

Brussels, 25 November 2013

ECTA SURVEY ON NATIONAL DOMAIN NAME ADRs, and on UDRP

Introduction

ECTA, the European Communities Trade Mark Association, was formed in 1980. ECTA numbers approximately 1.500 members, coming from the Member States of the European Union with associate members from all over the world. It brings together all those persons practising professionally in the Member States of the European Community in the field of trade marks, designs and related IP matters. These professionals are lawyers, trade mark advisors, trade mark attorneys, in-house counsel and others who can be considered specialist practitioners in these areas.

Over the past year, the ECTA Internet Committee prepared a survey on National ADR Systems for solving conflicts between trade marks and domain names. The ECTA Internet Committee has agreed upon drafting a new survey to reflect the changes that have occurred in the different countries. Moreover, the Survey contains references to the UDRP.

The Committee Members were asked to provide their short answers to the questions listed below. Members outside the EU have also contributed to the survey in relation to their specific country.

Survey:

1. *Do you have ADR or mediation procedures in your country to solve domain name disputes?*
 - AT – No.
 - BE – Yes.
 - BG- Yes.
 - CY- Yes.
 - CZ - Yes.
 - DE - No.
 - DK – Yes.
 - EE – Yes.
 - ES – Yes.
 - FI – Yes.
 - FR – Yes.
 - GR – Yes.
 - HR – Yes.

- HU – Yes.
- IE – Yes.
- IT – Yes.
- LT – No.
- LV – N/A.
- MT – No.
- NL – Yes.
- PL – Yes.
- PT – Yes.
- RO - Yes. Mediation with the Register for the .ro domain names (ROTLD), managed by the National Institute for Research-Development in Informatics - Institutul National pentru Cercetare - Dezvoltare in Informatica, in Romanian language – (ICI) (in practice, mediation is not used), and arbitration under the Uniform Domain Name Dispute Resolution Policy (UDRP) are both available.
- SE – Yes.
- SK – No.
- SL – Yes.
- TK There is not a proper ADR procedure. However there is a DNS Working Group within METU (Middle East Technical University). DNS Working Group examines oppositions filed against “.tr” domain names and other third parties's petitions challenging the legitimate right of the domain name proprietor.
- UK – Yes.
- US - No.
- UDRP: The UDRP is typically applicable to second-level domain name registrations in the following gTLDs: .aero, .asia, .biz, .cat, .com, .coop, .info, .jobs, .mobi, .museum, .name, .net, .org, .pro, .tel and travel. Moreover, several ccTLDs have elected to have their disputes regulated under the UDRP.

2. What are the applicable rules? Please provide the relevant internet address

- AT - N/A.
- BE - <http://www.cepani.be/EN/>
- BG - <https://www.register.bg/user/static/rules/en/index.html> : an arbitration proceeding before the local domain name registration agency- Register.bg.
- CY - www.leginet.net
- CZ - http://domeny.soud.cz/adr/adr_rules/index.php
- DE - N/A.
- DK - https://www.dk-hostmaster.dk/fileadmin/filer/pdf/DIFO/rules_complaint_board.pdf
- EE- http://www.eestiinternet.ee/upload/files/Rules_of_the_Domain_Disputes_Committee.pdf
- ES - <https://www.nic.es/media/2007-12/1197031617037.pdf>
- FI - The process is stipulated by law, namely Domain Names Act. Please see

<http://www.finlex.fi/en/laki/kaannokset/2003/en20030228?search%5Btype%5D=pika&search%5Bpika%5D=domain%20name>

- FR - On November 21st, 2011 AFNIC presented its new Alternative Dispute Resolution procedure aimed to .fr domains: SYRELI: http://www.afnic.fr/medias/documents/Reglement_du_Systeme_de_resolution_des_litiges_VA.pdf

This procedure, which takes its inspiration from the former AFNIC procedure known as PREDEC, is based on principles similar to UDRP's:

The complainant has the onus to prove:

- that he has a valid interest to act and,
- that the domain name involved in the dispute is liable to infringe intellectual property rights or personal rights, and that the owner has no legitimate interest and is acting in bad faith.

Based on additional provisions, a complaint can be filed when a domain name:

- is likely to undermine public order or morality or the rights guaranteed by the Constitution or by law,
- is identical or is related to the name of the French Republic, of a local authority or of a group of local authorities or the name of an institution or of a national or local public service, provided the owner has no legitimate interest and is acting in bad faith.
- The complainant claims either the transfer or the deletion of the domain name.
- The procedure is online. A panel (consisting of 3 AFNIC members) issues its ruling within two months of receipt of the complete dispute file.
- The examination fee is set at €250 excl. VAT, and is paid by the complainant.
- The procedure will apply to the .fr TLD, and to the overseas extensions managed by AFNIC, from December 6, 2011.

Remark: All domain names created or renewed after July 1st, 2011 may be subject to a SYRELI, including domain names registered by non EU companies, before December 6 (i.e. on the basis of a Trademark valid in France). In such a case, should a SYRELI Complaint be filed against the domain name, the lack of eligibility may be retained against the domain name owner by AFNIC (while they maintain such registrations!). The registry position is not defined yet. Nevertheless, in order to avoid any risk, it is recommended to the domain names owners who will not be eligible anymore as from 6 December 2011, to transfer their domain names to an eligible partner. AFNIC will introduce another alternative dispute procedure, delegated to an external provider. There is no available information on the deadline for introducing this additional procedure.

- GR- http://www.eett.gr/opencms/export/sites/default/admin/downloads/telec/apofaseis_eett/kanonistikes_apofaseis_eett/AP_536_175_2009.pdf
- HR - <http://www.dns.hr/en/disputes>
- HU- <http://www.domain.hu/domain/English/adr/> ;
<http://www.domain.hu/domain/English/szabalyzat/szabalyzat.pdf>
- IE - <http://www.wipo.int/amc/en/domains/>

- IT - <http://www.nic.it/legale/regolamento-dispute-e-linee-guida-legali>
- LT- There are no Lithuanian laws specifically dealing with illegal and unfair use of trade marks in domain names. There is no possibility to solve the domain name disputes in pre-trial institutions such as arbitrage in the Republic of Lithuania. Therefore, only the civil court proceedings regarding domain name dispute could be started. Considering the Lithuanian court practice in the domain name disputes, the disputes are solved applying analogy with Commission regulation (EC) No 874/2004, laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration. Article 21 of the Regulation states that a registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or Community law, and where it:
 - has been registered by its holder without rights or legitimate interest in the name; or
 - has been registered or is being used in bad faith.The court action may also be based on Trademark Law of the Republic of Lithuania and Law on Competition of the Republic of Lithuania.
- LV – N/A.
- MT - N/A.
- NL - <https://www.sidn.nl/en/about-nl/disputes-and-complaints/infringement-of-rights/>
- PL- http://www.piit.org.pl/_gAllery/50/11/5011/Regulamin_Sadu_Polubownego_maj_2008.pdf
- PT - <https://www.dns.pt/en/regras-de-dominios> and https://www.arbitrare.pt/en/sub_regulamentos.php?id=47
- RO- For the ADR procedure, see <http://www.icann.org/en/udrp/udrp.htm>. For the Mediation procedure with ROTLD (<http://www.rotld.ro/>) no specific rules are provided.
- SE - <https://www.iis.se/>
- SK - <https://www.sk-nic.sk/documents/pdf/pravidla.1.6.2011.pdf>
- SL - http://www.registry.si/fileadmin/dokumenty/register/ENG/ADR/b_ARDS-ang-v3.pdf
- TK- <https://www.nic.tr/forms/politikalar.pdf?PHPSESSID=13160252286624971216658258>
- UK- www.nominet.org.uk/disputes
- US - N/A.
- UDRP <http://www.icann.org/en/udrp/udrp-rules-24oct99.htm>

3. How do you detect the domain name owner if it is undisclosed?

- AT - The owner's name and street address must appear in the WHOIS.
- BE - Apply for the disclosure of data with the Registrar (DNS.BE).
- BG - Data must be disclosed.
- CY - All data must be disclosed.

