

Bright Ideas



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UDRP's Younger Sibling: Rapid Suspension of Cybersquatting Domain Names Under the URS

By Gerald M. Levine

I. Introduction

When the Internet Corporation for Assigned Names and Numbers (ICANN) was formed in 1998, there were three business extensions: .com, .net, and .org, and 2,154,634 registrations (led by .com with 1,879,501).¹ The earliest registrations of generic top-level domains (gTLDs) date to 1985: a .net in January and a .com in March.² Between 1998 and 2013, ICANN delegated several more extensions including .info and .biz. Before 2000, the first effective year of the Uniform Domain Name Dispute Resolution Policy (UDRP), rights holders had to litigate claims of unlawful registrations of domain names in national courts invoking trademark theories of liability. There was no ready-made jurisprudence tailored for the new tort of cybersquatting.

In the first full year of the UDRP, ICANN-certified providers administered approximately 3,500 domain name disputes involving around 5,000 domain names. By January 1, 2000, the number of registered domain names had increased by another six million. From that point on, the number of domain name registrations increased exponentially. Verisign Inc., the registry of .com and .net, reported that as of September 30, 2019, there were 198 million domain names in the gTLD space (of which 144 million are in the .com extension).³ Cybersquatting complaints have risen more slowly, and less dramatically, to around 6,000 annually involving 8,000 or 9,000 domain names.

In 2013, ICANN approved 1,800 new generic top-level domains (“new gTLDs”) for delegation to the Domain Name System (DNS).⁴ The new gTLDs have been introduced into the market on a rolling basis. Many, perhaps most, are currently available for registration, while others are yet to be launched.⁵ Even as ICANN was taking steps to approve the new gTLDs for delegation, the World Intellectual Property Organization (WIPO) was expressing concern on behalf of the trademark constituency that “[t]he unprecedented expansion of the Internet domain name space . . . is likely to disrupt existing strategies for trademark protection on the web.”⁶

To counter this dire prediction, ICANN created three new protective mechanisms for rights holders, namely, (1) a registry-like body to verify marks and their commercial uses called the Trademark Clearinghouse (TMCH); (2) Sunrise (a 90-day period during which owners whose trademarks have been verified by the TMCH may preregister names corresponding to their trademarks); and (3) a new adjudicatory procedure, the Uniform Rapid Suspension System (URS).⁷

When introduced, the URS was not intended for legacy gTLDs (.com, .net, etc.), and for new gTLDs it applies only to that class of dispute colloquially referred to as a “slam dunk.”⁸ By way of registrar contract revisions negotiated in 2019, ICANN opened the URS to two legacy extensions: .org and .info. To many, this move presages a future ICANN decision to make the URS a “consensus policy”—that is, to open it up to all legacy extensions. For reasons I will outline below, the URS as presently constituted has not proved particularly popular with mark owners, but it could improve in popularity if certain changes were made.

Regardless whether a claim *could* be brought in a URS proceeding, rights holders have a choice of mechanism to shut down cybersquatting domain names. There is no particular mystery about the lack of enthusiasm for URS: the URS remedy is limited to suspension for the life of the registration; for the UDRP, it is either cancellation or transfer of the domain name. The difference is temporary as opposed to permanent relief. It appears that for most complainants, the permanent relief offered by the UDRP is better than the temporary relief offered by the URS.

This moment is particularly opportune to take a bird’s-eye view of the URS (and its relation to the UDRP) because there is an ICANN “Working Group” currently examining “All Rights Protection Mechanisms” (RPMs) to determine whether they fulfill the purposes for which they were created and whether additional policy recommendations are needed to improve them (the RPM WG). Its mandate is divided into two parts: Phase 1 examines the 2013 RPMs; Phase 2 focuses on the UDRP. The proper understanding of the term “rights protection mechanisms” is that it applies equally to mark owners as it does to domain name holders to the extent they establish their rights.

