hope that our organizations will continue to work closely on this issue. Your letter has been posted on ICANN's website as requested as will my reply to you.

Please contact me should you have questions or wish to discuss this matter further.

Yours sincerely,

A handwritten signature in black ink that reads "Paul Twomey".

Paul Twomey
President & CEO
Internet Corporation for Assigned Names and Numbers