- CZ- Under CZ.NIC rules: (http://www.nic.cz/files/nic/doc/Registration_rules_CZ_20121201.pdf) the name of holder of the “.cz” domain must be disclosed and can be found at WHOIS.
- DE - The owner’s name and street address must appear in the WHOIS. The Registrar (Denic) is entitled to cancel the domain name registration if the owner contact details are incorrect.
- DK - The owner’s name must appear in the WHOIS.
- EE - The owner’s name and e-mail address must appear in the WHOIS.
- ES - At the very least, the owner’s name and e-mail address must appear in the WHOIS.
- FI - The owner’s name must appear in the WHOIS. Also, the claims are made to FICORA which will forward the same to the domain name owner ex officio.
- FR - Apply for the disclosure of data with the Registrar (AFNIC).
- GR - The WHOIS only provides information regarding the use of the domain name and the responsible Registrar. An application for the disclosure of data has to be filed before the National Telecommunications Committee.
- HR - The owner’s name must appear in the WHOIS.
- HU - The owner’s name must appear in the WHOIS.
- IE - The owner’s name must appear in the WHOIS.
- IT - Apply for the disclosure of data with the Italian NIC. In order to obtain the relevant information, the applicant must prove a legitimate interest.
- LT- The e-mail address of the trademark owner must appear in the WHOIS database. The other information is either released on a voluntary basis by contacting the domain name owner using its e-mail address, or through a court order.
- LV - If the holder of the domain name is a legal entity, the holder’s name must appear in the WHOIS. If the holder is an individual, it is possible to apply for disclosure of information by submitting an attorney’s request.
- MT- The e-mail address of the trade mark owner must appear in the WHOIS database. The other information is either released on a voluntary basis by contacting the domain name owner using its e-mail address, or through a court order.
- NL - The owner’s name and e-mail address must appear in WHOIS
- PL - Apply for the disclosure of data with the Registrar.
- PT - The owner’s name and street address must appear in the WHOIS
- RO- Apply for the disclosure of data with the local Registrar (ROTLD). The applicant must prove an interest. Whenever the owner is an individual, his/her personal data are not disclosed.
- SE - The owner’s name must appear in the WHOIS.
- SK - Under SK-NIC rules, the name of holder of the “.sk” domain name must be disclosed and can be found at WHOIS.
- SL - If company/organization is the domain name owner, WHOIS displays all the relevant data. If Domain name owner is a natural person, only e-mail address is disclosed and the owner must be informed of the possibility of creating and using a special function electronic mail address for publication in WHOIS. Third parties may

be supplied with domain owner data only (a) if the owner explicitly consents to the supply of the data, (b) if such request is made by an official body based on its binding decision, (c) if the disclosure of data is requested by the arbiter of ADR and (d) if a substantiated request for supply of data is filed. The latter should contain grounds for disclosure of data incl. documents, proving commencement of court, arbitration or other official procedure or ADR procedure. Declaration, that in the event of granting the request, the party will only use data obtained for the well-founded reasons given, and accepting criminal and civil liability for such use, should also be included in the request.

- TK - The owner's name must appear in the WHOIS.
- UK - Nominet maintains a WHOIS database but non-trading individuals may opt out from having addresses published in it. Nominet will forward complaints to the address given by the registrant to Nominet for that purpose, and if no response is filed by a registrant, a complainant may request summary transfer of the domain name.
- US - The Department of Commerce requires providing full WHOIS information for each registered domain name.
- UDRP If the information is not available in WHOIS, the Complainant uses the information listed for Registrar. Upon receipt of the Complaint, the Registrar typically discloses the owner, and the Complaint is amended accordingly.

4. What earlier rights can be claimed against a domain name registration?

- AT - Any trade mark rights, company name rights, business designation rights, work title rights, name rights, unfair competition, etc.
- BE - Registered trade marks, company names, trade names, protected geographical status (designations of origin, geographical indications), personal names, names of geographical entities.
- BG - REGISTRANT's name; registered trade mark or geographic designation, or any such in process of registration before the Patent Office of the Republic of Bulgaria; Registered name of a publication (for example with an ISSN or ISBN); Name of a program or a project of the state, regional, or municipal administrations and institutions of an EU member state; Name, acquired by the REGISTRANT according to issued licenses, valid on the territory of the Republic of Bulgaria; Consortium or non-personified civil society union name; Name of a media program or a show; Name of a cultural, sport, scientific or other event; Name of a coalition, initiative committee or other name, used by a candidate for a campaign in parliamentary, presidential or local elections; Name to use in connection with a franchising contract; Name of any artistic form of group formed and registered in accordance with Article 83 of the Copyright and Similar Rights Act; Name of a categorized tourist site; Name of a construction site; Name of a vessel. All earlier rights may only be invoked if the disputed domain name is "unprotected" according to the General Rules of Register.BG. Earlier rights may be invoked even if the domain name is protected if it is shown that the same predate the grounds for protection of the "protected" domain, and the registration of the later domain may therefore lead to confusion.

If the domain name is “protected” (= a domain name for which documents have been presented during the registration by the REGISTRANT, certifying grounds to use the LABEL according to the Terms and Conditions of Register.BG or the DOMAIN NAME has been registered and continuously supported for more than 5 years) it may only be contested if the REGISTRANT has presented documents containing incorrect data or the DOMAIN NAME itself is an “INAPPROPRIATE LABEL” (=obscene and/or abusive words or combinations of words, as well as any LABEL contrary to public interest and the good manners; LABEL which can cause confusion)

- CY - Registered trade marks, trade mark applications, company names, trade names, personal names, geographical indications, domain names either registered or pending (in the latter case, a preference is given to Registrants who actually carry on business in Cyprus), names identifying a branch, group, activity, professional or business sector.
- CZ - Registered trademarks, rights based on unfair competition, company names personal names, domain names etc.
- DE - Any trade mark rights, company name rights, business designation rights, work title rights, name rights, unfair competition, etc.
- DK - Registered trade marks, unregistered trade marks, company names, trade names, personal names; domain names, if they are used.
- EE - Registered trade marks, company names if registered in Estonia, trade names if registered in Estonia, personal names; names of the state, local authorities and their agencies; names of international and intergovernmental organizations.
- ES - Registered trade marks, company names, trade names, personal names, geographical indications, well-known personal names or pseudonyms which serve to professionally identify intellectual creators, politicians, and figures from show business or sports; official names or names generally recognised by Spanish public administrations and public bodies
- FI- Section 12 of the Domain Name Act has exhaustive provisions of FICORA's right to revoke a domain name. The Section includes several grounds for revocation. The most common ones are revocation claims that the holders of protected names or trademarks can present when they suspect that the domain name violates their protected names or trademarks. These claims concerning the violations of business names or trademarks can be divided into two categories:
 - Cases concerning a registered domain name that is an exact match of the protected name or a trademark (Section 12(3) of the Act), or
 - Cases where the domain name differs from a name or trademark by, for example, one letter or the trademark is a so-called pictorial trademark. These are so-called derivatives (Section 12(4) of the Act).

Other possible grounds for revocation:

- insufficient or incorrect information, or information that has been left out from the application submitted to FICORA;

- transfer of domain name to another without the permission of the domain name holder or the holder of a protected name or trademark;
- legal decision of a court forbids the use of the domain name;
- the domain name holder no longer exists or the legal person entered as the domain name holder has never been created;
- there are no functional name servers;
- the domain name includes insulting expressions or incites into criminal activity; and
- the storage of domain names for the purpose of redelivering them.

Section 12 of the Act includes provisions on the detailed requirements for the above-mentioned revocation grounds. Also, the legislative history of the Act includes further reasons.

- FR - Intellectual property rights, i.e. registered trade marks; well-known unregistered trade marks; names protected by copyright, designations of origin, geographical indications; and personal names, as well as the name of the French Republic, of a local authority or of a group of local authorities or the name of an institution or of a national or local public service.
- GR- Registered trade marks; company names; trade names; domain names; geographical indications; personal names, and almost any other previous right.
- HR- Any trade mark rights, company name rights, business designation rights, work title rights, name rights, etc.
- HU- Registered trade marks; company names; trade names; domain names; geographical indications; personal names.
- IE - Registered trade marks, unregistered trade marks; company names; trade names; geographical indications; reputable personal names and pseudonyms; state agency; publication names; educational institutions; politicians names; unincorporated association names; personal trading names; discretionary names.
- IT - Registered trade marks, unregistered trade marks; company names; trade names; personal names; and any other distinctive sign used in the course of trade.
- LT - Registered trade marks; well-known unregistered trademarks; company names; unregistered trade marks and unregistered trade names; geographical indications and personal names.
- LV - Intellectual property rights, i.e. trade marks (registered and well-known unregistered); names protected by copyright, designations of origin, geographical indications, personal names, as well as the names of authorities (public bodies), unfair competition, etc.
- MT- Registered trade marks; well-known unregistered trade marks; company names; unregistered trade marks and unregistered trade names; geographical indications and personal names.
- NL - Registered trade marks, trade names, personal names, names of public legal entities, or the name of an association or foundation registered in the Netherlands under which the complainant undertakes public activities on a permanent basis.
- PL - Trade mark rights, company name rights, unfair competition, copyrights, etc.