ICANN posted Phase 1 Preliminary Recommendations and Individual Proposals for public comment on March 18, 2020.⁹ The Recommendations include revising the default provisions of the URS; the Individual Proposals mainly address substantive changes to the URS such as reducing some respondent protections and extending the URS to include all legacy gTLDs. At some point following the public comment on Phase 1, which

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ended on May 4, 2020, the RPM WG will issue a Final Recommendation.

The RPM WG will not get to Phase 2 (UDRP) until late 2020 or have any preliminary recommendations until 2021 (if that!).

II. Jurisdiction and Remedies

ICANN describes the URS as “complement[ing] the existing UDRP by offering a lower-cost, faster path to relief for rights holders experiencing the most clear-cut cases of infringement.”¹⁰ The words have been chosen carefully. By its terms, the scope of the URS is significantly narrower than the UDRP. It is only available to owners with word marks; figurative marks are outside the scope.¹¹ It is also not available to mark owners claiming unregistered marks.

Current experience with the URS is slim because of its low usage. Since its introduction in 2014, there have been fewer than 2,000 cases. Rights holders prevail in approximately 98% of them. At the same time, at least twice as many rights holders use the UDRP for challenging domain names with new gTLD extensions. Why the preference?

On the surface, “lower cost” and “faster path” sound like sales pitches, encouraging rights holders to use the mechanism. Important though these two features are, the major discouragement appears to arise from the combination of differences between the URS and the UDRP. The URS demands a higher standard of proof and has only a single remedy. The third phrase, “clear-cut cases,” is a substantive statement about the subject matter jurisdiction of the URS, namely, that it is only available to a limited class of complainants.

I will return to the three phrases in a moment after developing some context. Mark owners pay less and have a heavier burden with the URS, but they get less. The question is, if mark owners had their druthers, what would they want? A partial answer is found in the RPM WG Preliminary Recommendations and Individual Proposals.

A. Higher Standard of Proof

To prevail under the URS, mark owners are required to support their claims of cybersquatting by clear and convincing evidence; while under the UDRP the burden is satisfied by a preponderance of the evidence. This higher standard has defeated parties who have submitted deficient pleadings.¹² The URS tracks the UDRP in dismissing claims by mark owners whose rights post-date registrations of alleged infringing domain names.¹³ Other complainants are flummoxed by the conjunctive requirement that demands proof of both registration in bad faith and use in bad faith. And, of course, the complainant must be able to show a trademark right. In *Best Reviews Guide*, the Examiner noted that “[the] lack of a

Trademark on the Principal Registry [is] dispositive of the matter in this forum.”

These bars to rapid suspension are repeated for emphasis in several different provisions: There must neither be “open questions of fact,” “genuine contestable issues,” nor “genuine issues of material fact.”¹⁴ For the avoidance of doubt as to the meaning of “clear and convincing evidence,” the URS includes the following instructions to Examiners (the name of decision-makers under the URS):¹⁵

To restate in another way, if the Examiner finds that all three standards are satisfied by clear and convincing evidence and that there is no genuine contestable issue, then the Examiner shall issue a Determination in favor of the Complainant.

If the claim is not slam dunk, it either belongs in a UDRP proceeding or in an action in a court of competent jurisdiction.

B. Suspension

The second principal difference between the URS and the UDRP is the available remedy. Whereas the UDRP offers two remedies, cancellation or transfer of the domain name, the URS offers only suspension for the duration of the registration.¹⁶ The concern here is that the same domain name could be registered by another potential infringer once it is released following the expiration of the registration. This is not paranoiac: There have been instances of domain names returning to the URS under different respondent names.¹⁷ The URS has no provision for putting the domain name out of reach for further exploitation. Individual Proposal #13 therefore proposes that the losing respondent “cannot re-register the same domain name once it is no longer suspended.”

