

Preliminary Issue Report on the Current State of the UDRP

CADNA appreciates the opportunity to provide its comments and share its perspectives on the Preliminary Issue Report on the Current State of the UDRP. As a coalition of brand and trademark owners, the Uniform Dispute Resolution Policy (UDRP) is of particular importance to CADNA considering the role that it has played in addressing the problem of cybersquatting. At this point in time, CADNA supports the recommendation in this report that the GNSO Council not initiate a policy development process on the UDRP. As stated in the report, the UDRP has been in effect for over 10 years and, while not perfect, has successfully offered brand and trademark owners a much less expensive alternative to costly litigation for resolving domain name disputes.

The majority of the conclusion not to initiate a policy development process on the UDRP was based on a Webinar on the Current State of the UDRP (UDRP Webinar), which was conducted in order to solicit valuable feedback and information from UDRP experts and representatives from a broad cross-section of stakeholders. CADNA participated in the UDRP Webinar as an attendee and noted that a strong majority of the Webinar speakers were of the same opinion as CADNA, stating that the UDRP is a respected and expedient alternative to traditional litigation and an effective and fair means of resolving trademark disputes. The UDRP is also a model that has evolved to reflect the collective wisdom developed by the providers, panelists, complainants and respondents as recorded in the resulting decisions and commentaries.

CADNA does not deny that issues with the UDRP have been identified and raised by the ICANN community, but these are largely procedural issues having to do with various UDRP processes and are not significant enough to merit a policy development process. CADNA and others' main concern is that a review of the UDRP at this point in time could do much more harm than good, particularly considering that such a review could coincide with the launch of ICANN's new generic top-level domain (gTLD) program. The dramatic expansion of TLDs, coupled with a destabilized UDRP, could have devastating effects for brand and trademark owners and create a host of new opportunities for cybersquatters.

For all of the above reasons, CADNA strongly supports the Staff Recommendation against initiating a PDP on the UDRP at this time. With the looming launch of new gTLDs, ICANN's resources will be stretched thin. The UDRP is stable and effective as is, and will be a crucial tool for those hesitant to rely on new, untested rights protection measures (RPMs) such as the URS. CADNA is not arguing that the UDRP is without faults or above an eventual revision. Instead, CADNA strongly urges the GNSO to consider why registrars, not trademark owners, are pushing the hardest for such a revision and how they would benefit, the timing with regard to the launch of new gTLDs, and the devastating effects that a revision could have on the domain name dispute resolution process.