- PT - Any right on a “name or designation protected within the terms of the law in force in favour of the claimant”. At least, trade mark rights, company name rights, business designation rights, work title rights, personal names.
- RO - Trade marks, company names, trade names, personal names and other intellectual property rights, in case of mediation with ROTLD. In case of arbitration under UDRP, see the UDRP section below.
- SE - Registered trade marks, unregistered trade marks, company names, personal names and domain names.
- SK - Registered trade marks, rights based on unfair competition, company names personal names, domain names etc.
- SL - Trade marks valid on the territory of the Republic of Slovenia; company name as entered in the court register in the Republic of Slovenia; copyright as recognised by the law of the Republic of Slovenia; registered geographic designation to which the complainant is entitled under the law of the Republic of Slovenia; rights to a personal name as recognised by the laws of the Republic of Slovenia; other rights recognised under the law of the Republic of Slovenia.
- TK - Trade marks and trade names, corporation names or other designations. However, none of these rights prevail. For example, a company may register a domain name containing its trade name. On the other hand a complainant may have a registered trade mark which consists of or contains the same name. In this case the “first come first served” principle applies.
- UK - Rights enforceable by the Complainant, whether under English law or otherwise and may include rights in descriptive terms which have acquired a secondary meaning. The definition of “rights” was left deliberately loose to enable disputes that did not involve registered trade marks to be resolved by means of the informal dispute resolution and accompanying mediation service.
- US - N/A.
- UDRP - Registered trade marks, unregistered trade marks with a showing of a secondary meaning; company names with a showing of a secondary meaning (trademark use and rights must be shown); trade names with a showing of a secondary meaning; registered geographical indications or if the complainant can show rights in the geographic indicator and use as a trade mark; personal names if registered or if the complainant can show use of the name in commerce, i.e., trade mark rights; domain names, provided that they are functioning as trade marks.

5. Can an earlier domain name be claimed against a trademark application or registration. Does specific conditions apply?

- AT- N/A.
- BE- No, unless it corresponds to and can be considered as a trade name.
- BG- No, unless use of the domain name amounts to prior use of unregistered trade mark, for which shall be subsequently filed a trade mark application.
- CY- No.

- CZ- Not expressly stated by the law (Czech Trademark Act). However, one relative ground for refusal refers to unregistered sign or other sign used in the course of trade. Under this provision the earlier domain name could be classified.
- DE- No, unless the domain name has developed into a business designation, trade mark or other designation from which rights may be derived pursuant to the relevant laws.
- DK- No, unless use of the domain name amounts to trade mark use.
- EE - This possibility is not expressly contemplated by the Estonian Trade Mark Act. However, one relative ground for refusal refers to “*other prior rights*”. An earlier domain name might fall within this category and therefore be used against a later trade mark.
- ES - This possibility is not expressly contemplated in the Spanish Trade Mark Act. However, a domain name may prove helpful in order to strengthen the basis for an opposition (unregistered well-known trade mark, for instance).
- FI- Basically, no. However, if the claim was made in an opposition process or in a regular trademark infringement case, and the claimant demonstrated use of his domain name in “trademark-like” way in trade, this use may result in concluding that the domain name is also an unregistered trademark. There is case law on the subject showing that this claim may be successful under specific conditions.
- FR- No. SYRELI does not include a provision that enables to claim an earlier domain name against a trade mark application or registration.
- GR- No, unless the domain name has gained distinctive character as a non-registered distinctive sign and is being used as such.
- HR – No, unless it corresponds to registered trade marks.
- HU- No, unless the domain name has been intensively used, under the provisions of the competition law.
- IE – No.
- IT - Yes if the domain name is used for an economic purpose is known not only locally, is identical or similar to the subsequent trade mark, and is used in connection with goods/services identical or similar to those for which the trade mark has been adopted.
- LT- Yes, if the latter trade mark is registered in bad faith where the registrant knew about the existence of an earlier domain name and registered the trade mark in an attempt to benefit from the goodwill of such earlier domain name.
- LV- Yes. The Law on Trade Marks and Indications of Geographical Origin provides that a trade mark registration may be declared invalid on the basis of the domain name if the domain name has been used honestly prior to the trade mark application in commercial activities in Latvia in connection with identical or similar goods or services for so long and in such amount that the use of the registered trade mark may confuse consumers about the origin of the respective goods or services.
- MT- The answer should be however the matter does not appear to have been tested before the courts of law.

- NL - No, unless the domain name can be considered a trade name by the Dutch Trade Name Law or when the domain name is considered a well-known trade mark according to the Treaty of Paris.
- PL – this is not expressly governed in the Polish legislation, however it seems that a domain name used extensively and the domain name is identical or confusingly similar to the trade mark applied for registration may be the grounds for taking legal actions against the trade mark application. Argumentation will rather consist in bad faith.
- PT - In principle no unless use of the domain name amounts to prior use of unregistered trade mark or to a situation of unfair competition.
- RO - No, unless the domain name is intensively used, so that it benefits from trade mark rights or other rights protected under the relevant laws.
- SE – No.
- SK - Not expressly stated by the law (Slovak Trademark Act). However, one relative ground for refusal refers to unregistered sign or other sign used in the course of trade. Under this provision the earlier domain name could be classified.
- SL – No.
- TK - There is no specific provision in this sense. However, in general sense, genuine right ownership of a name may prevent a trade mark application from registration. According to one of the accepted opinion in the Turkish Doctrine, domain names are accepted as distinctive names, signs or tools to advertise the corporations as in the case of trade marks, trade names. So if one can prove that he/she was the genuine right owner of a domain name, i.e. core element of it, he/she can prevent registration of a new trade mark application without having an earlier trade mark registration.
- UK - In principle, there is no specific provision to enable rights in a domain name to be enforced against a trade mark application or registration. However it is open to the user of a domain name who has established sufficient reputation and protectable goodwill on which to base a “passing off action”, to seek to enforce such common law passing-off rights against a later trade mark application or registration.
- UDRP - The only possibility is if the domain name is used as a trade mark.

6. Who can file a Complaint? Does the Complainant need representation?

- AT- N/A.
- BE - Anyone, no need to be represented.
- BG- An earlier right owner, no need to be represented.
- CY- Anyone, no need to be represented.
- CZ - Anybody who claims that the domain name infringes his/her prior rights. No representation is required.
- DE - N/A.
- DK - Anyone, no need to be represented.
- EE - Anyone, no need to be represented.

- ES - Any natural or legal person is entitled to file a complaint. No representation is required.
- FI - Anybody who claims that the domain name infringes his/her prior rights. No representation is required.
- FR - As mentioned above, the complainant has the onus to prove that he has a valid interest to act. He does not need to be represented.
- GR - Anyone, no need to be represented.
- HR – owner of registered trademark, registered trade name or person who considers having a prior right to use the domain.
- HU - Anyone, no need to be represented.
- IE - Anyone, no need to be represented.
- IT- Entities and individuals, including licensees, based in the EU. No need to be represented.
- LT- N/A.
- LV – N/A.
- MT- Any person (corporate or unincorporated) having a juridical interest – such person must be represented locally before the courts if the person is not residing in Malta.
- NL - Anyone, no need to be represented.
- PL – Earlier right holder, no need for professional representation.
- PT - Anyone, no need to be represented.
- RO - Any third party. No need to be represented.
- SE - Anyone can file, no need for representation.
- SK - N/A.
- SL- Any third party, claiming that the registered domain name violates their rights. Representation is optional.
- TK - Anyone. No need to be represented.
- UK - Anyone, no need to be represented.
- UDRP - The trade mark owner, or the licensee. No need to be represented.