In the discussions by the World Intellectual Property Organization (WIPO)¹⁸ that ultimately led to ICANN implementing the UDRP, commentators considered three remedies to combat cybersquatting: suspending, cancelling, and transferring infringing domain names. Of the three, suspension appears to have been considered separately. Final Report Paragraph 189 states:

A number of commentators were in favor of the possibility of an expedited application under the administrative procedure, whereby a complainant could obtain a suspension of a domain name registration on short notice pending a final decision on the merits.

However, the Final Report concluded that “the scope of the administrative procedure to cases of abusive registration makes this possibility unnecessary.” While suspension did not make its way into the UDRP, ICANN nevertheless incorporated all three remedies in the Regis-

trar Accreditation Agreement (RAA), and it is a standard fixture in domain name service agreements.¹⁹

The unused remedy of suspension came in handy when ICANN began considering an expedited mechanism for rights holders challenging registrations of domain names in new gTLD extensions, and it found its place in the URS. While mark owners would like to enlarge the remedy and limit reopening of default suspensions, domain name holders would like to strengthen protections against overreaching and assure that respondents get a fair opportunity to defend their domain names.

III. Benefits and Burdens of the URS

Two principal features of the URS—lower cost and faster path—both implicate due process issues that the RPM WG focused on. Lower cost is a benefit to trademark owners but not to domain name holders. As for faster path, because, for the most part, respondents are likely to be unrepresented, it can affect their ability to gather sufficient information to defend themselves. The RPM WG found deficiencies in this area.

A. Lower Cost

The “lower cost” (Forum charges \$375 for 1 to 14 domain names²⁰ at against \$1,300 for a sole Panel or \$2,600 for a three-member Panel for the UDRP) buys “faster path to relief,” but a rush to judgment comes at a cost of error discussed further below. As there must be effective means of suspending infringers, there likewise must be effective protections.

Not surprisingly, there are different opinions on cost. It is mainly mark owners who incur them and who may wish to even the score by shifting some of it to respondents. So, for example, the RPM WG report asks for community input on the question of penalties for abusing the URS process (Question #10, referring to URS Article 11, which targets overreaching mark owners, similar to reverse domain name hijacking under the UDRP). Individual Proposal #22 suggests that the URS “should incorporate a ‘loser pays’ model.” This would be a radical departure from the UDRP, but such a provision in a contingent form is written into the Canada country code policy.²¹

B. Faster Path to Relief

Respondents have 14 days from service to file a response;²² and Examiners have a three-day turnaround to file decisions,²³ as compared with 14 days for UDRP Panels. Given the speed for turning around the URS administrative review—the provider has to act within two business days of submission of the complaint,²⁴ and the Examiner has, as noted, three days for the decision—the examination is unnecessarily hurried, resulting in a perfunctory analysis of the record (with exceptions). For this reason, the RPM WG recommends (Preliminary Rec-

ommendation #7) that “all URS Providers require their examiners to document their rationale in sufficient detail to explain how the decision was reached in all issued Determinations.”

It could reasonably be argued that this “rush to judgment” comes with unintended (although foreseeable) consequences. The lower cost means there is less money to pay Examiners for their services, and the faster path means Examiners have less time to consider the merits of a dispute. Speed can be the enemy of sound judgment. These combined shortcomings can diminish confidence in the process. For example, in the case involving *Prudential.app*,²⁵ the domain name did not resolve to an active website, and, except for the second level domain being identical with the well-known PRUDENTIAL mark, the Examiner was unilluminating on how it arrived at its decision. It suspended the domain name because

[t]he PRUDENTIAL mark is famous all around the world and has been used for year[s]. Therefore, the Respondent knew or should have known of the Complainant’s mark when registering [the domain name].

While PRUDENTIAL may be “famous all around the world,” it cannot own “prudential” any more than Entrepreneur Media, Inc. can own the word “entrepreneur.”²⁶ Had the domain name resolved to an active website, the content of the site would have been a critical factor in assessing bad faith; passive holding without other evidence is inconsistent with the jurisdictional limitations of the URS. Indeed, examiners have found that passive holding cases in which the domain name is composed of dictionary words that there are triable issues of fact that preclude suspension.

