

Domain name disputes arise when a trademark owner discovers that someone else (sometimes referred to as a "cybersquatter") has registered a domain name that is identical or confusingly similar to its trademark.

Cybersquatting is a problem for trademark owners because unapproved domain names can be used to promote pay-per-click (PPC), misleading or competing websites; to sell counterfeit products; to advertise a competitor's services; to display pornography; to spread viruses and malware; to promote employment scams; and more.

Fortunately, a variety of domain name dispute policies – including, most importantly, the **Uniform Domain Name Dispute Resolution Policy (UDRP)** – allow trademark owners to file a complaint and have a problematic domain name transferred, cancelled or suspended relatively quickly and inexpensively. The policies are typically favorable to trademark owners; plus, registries and registrars are required to implement domain name dispute decisions, so enforcement is seldom an issue.

Website: [Giga.Law](http://Giga.Law)

## ® Domain Name Dispute Policies

▶ **UDRP:** The Uniform Domain Name Dispute Resolution Policy (UDRP) is the oldest and most popular domain name dispute policy. It is a faster and less expensive alternative to litigation and has been called "the preferred option for most trademark owners" by *Corporate Counsel* magazine. The UDRP applies to legacy gTLDs (such as .com, .net and .org), new gTLDs (such as .xyz, .top and .club), and many ccTLDs (such as .co, .me and .tv). The UDRP enables a trademark owner to file a complaint and obtain the transfer of a domain name if it can prove the following three elements:

1. the domain name is identical or confusingly similar to a trademark in which it has rights;
2. the domain name registrant has no rights or legitimate interests in respect of the domain name; and
3. the domain name has been registered and is being used in bad faith.

Most UDRP disputes are resolved within about two months.

▶ **URS:** The Uniform Rapid Suspension System (URS) is one of the newest domain name dispute policies. It applies only to the new gTLDs and a small number of other TLDs (so, importantly, it does not apply to .com). Although the URS contains a three-part test that is very similar to the UDRP, the URS only allows a trademark owner to obtain the temporary suspension of a domain name. The URS is less expensive than the UDRP, but the burden of proof is higher, so it is not appropriate in as many cases. URS disputes are often resolved within about three weeks.

▶ **ccTLD Dispute Policies:** Although about 42 of the 312 ccTLD registry operators have adopted the UDRP, many others have adopted a variation of it or another dispute policy altogether. The substantive requirements and procedures vary from country to country, but most of the policies provide favorable conditions that allow a trademark owner to file a complaint and obtain the transfer of a domain name. Among the more popular ccTLD dispute policies are those that apply to .au, .ca, .eu, .in, .nl, .uk and .us.

## ® UDRP Facts

- ▶ Trademark owners have won more than 85% of all UDRP cases
- ▶ More than 60,000 UDRP complaints have been filed since 1999
- ▶ All proceedings are conducted electronically (no motions, no hearings, no discovery, no trials, no appeals)
- ▶ A single UDRP complaint can include multiple domain names if all of the domain names are held by the same registrant
- ▶ The most popular UDRP service provider is WIPO (the World Intellectual Property Organization), followed by the Forum (formerly the National Arbitration Forum)
- ▶ WIPO's filing fees for a UDRP complaint begin at US \$1,500

**Doug Isenberg**, founder of The GigaLaw Firm, has worked with clients on domain name transactions and disputes since 1996 and today represents some of the world's largest and best-known brands with respect to their Internet legal matters – including the largest complaint ever filed under the Uniform Domain Name Dispute Resolution Policy (UDRP). He also serves as a domain name panelist for four of the world's leading dispute providers, including the World Intellectual Property Organization (WIPO) and the Forum (formerly the National Arbitration Forum), where he has written more than 200 domain name dispute decisions.



The *World Trademark Review* called Doug "a whiz on all things to do with Internet law and domain names," and the *Atlanta Business Chronicle* said Doug is "an international authority on Internet law."

For more information:

Visit The GigaLaw Firm  [Giga.Law](http://Giga.Law)

Contact Doug Isenberg  [Doug@Giga.Law](mailto:Doug@Giga.Law)