7. What should the Complainant demonstrate to succeed in the dispute resolution?

- AT - N/A.
- BE - (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; and (ii) the holder has no rights or legitimate interests in the domain name; and (iii) the holder's domain name has been registered or is being used in bad faith.
- BG - the domain name is identical to the complainant's claimed earlier right and the domain name is unprotected (see above 4.) or if protected it may lead to confusion due to the fact that the domain name is identical to a trademark in which the complainant has rights and the holder's domain name has been registered or is being used in bad faith, or presentation of a Court Decision under which termination of the

domain name registration due to trade mark infringement or other violation of earlier right is specifically requested.

- CY - (i) the complainant vested interest and (ii) the complainant's earlier right.
- CZ - The ADR rules for "cz" domain name disputes are only procedural rules and do not address these issues. Very generally the Complainant must prove that the domain name infringes his/her prior rights, what exactly has to be proved largely depend on the type of the prior right on which the claim is based. In practice the claim based on prior trade marks is not itself sufficient unless the trade mark on which the claim is based well-known and/or has a good reputation or unless the domain name is used for identical and/or similar goods and services. If the preceding conditions are not met then the claim should be always followed by other arguments based on unfair competition.
- DE - N/A.
- DK - (i) the domain name is identical or confusingly similar to a trade mark in which the complainant has rights; and (ii) the holder has no rights or legitimate interests in the domain name; and (iii) the holder's domain name has been registered or is being used in bad faith.
- EE - (i) the domain name is identical or misleadingly similar to the complainant's earlier right; (ii) the registrant has no rights or legitimate interest in the domain name, or (iii) the domain name was registered or is being used in bad faith.
- FI- (i) the domain name is identical or confusingly similar to a trade mark in which the complainant has rights; and (ii) the holder has no rights or legitimate interests in the domain name; and (iii) the holder's domain name has been registered or is being used in bad faith.
- FR - The complainant has the onus to prove:
 - that he has a valid interest to act and,
 - that the domain name involved in the dispute is liable to infringe intellectual property rights or personal rights, and that the owner has no legitimate interest and is acting in bad faith, or
 - that the domain name involved in the dispute violates the public order or morality, or rights that are guaranteed by the constitution or by the law,
 - that the domain name involved in the dispute is identical or is related to the name of the French Republic, of a local authority or of a group of local authorities or the name of an institution or of a national or local public service, and that the owner has no legitimate interest and is acting in bad faith.
- GR - Violation of the relevant legislation.
- HR – proofs concerning the statements in relation to mediation procedure; proofs showing the intent to solve the dispute in amicable way; proofs of earlier rights; information concerning other possible proceedings (court, administrative or mediation proceedings).
- HU - (i) the domain name is identical or confusingly similar to a name in respect of which a protection is recognised or established by national and/or Community law in favour of the complainant; or (ii) the domain name is identical or confusingly similar to a name in respect of which a right to use is recognised or established by national

and/or Community law in favour of the complainant, and (iii) the domain name has been registered without rights or legitimate interest; or (iv) the domain name has been registered or is being used by the in bad faith.

- IE - (i) the domain name is identical to the earlier right; (ii) the registrant has no rights on the domain name; and (iii) the domain name was registered or is being used in bad faith;
- IT - (i) the domain name is identical or confusingly similar to the earlier right upon which the Complaint is based; (ii) the registrant has no right or title on the domain name and (iii) the domain name was registered and is being used in bad faith.
- LT - N/A.
- LV - For court actions: (i) the domain name is identical or misleadingly similar to the claimant's earlier right; (ii) the registrant has no rights or legitimate interest in the domain name, or (iii) the domain name was registered or is being used in bad faith.
- MT - An earlier right and the potentiality of confusion.
- NL -The complainant must demonstrate that: the domain name is confusingly similar to his earlier right(s), the registrant has no rights to or legitimate interests in the domain name and that the domain name has been registered or is being used in bad faith.
- PL - The main prerequisite for solving the dispute which involves a domain name is to prove the infringement of the plaintiff's rights consisting in registration and use of the domain name. The disputes are generally reduced to the statement that (i) the domain name is identical or confusingly similar to an earlier trade mark in which the complainant has rights or infringes renown of the trade mark; and (ii) the holder's domain name has been registered or is being used in bad faith, or (iii) use of the domain name is an act of unfair competition.
- PT - The following cumulative requirements:
 - The domain name coincides with, is identical to or susceptible to causing confusion with a name or designation protected within the terms of the law in force in favour of the claimant of the arbitration proceedings;
 - The domain name was registered without being based on any rights or legitimate interests previously acquired by its registrant;
 - The domain name is registered or being used in bad faith. For the purpose of verifying the existence of bad faith, the following facts or circumstances, among others, may be used as evidence: the domain name was registered or acquired with a view to later selling it to the claimant; the domain name was registered expressly in order to disturb the claimant's professional business; the domain name was used intentionally, in the pursuit of commercial gain, to attract Internet users to the claimant's website; the domain name is made up of one or more first names or of the combination of a first name and the claimant's surname.
- RO - In case of mediation with ROTLD, no specific rules are provided. In case of arbitration under UDRP, see UDRP section below.
- SE - (i) the domain name is identical or confusingly similar to a trade mark in which the complainant has rights; and (ii) the holder has no rights or legitimate interests in

the domain name; and (iii) the holder's domain name has been registered or is being used in bad faith.

- SK – N/A.
- SL- (i) the domain name is identical to or confusingly similar to prior rights as listed under answer in question 4 and (ii) the domain name owner has no legally recognized interest with regard to the domain name and (iii) the domain name was registered or is used in bad faith.
- TK - Although no specific rules are provided, the following evidence would prove useful (i) the domain name is identical to the earlier right; (ii) the complainant has vested rights on the core element of the domain name; (iii) the registrant has no rights or legitimate interests in the domain name.
- UK - (i) the complainant has rights in a name or mark that is identical or similar to the domain name and (ii) the domain name in the hands of the Respondent is an abusive registration.
- UDRP - (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the domain name was registered and is being used in bad faith.

8. *In order to succeed in a ADR procedure, does the domain name need to be used? If so, what do you intend for "use of a domain name"?*

- AT - N/A.
- BE - No use of the domain name is necessary.
- BG- No use of the domain name is necessary.
- CY- No use of the domain name is necessary.
- CZ- No use of the domain name is necessary.
- DE- N/A.
- DK- No use of the domain name is necessary.
- EE- No use of the domain name is necessary.
- ES- No use of the domain name is necessary.
- FI- No use of the domain name is necessary.
- FR- No use of the domain name is necessary.
- GR- No use of the domain name is necessary.
- HR – no use of the domain name is necessary.
- HU- No use of the domain name is necessary.
- IE - No use of the domain name is necessary.
- IT - No, but use may help in proving bad faith.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL- No use of the domain name is necessary.

- PL - It is seldom to find such viewpoints in the case law that the use of the domain name is not necessary. Yet, no use is such serious impediment to obtaining the domain name that the chances are reduced to the level which is below reasonable one. Use of the domain name: placing the website, also including links under the domain name.
- PT - No use of the domain name is necessary.
- RO - No specific rules are provided in case of mediation with ROTLD. In case of arbitration under UDRP, see the UDRP section below.
- SE - No use is necessary.
- SK – N/A.
- SL- No use is necessary.
- TK - No use of the domain name is necessary.
- UK - No use of the domain name is necessary.
- UDRP - No, but use may help in proving bad faith.

9. What are the pre-requisites to file a Complaint other from the possession of an earlier right? (e.g.: payment of a fee, sending a cease and desist letter?)

- AT - N/A.
- BE - Payment of a fee.
- BG - Payment of fee and simultaneous filing of an application for registration of the domain.
- CY - If the complainant is an individual, submit a copy of his/her ID; if the complainant is a legal entity, submit a copy of the registration certificate; file a PoA if the complainant has appointed a representative; pay the relevant fee. If the complainant is an individual, submit a copy of his/her ID; if the complainant is a legal entity, submit a copy of the registration certificate; file a PoA if the complainant has appointed a representative; pay the relevant fee.
- CZ - Payment of a fee and registration on the on-line platform of the Arbitration Court attached to the Economic Chamber of the Czech Republic and the Agriculture Chamber of the Czech Republic (“Arbitration Court”).
- DE - N/A.
- DK - Payment of a fee.
- EE - Payment of a fee and submission of a PoA, if the Complainant has appointed a representative. Also the Party's warranty, signed by the Party or his representative, shall be submitted to certify that any and all the submitted information is complete and true.
- ES - Payment of a fee. Although it is not necessary, sending a cease and desist letter prior to filing the complaint would be highly advisable.
- FI- N/A.
- FR - Payment of a fee.
- GR - Payment of a fee.

- HR – payment of fee, proofs concerning the intention to solve the case amicably (cease and desist letter).
- HU - Payment of a fee.
- IE - Payment of a fee.
- IT - Send a letter to the Italian NIC informing of the intention to file a complaint and briefly explaining the reasons why the registration of the domain name breaches the complainant's rights. Payment of a fee to the entity that will be entrusted with the decision of the case. Submit a PoA if the Complainant has appointed a representative.
- LT- N/A.
- LV – N/A.
- MT - N/A.
- NL - The complainant must draft and submit a complaint. Payment of a fee is not necessary to file the complaint, but the complaint will not be processed for decision until the fee is paid.
- PL – Payment of a fee, and in the case of the proceedings before the Arbitration Court, the consent of the adverse party for conducting the proceeding (executing arbitration clause).
- PT - Payment of a fee. The arbitration procedure can only be initiated if the holder of the domain name has accepted the arbitration clause in the registration agreement (which is the default option).
- RO - No specific rules are provided in case of mediation with ROTLD. In case of arbitration under the UDRP, see the UDRP section below.
- SE- Fee payment.
- SK – N/A.
- SL- Payment of a fee. If the complainant is a legal person, extract from the court or other corresponding register should be enclosed. A declaration, accepting the “Rules of the Alternative Domain Name Dispute Resolution Procedure for .si top-level domains” and the “General Terms and Conditions for registration of domain names under the .si top-level domain”, must be signed by the complainant.
- TK - Send a letter to METU DNS Working Group informing of the intention to file a complaint and briefly explaining the reasons why the registration of the domain name breaches the complainant's rights.
- UK - The complaint must be filed online, using the electronic form provided by Nominet for the purpose. A fee is not payable at the point of complaint, but the complaint will not be processed for decision until the fee is paid.
- UDRP - Payment of a fee. File the complaint online.

10. What is the entity in charge of the decision?

- AT - N/A.
- BE - CEPANI - CEPINA : Belgian Center for Arbitration and Mediation (Belgisch Centrum voor Arbitrage en Mediatie: Centre Belge d'Arbitrage et de Médiation).
- BG - the Bulgarian National Registrar – Register.BG.
- CY - The Commissioner of Electronic Communications and Postal Regulation.
- CZ - Arbitration Court.
- DE - N/A.
- DK - The Complainants Board of Domain names (Klagenævnet for Domænenavne)
- EE - Domain Disputes Committee of Estonian Internet Foundation (Eesti Interneti SA Domeenivaidluste Komisjon).
- ES – WIPO.
- FI- The Finnish Communications Regulatory Authority FICORA.
- FR - the AFNIC.
- GR - E.E.T.T. (National Telecommunications Committee) which designates a three-party Commission responsible for reviewing the complaints.
- HR - The arbitrators are independent experts in the fields of law and information technology, who are appointed by the CARNet Managing Council.
- HU - Alternatív Vitarendező Fórum.
- IE – WIPO.
- IT - There are different centers that handle and decide the ADR procedures. These centers are authorized by the Italian NIC. Currently these entities are the following: C.R.D.D. - Centro Risoluzione Dispute Domini; MFSD S.r.l.; Camera Arbitrale Nazionale e Internazionale di Milano; Tonucci & Partners.
- LT - N/A.
- LV – N/A.
- MT – N/A.
- NL - WIPO, appointed by SIDN (Stichting Internet en Domeinnaamregistratie Nederland).
- PL – Arbitration Courts at the Polish Chamber of Commerce and at The Polish Chamber of Information Technology and Telecommunications.
- PT - ARBITRARE, an arbitration centre for industrial property and domain name cases.
- RO - Mediation with the Register for the .ro domain names – Registrul de domenii .ro, in Romanian language - (ROTLD), managed by the National Institute for Research-Development in Informatics - Institutul National pentru Cercetare - Dezvoltare in Informatica, in Romanian language – (ICI).
- SE - Alternativt tvistlösningsförfarande (ATF).
- SK – N/A.
- SL- Disputes are decided by an arbiter (or a three-member senate of arbiters), who are appointed to the list of arbiters by ARNES - The Academic and Research Network of Slovenia – the latter acting as the administrator in the procedure.
- TK- DNS Working Group (METU)
- US- N/A.

- UK - Nominet runs the DRS and decisions are made by an expert from a panel of experts maintained by Nominet for the purpose.
- UDRP - WIPO Arbitration and Mediation Center;, The Czech Arbitration Court Arbitration Center for Internet Disputes; Asian Domain Name Dispute Resolution Centre and National Arbitration Forum.

11. Does the procedure foresee a preliminary attempt of amicable composition?

- AT - N/A.
- BE – No.
- BG – No.
- CY- Yes.
- CZ – No.
- DE - N/A.
- DK- No.
- EE – No.
- ES - No.
- FI - The Finnish Communications Regulatory Authority FICORA.
- FR – No.
- GR – No.
- HR – Yes.
- HU- N/A
- IE – No.
- IT - No.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - Yes. The free-of-charge mediation process commences within 5 calendar days of the WIPO Arbitration and Mediation centre forwarding the response to the SIDN.
- PL – Yes.
- PT - Yes, a preliminary attempt of mediation.
- RO - The purpose of the mediation is for the parties to try to reach an amicable settlement.
- SE - No.
- SK – N/A.
- SL- Yes. Upon receiving all submissions from both complainant and the respondent the administrator invites the parties to settle the dispute amicably, if possible.
- TK – No.
- UK - Yes, if the registrant responds to the complaint, Nominet will offer both parties the opportunity of mediation. If the registrant does not respond, the complainant is offered the opportunity to ask for summary transfer upon payment of a reduced fee of £200, (plus VAT) but transfer will only be ordered if a panellist is satisfied that the prima facie case has been made out. A full decision costs £750 (plus VAT).

- US - N/A.
- UDRP - No.

12. What is the language of the procedure?

- AT - N/A.
- BE - French, Dutch.
- BG – Bulgarian.
- CY - Greek. However, the documents can be filed either in Greek or English.
- CZ – Czech.
- DE - N/A.
- DK - Danish or English.
- EE – Estonian.
- ES - Spanish. However, if required by the circumstances of the case and the parties so agree, the expert may order that the proceedings be conducted in another language.
- FI- Finnish or Swedish.
- FR – French.
- GR – Greek.
- HR – Croatian.
- HU – Hungarian.
- IE – English.
- IT - Italian. The Panel may however opt for a different language upon request of one of the parties and due to the specific circumstances of the case.
- LT - N/A.
- LV- N/A.
- MT - N/A.
- NL - Dutch, if the complainant and respondent are residing or registered in the Netherlands. In exceptional circumstances the centre may decide that the complainant or respondent may make submissions in English. English, if the complainant and respondent neither reside nor are registered in the Netherlands. In exceptional circumstances the centre may decide that the complainant or respondent may make submissions in Dutch.
- PL – Parties may choose a language different from Polish.
- PT - Portuguese or, where parties agree, English.
- RO - Romanian language in case of mediation. For arbitration under UDRP, see the UDRP section below.
- SE – Swedish.
- SK – N/A.
- SL – Slovene.
- TK - Turkish. English is also accepted in principle. However in practice an English application was never filed.
- UK – English.

- US - N/A.
- UDRP - The language of the Registration Agreement .The Panel may however opt for a different language upon request of one of the parties and due to the specific circumstances of the case.

13. How long does the entire procedure (from the filing of the Complaint to the notification of the decision to the parties) last?

- AT - N/A.
- BE - Two months approximately.
- BG - No fixed term, may vary from case to case.
- CY - No fixed term. Vary from case to case.
- CZ - Usually from 2-5 months.
- DE - N/A.
- DK - Six months approximately.
- EE - Two months approximately.
- ES -Three months approximately.
- FI- From three to six months.
- FR - Between 1 and 2 months.
- GR - No fixed term. Vary from case to case.
- HR – usually 2 months.
- HU - From three to six months.
- IE - Eight to ten weeks approximately.
- IT - Three months approximately.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - Approximately 3 months, up to 6 months when mediation takes place.
- PL – Approximately three months, however the timing varies.
- PT - Maximum of 6 months. Generally not more than 4 months.
- RO- No period of time is set for the mediation with ROTLD.
- SE - Thirty to sixty days.
- SK - N/A.
- SL- Usually between 3 – 4 months.
- TK - There is No fixed term but the DNS Working Group tries to arrange meetings every two months.
- UDRP - In general, from two to three months approximately. The parties may apply for a suspension of the procedure.

14. What remedies can the Complainant request?

- AT - N/A.

- BE - Cancellation or transfer.
- BG - Transfer.
- CY – Cancellation.
- CZ - Cancellation. In 2012 the Czech Supreme Court has rendered a decision under which the Complainant may not seek the transfer of the domain name (which was possible) but merely its cancellation.
- DE - N/A.
- DK - Cancellation, suspension or transfer.
- EE - Cancellation or transfer.
- ES - Cancellation or transfer.
- FI - Cancellation or transfer.
- FR- Transfer or cancellation of domain name. In the event the complainant is not eligible to hold a .fr domain, then only the deletion.
- GR - Cancellation or transfer.
- HR – Cancellation.
- HU - Cancellation or transfer.
- IE - Cancellation or transfer.
- IT – Transfer.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - Transfer of the domain name to the Complainant.
- PL – Declaring the infringement of the plaintiff's rights (transfer of the domain name is conducted upon a separate request submitted to the National Register).
- PT - Cancellation and transfer.
- RO - Cancellation or transfer.
- SE - Cancellation, suspension or transfer.
- SK – N/A.
- SL- Cancellation or transfer. After cancellation or deletion the respondent cannot obtain the same domain name without the complainant's prior consent.
- TK - Cancellation or transfer.
- UK - Cancellation, suspension, transfer or amendment.
- UDRP Cancellation or transfer.

15. Is there any form of compensation of damages/reimbursement of fees provided for in the Complainant's favour?

- AT - N/A.
- BE - Reimbursement of the arbitration fees.
- BG – No.
- CY - Reimbursement of the arbitration fees.
- CZ - Yes both.

- DE - N/A
- DK – No.
- EE – No.
- FI- No.
- FR - Yes, €150 out of €250 excl. VAT.
- GR – No.
- HR- No.
- HU – No.
- IE – No.
- IT – No.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL – No.
- PL – Reimbursement of the arbitration fees and costs.
- PT – No.
- RO – No.
- SE – No.
- SK – N/A.
- SL- No.
- TK – No.
- US - N/A.
- UK – No.
- UDRP – No.

16. How long does it take to implement the decision?

- AT - N/A.
- BE - Three weeks.
- BG – Immediately.
- CY - Varies from case to case.
- CZ - CZ.NIC usually implements the decision within 1-2 weeks from the receipt of the application.
- DE - N/A.
- DK - The decision is implemented immediately.
- EE - Fourteen calendar days, unless challenged in court.
- FI– Varies from case to case.
- FR - About 15 calendar days.
- GR -Varies from case to case.
- HR – varies from case to case.
- HU - 30 days.
- IE - At least 21 days.

- IT- 15 days as of the day of receipt of the decision by the local NIC, unless the registrant has meanwhile filed a court action.
- LT - N/A.
- LV- N/A.
- MT - N/A.
- NL - 10 days after SIDN has received the decision from WIPO, unless SIDN has within that period received proof from the respondent that the respondent has instituted legal proceedings at a Dutch court against the complainant in relation to the registration of the domain name at issue. In such case SIDN may decide not to implement the decision until the court has ruled in the matter.
- PL – Varies from case to case. Approximately 6 months.
- PT - Varies from case to case. Approximately 1 to 2 weeks.
- RO - N/A in case of mediation with ROTLD.
- SE - Immediately.
- SK – N/A.
- SL- In cases of deletion, the domain name is deleted within 21 days following the receipt of the decision by the domain name owner. The same time limit applies in cases of the domain name transfer, whereby the decision is implemented only provided that the complainant submits an application and payment for registration of the domain name.
- TK - After the decision given by the Panellists of the DNS Working Group, the domain name falls in to abeyance for one month. During this period the owner of the domain name can direct the users to another webpage. Further, the domain name is become inaccessible to everyone for another one month. Finally, if the Complainant has a right to receive it, the domain name is transferred to the Complainant.
- UK - Unless there is an appeal or subsequent court action, a decision will be implemented within ten working days.
- UDRP- No transfer can occur if within ten days of the Panel's decision one of the parties has provided official documentation attesting that the UDRP decision has been challenged in court. There is no specific term to implement the Panel's decision by the registrar.

17. Can the decision be appealed? If so, what are the terms to appeal?

- AT- N/A.
- BE - Yes, within two weeks.
- BG - No. Possibly filing a civil action before the Court.
- CY - Yes, at the High Court of Cyprus.
- CZ - No appeals can be filed against an issued arbitration ruling, unless both Parties agree to have the ruling reviewed by other arbiters in a new arbitration proceeding. Delivered arbitration rulings take legal effect and are executable. In addition the Parties may contest the arbitration award with the general courts within 3 months from its delivery. The grounds for such challenge are however limited.

- DE - N/A.
- DK - No appeal. The only possibility is to file a Court action.
- EE - No appeal. The only possibility is to file a Court action. No term is provided for the complainant. Within fourteen calendar days for the registrant, which entails the prohibition for the Estonian Internet Foundation to delete the Domain Name or transfer it to the Complainant (based on court's order on the preliminary injunction requested by the registrant).
- FI- The party against whom the decision is issued can file an appeal in front of the Market Court. The term to file the appeal is 30 days.
- FR - There is no "appeal" stricto sensu. But the Registry's decision may be brought before the Civil Court, in the first instance, .before the end of the 15 days execution period of the decision.
- GR - Yes. Before the Administrative Court of Appeal within thirty days from the publication day of the decision.
- HR – No, there is a possibility to challenge the decision with the competent Court.
- HU - There is no appeal. The only possibility is to file a Court action.
- IE - There is no appeal. The only possibility is to file a Court action.
- IT - There is no appeal. A new ADR procedure is possible between the same parties and for the same domain names if new facts have occurred after the release of the decision and these new facts justify a new procedure, or if these facts were unknown during the former ADR procedure. Moreover, it is possible to file a Court action.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - The decision cannot be appealed. The only possibility is to file a court action.
- PL – No. On extraordinary grounds the decision may be appeal to a civil court within two months, however only on the grounds of gross breach of the rules of law.
- PT - The decision of the Arbitral Tribunal cannot be appealed unless parties have agreed otherwise or unless parties have authorized that the tribunal decides the case on the basis of equity and not only on the basis of law. However the decision may be attacked on certain grounds through a revocation request filed at the State Court.
- RO - N/A in case of mediation with ROTLD.
- SE - The procedure and there are no hearings that one can or should attend.
- SK – N/A.
- SL- No.
- TK - There is no appeal. The only possibility is to file a Court action and there is not a time limitation in the law to file a Court action. However, it should be noted that remaining in silence for a long time may be deemed to implicit consent to the counter party.
- UK - The decision can be appealed within ten working days of the date that the parties are deemed to have received the decision (which is transmitted electronically by e-mail). The prospective appellant must send an appeal notice and an appeal fee or a notice of intended appeal plus a deposit. If notice of intention to appeal is filed

there is a period of fifteen working days to submit the full appeal notice and the remainder of the appeal fee. The deposit is not refundable.

- US - N/A.
- UDRP - There is no appeal. The only possibility is to challenge the decision within 10 business days in front of a competent Court.

18. Is it an on-line procedure? Are there hearings you should/could attend?

- AT - N/A.
- BE - It is an online procedure and there are no hearings that one can or should attend.
- BG - It is an online procedure and there are no hearings.
- CY - It is not an online procedure. The parties must attend the hearings either in person or through their representatives.
- CZ - The ADR procedure is in on-line form – no hearings are carried out.
- DE - N/A.
- DK - It is an online procedure and there are no hearings that one can or should attend.
- EE - It is an online procedure and there are no hearings that one can or should attend.
- FI – At FICORA the procedure is an online procedure and there are no hearings that one can or should attend. In Market Court there may be an oral hearing.
At FICORA, the handling of a domain name revocation consists of written administrative procedure, which gives limited possibilities to, for example, estimate the proof presented by the parties. The preamble to the Domain Name Act states that the procedure is meant to provide fast and cost-efficient means to intervene in obvious violations of trademark rights. In its decisions, FICORA reacts only if the revocation threshold referred to in the Domain Name Act has been crossed.
- FR - It is an online procedure and there are no hearings that one can or should attend.
- GR - It is not an online procedure. The parties must attend the hearings, unless they are instructed to submit their arguments only in writing.
- HR – the request must be filed by e-mail and filed in paper form; there are no hearings.
- HU - It is an online procedure and there are no hearings that one can or should attend.
- IE - It is an online procedure and there are no hearings that one can or should attend
- IT - It is an online procedure and there are no hearings that one can or should attend
- LT - N/A.
- LV – N/A.
- MT – N/A.

- NL - It is an on-line procedure and there are, in principle, no hearings that one should attend. However, the panellist has the power to invite parties to elucidate certain points of view and/or to make further submissions.
- PL – it is an online procedure, however a hearing may be held, but hearings are held very seldom.
- PT - It is an online procedure. Depending on the case there may be hearings that one can or should attend (the arbitrator may waive the hearing due to the simplicity of the case or the sufficiency of documentation or evidence).
- RO - No specific rules are provided in case of mediation with ROTLD. For arbitration under the UDRP, see the UDRP section below.
- SE - Fees vary depending on what type of entity applies. Lower fees for individuals and higher fees for corporations.
- SK – N/A.
- SL- All submissions need to be sent by e-mail, followed also by registered mail. No hearings are conducted in the procedure.
- TK - It is not an online procedure. There are no hearings that one can or should attend.
- UK - It is an online procedure. The expert can request the parties to attend a hearing but this is very rare.
- US - N/A.
- UDRP - It is an online procedure. There are no hearings unless the Panel decides there are special circumstances.

19. What are the applicable official fees?

- AT - N/A.
- BE - 1620,00 Euro
- BG - 120 Euro
- CY - It depends on the month of registration of the domain name and is decided by the Commissioner.
- CZ - <http://en.soud.cz/tariff#czdomain-disputes>
- DE - N/A.
- DK - DKK 500.
- EE - From 1 to 5 domain names and for a single member panel 690 EUR (VAT included).
- FI- There is no official fee in FICORA.
- FR - €250 excluding VAT per domain name.
- GR - For the conduct of the hearing the official fees amount to 200 € + VAT if the applicant is a person and 400 € + VAT if the applicant is a legal entity. For the cancellation or transfer of the domain name 44 € + VAT are required. These fees are regularly adapted.
- HR – Official fees – cca 370 EUR.

- HU - From 80,000 HUF to 150,000 HUF depending on the number of domain names and panellists.
- IE -1500 Euro.
- IT - Fees vary according to the Center in charge of the procedure, the number of domain names involved and whether the case is assigned to a single or a three-member Panel. The minimum fees for one domain name and a single Panelist usually amount to 1500 Euro. In case of a three-member Panel the fees increase to 4000 Euro per one domain name.
- LT - N/A.
- LV – N/A.
- MT- N/A.
- NL - Fees 1-5 domain names: 1500 euro; Fees 6-10 domain names: 2000 euro; More than 10 domain names: necessary to contact WIPO.
- PL – Fees for a single law suit examined by one arbitration judge cca. 950 EUR with no limitation regarding the number of the domain names to be claimed , Schedule of fees: http://www.piiit.org.pl/gallery/11/11/11118/Nowy_Wykaz_Oplat_z_VAT_SP.pdf
- PT - The current fees are 270 Euros (1 to 5 domain names), 470 Euros (6 to 10 domain names) or 970 Euros (more than 10).
- RO- No official fee is provided in case of mediation with ROTLD. In case of arbitration under the UDRP, see the UDRP section below.
- SE – No.
- SK – N/A.
- SL- The fees vary depending on the number of disputed domain names and the number of arbiters. For cases decided by an individual arbiter the fees amount to EUR 667,67 (for 1 domain name), EUR 1.123,69 (for 2 – 5 domain names) and EUR 2.003,00 (for 6 – 10 domain names). Supplement for decisions, issued by a senate, is applicable and equals the amounts, as set for the disputes decided by an individual arbiter (taking the number of disputed domain names also in consideration).
- TK - No official fee.
- UK - The base fee for asking for a decision in a complaint is £750 + VAT. Once the complaint has been made and a response filed, either party (for example, the respondent) may pay the fee of £750 + VAT for a reasoned decision.
If the respondent does not reply to the Complaint, there is no attempt at mediation, but the complainant may then either (a) pay a reduced fee of £200 + VAT in order to obtain a summary decision or (b) may pay the full fee of £750 + VAT in order to obtain a fully reasoned decision. Experts making summary decisions must satisfy themselves that the complainant has made out a case but need not give reasons. There is no immediately obvious reason why a complainant should elect to pay for a full decision if the option to pay for a summary decision exists (but there may be legal reasons known to the complainant to do so). The appeal fee is £3000 + VAT and this must be paid at the time the appeal is made.
- US - N/A.

- UDRP - Fees vary according to the number of Panelists and domain names. The schedule of fees can be found here: <http://www.wipo.int/amc/en/domains/fees/index.html>

20. Do you expect changes in the procedure in the near future?

- AT – No.
- BE – No.
- BG - No, but in great need of amendments which shall comply with the International and European laws.
- CY - changes in the procedure which shall comply with the International and European corporate reality: European Regulations, European Direction, European Case Law.
- CZ - This largely depends on if Czech Supreme Court confirms the validity and enforceability of the public arbitration bid contained in the Registration Rules and ADR Rules on the basis of which the jurisdiction of the Arbitration Court is based. The validity of this clause was confirmed by the decision of the High Court of Prague however the remedy was filed against this decision with the Supreme Court that did not take the decision yet. So it remains to be seen if the ADR procedure in relation to “.cz” domain names survives.
- DE- Currently, the introduction of an ADR procedure is not under discussion.
- DK – No.
- EE- No.
- FI- No.
- FR - Yes, the French Registry has to introduce an ADR that will be delegated to an external provider, before **30 September 2013.**
- GR – No.
- HR- No.
- HU – No.
- IE – No.
- IT – No.
- LT - N/A
- LV - No.
- MT – No.
- NL – No.
- PL – No.
- PT – No.
- RO - No in case of mediation with ROTLD.
- SE – No.
- SK – N/A.
- SL – No.
- TK - Yes. The Internet Domain Names Regulation (IDNR) will be settled when the .tr Network Information System (TRABİS) which was supposed to come into effect at the

end of 2012. However, subject system has not been completed yet and there is not an exact completion date stated by the Information Technologies Institution.

- UK - No.
- UDRP- No.

21. According to your personal experience, could you say that it is worth going through a ADR or other procedure, or do you prefer to adopt other available means?

- AT - N/A.
- BE – Yes.
- BG - Yes, but unfortunately only if the object of the prior rights is identical to the disputed domain.
- CY - No because the Commissioner is not authorised for any compensation of damages and the financial damages caused by the infringement of a domain name may be high. Through a passing off action at the court the protection provided is wider.
- CZ - Given the existing uncertainty concerning the validity of the whole system of ADR (see 20.) at the moment I am quite reluctant recommending ADR procedure until the issue of validity of the clause on the basis of which the Arbitration Court derives its jurisdiction is confirmed by the Czech Supreme Court.
- DE - N/A.
- DK – Yes.
- EE – Yes, in straight forward cases.
- FI- Yes, in straight forward cases.
- FR – Yes.
- GR – Yes.
- HR – Yes.
- HU - Yes, although it would be preferable if the procedure were quicker, the number of Panelist could increase, and the parties could appoint the Panelist(s) of their choice.
- IE – Yes.
- IT - Yes in straight forward cases or when bad faith can be easily proved.
- LT - N/A.
- LV- N/A.
- MT- N/A.
- NL- Yes, it is worth it. But in the case of serious infringement or passing off, costs and damages can't be awarded to the complainant. In this case it is advisable to file for court action.
- PL – Yes, if the case is simple and the right holder holds word trade marks. Unfortunately, the case law of Arbitration Court is unsteady and frequently astonishing. In addition, the obligation to participate in the proceedings by those subscribers who are not registered as the entities conducting business activity has been diminished.

- PT - Yes.
- RO- Yes, for arbitration under the UDRP. However, the implementation of the panel's decision may be lengthier than expected, as it depends on the register.
- SE – Yes.
- SK – N/A.
- SL- Yes.
- TK - Yes.
- UK - Nominet DRS procedure is efficient and works well, but does have limitations. For example costs (and of course compensation for damages) cannot be awarded and therefore in cases of serious infringement or passing off, where a client might be expected to be awarded damages, I would always consider court action as an alternative.
- UDRP – Yes.

22. What are in your opinion the main advantages and disadvantages of the ADR procedure?

- AT - N/A.
- BE - Advantages: Speed, treated by experts in IP and domain matters, official fees reimbursed if the complainant wins. Disadvantages: Limited remedies.
- BG- Advantages: Speed. Disadvantage: concerns only identical earlier rights, requirement for simultaneous filing of a domain name application, no reimbursement of official fees or damages.
- CY - Advantages: Speed and low costs. Disadvantages: No compensation of damages.
- CZ - Advantages: timing, limited possibility of remedies, foreseeable outcome. Disadvantages: present uncertainty concerning the jurisdiction of the Arbitration Court to decide such disputes, higher costs.
- DE - N/A.
- DK - Advantages: Speed, low costs and treated by experts in IP and domain name matters. Disadvantages: No compensation of damages.
- EE - Advantages: Speed and low costs. Disadvantages: No compensation of damages or recovery of costs; limited legal grounds upon which basing a complaint.
- FI- Advantages: Speed, low costs. Disadvantages: No compensation of damages.
- FR- single procedure, suspension of the domain name during the procedure and, if necessary, beyond the duration of the procedure, party autonomy, confidentiality, finality and enforceability of award, in the absence of any legal proceeding within the 15 days deadline, not limited to breaches of trademark law. Part of the official fees is partially reimbursed if the complainant wins: €150 out of €250 excl. VAT. The main disadvantage is now the limitation of eligibility to hold a .fr domain which does not allow any plaintiff to transfer the domain to their ownership.
- GR - Advantages: Speed and low costs. There is the possibility that no oral hearing will be convened.

- HR – Advantages: speed and significantly lower costs.
- HU - Advantages: Speed and low costs. Disadvantages: Limited list of panelists. No reimbursement of costs.
- IE - Advantages: Fast and efficient process and fixed fee process Disadvantages: only appeal to Court with high fees
- IT - Advantages: Speed and low costs if the case is straight forward. Disadvantages: It is not a viable procedure if bad faith cannot be proved or if the matter involves unfair competition or other legal aspects. Moreover, no reimbursement of costs is foreseen.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - Advantages: speed, treated by IP experts in IP and domain matters, official fees reimbursed if the complainant wins. Disadvantages: limited remedies.
- PL – Advantages: the proceedings are fast. Disadvantages: lack of possibility to appeal, necessity to conduct additional procedure for the purpose of acknowledging a judgment.
- PT - Advantages: Speed, low costs and treaded by experts in IP and domain name matters. Disadvantages: the arbitration is voluntary so the domain holder may reject arbitration when registering a domain name (although it is the default option in the registration agreement).
- RO - Advantages: For the mediation procedure with ROTLD: costs. Disadvantages: the procedure is usually not used. For the arbitration under the UDRP, see UDRP section below.
- SE - N/A.
- SK – N/A.
- SL - Advantages: Fast and efficient proceedings with low costs, especially if compared to the court proceedings; decided by experts in the field; remedies include mandatory consent of the complainant for future same domain name registrations by the respondent after the domain name was deleted/transferred. Disadvantages: No appeal possible; no compensation for damages/reimbursement of fees provided for decisions made in the complainant's favour.
- TK - Advantages: Speed and no costs. Disadvantages: Panellists of are not experts on IP Law; level of decisions vary from case to case.
- UK - Advantages: Speed, efficiency and relative cheapness. Disadvantages: No reimbursement of costs or damage compensation.
- UDRP - Advantages: speed and low costs. Disadvantages: inconsistency between Providers, panellists and decisions, the implementation of the panel's decision may be lengthier than expected, as such depends on the register; the UDRP rules are sometimes not adapted to the factual situations that may appear.

23. Is there a time limitation to bring a lawsuit after the ADR decision?

- AT - N/A.
- BE – No.
- BG – No.
- CY - Yes. 75 days from the announcement of the ADR decision.
- CZ - The Parties may request the review of the ADR within 3 months from its receipt, however the grounds for such review are limited, namely the general court cannot review the arbitration award on merits but merely may, for instance, review if the arbitration agreement was concluded etc.
- DE - N/A.
- DK - No.
- EE - In the case of a complainant there is no specific time limitation to bring action in the courts other than the statute of limitations (10 years should apply). In the case of a respondent, Estonian Internet Foundation will enforce the decision within 14 calendar days from the date of decision unless the respondent has initiated the judicial proceedings.
- FI- N/A.
- FR - 15 calendar days to avoid the execution of the ADR decision.
- GR – No.
- HR- No.
- HU – No.
- IE - 10 days from decision.
- IT - No. But if the lawsuit is initiated before 15 days as of the notification of the decision, and the introductory brief is sent to the Italian Registry within the next 10 days, the transfer of the domain name to the Complainant is blocked.
- LT - N/A.
- LV- N/A.
- MT - N/A.
- PL – Yes. General rules on statute of limitation apply.
- PT - No. However the lawsuit cannot have the same grounds of the arbitration.
- RO - N/A in case of mediation with ROTLD. In case of mediation under the UDRP, please see the answer below.
- SE- No.
- SK – N/A.
- SL- As per the Arbitration Act a lawsuit for invalidation of the arbitral award may be filed within three months following the receipt of such award by the party filing the lawsuit.
- TK - Per the Court of Appeal decisions, by analogy, five year time limitation may apply to domain names as well.
- UK - In the case of a complainant there is no specific time limitation to bring action in the courts other than the statute of limitations or acquiescence. In the case of a respondent, Nominet will transfer the domain name within ten days of the expert decision to do so unless the respondent has initiated Court action.

- US- N/A.
- UDRP - No, but if a party wants to avoid the transfer of a domain name, it should file its lawsuit within ten days.

24. What are the effects of the absence of any defence from the Respondent?

- AT - N/A.
- BE - No specific effect. There could be a presumption that the respondent has no interest in the domain name.
- BG - No specific effect.
- CY - N/A.
- CZ - The Arbitration Court even in case of absence of any defence or response to the claim. must render a standard arbitration award.
- DE - N/A.
- DK - No specific effect.
- EE - The Domain Disputes Committee may infer that the respondent has consented to the complainant's statements of facts and legal statements or claims.
- FI – No specific effect.
- FR - There are no specific effects, except that the decision will only be based on the Complainant's submissions.
- GR - No specific effect.
- HR – No specific effect.
- HU - There are no specific effects, but if Respondent fails to file counterarguments, the decision will only be based on the Complainant's submissions and proof.
- IE - There are no specific effects, except that the decision will only be based on the Complainant's submissions.
- IT - There are no specific effects, except that the decision will only be based on the Complainant's submissions.
- LT - N/A.
- LV – N/A.
- MT - N/A.
- NL - No specific effect.
- PL – No specific effect.
- PT - There are no automatic effects. The arbitrator decision will be based on the Complainant's submissions and evidence available.
- RO - If the parties do not reach an amicable decision, the mediation would be terminated. In case of arbitration under the UDRP, please see the answer below.
- SE - No effect.
- SK – N/A.
- SL - No specific effect. The case will be decided solely based on the arguments presented by the complainant and the evidence presented therewith.
- TK - DNS Working Group does not inform the domain name owner unless they decide to cancel or transfer the disputed domain name or it needs to clarify a point

during the decision process. Therefore there is no specific effect of the absence of the defence from respondent.

- US - N/A.
- UK - If the respondent files no response it is open to the complainant to pay a reduced fee of £200 plus VAT (rather than £750 plus VAT) and ask for a summary decision to transfer the domain name. The expert must be satisfied that the complainant has made out a prima facie case and there are instances where the expert has refused to order transfer of a domain name following a summary decision.
- UDRP - There is no automatic default, but certainly, it will weigh in the Complainant's favour as there would be no contradictory evidence. But the Complainant must prove all three of the required cumulative elements as described above.