The deficiency in the decision is illustrated in a later *Prudential* case. The examiner dismissed the complaint on the grounds that the policy “was not intended to permit a party who elects to register or use a common term, ‘rock solid’ in this case as a trademark to bar others from using the common term in a domain name, *unless it is clear that there is the case of the bad faith use*” (emphasis added).²⁷

C. Mitigation of Initial Default

ICANN recognized that the rush to judgment favored the complainant and crafted some provisions to strengthen and balance due process by (1) allowing respondents to cure a default after the initial determination of suspension and (2) allowing for a de novo appeal from a final determination of suspension. De novo review is permissible if the defaulting respondent either files an answer within six months (for a modest fee) or makes a request for another six-month extension (Paragraph 6.4 and 6.5, for another less modest fee). Thus, respondents have up to 12 months after default to establish a defense. De novo reviews are rare, and if they occur, it is rarer still to file for

a de novo appeal, which is a separate level of review and further fees.²⁸

To trademark owners, de novo review—essentially giving respondents a second and third chance—constitutes an existential threat in that it prolongs the process; time waiting for a remedy is also a cost. There is also the possibility that the URS will become a consensus mechanism. If the URS were extended to legacy gTLDs, it would create the potential for gaming the proceeding. Hence, there are several Individual Proposals to reduce the risks. De novo review should either be eliminated or revised to a single shorter period.²⁹

De novo appeal³⁰ (a step beyond de novo review) is an interesting and inventive concept. It is not offered under the UDRP, but it is not *sui generis*. It has been a feature of Australia, New Zealand, and UK country code policies from the beginning. Whether the RPM WG recommends it for the UDRP must await further discussion in Phase 2 of the RPM WG.

While changes to the URS may be warranted, they could come as a cost to domain name registrants who arguably have lawful registrations. This is less an issue at present, since there are so few URS cases, but it is likely to become an issue if the URS blossoms into a consensus policy.

RPM WG Individual Proposal #36 would significantly reduce respondents' right to enter the fray after default. It seeks to "[e]liminate the existing post-default de novo review period and instead replace the current URS appeal as a filing period to 60 days, with the possibility of obtaining an additional 30 days to file a URS appeal as a matter of right, upon request within the initial 60 day filing period."

D. Due Process

Well over 95% of respondents default. In most cases this is likely because (as in UDRP proceedings) they have no defensible rights to their choices, but a small number of undefended or even defended disputes could very likely raise the kinds of issues that may not be so obvious. In these cases—such as the *Prudential* case cited above—there is good cause to insist on reinforcing due process for two obvious reasons: first, the possibility that respondents did not receive actual notice of the proceedings (emails going into spam, for instance) or unable to respond within the stipulated 14 days; and second, that respondents may not understand what the proceedings are about (the default language of the proceedings is English).

It is essential that respondents receive Notice of Complaint in their own language (Preliminary Recommendation #3) and are advised of their right to respond and defend their domain names. It is not unlikely for a respondent to learn its domain name has been challenged when it sees it has been suspended. For 95+% of the cases—those involving marks of well known and famous

brands—undue speed probably makes no difference because it would be implausible for the respondent to deny targeting. However, there are other cases in which a cursory examination is not sufficient, specifically those involving domain names identical or confusingly similar to marks composed of dictionary words or common phrases that could conceivably be used for other businesses without infringing third-party rights.

The RPM WG considered several fixes: (1) transmitting the complaint only after the Registrar has forwarded the relevant WHOIS/RDDS data (Preliminary Recommendation #2); (2) transmitting notice of complaint with translation in the predominant language of the respondent (Recommendation #3); (3) developing a uniform set of educational materials for parties, practitioners, and examiners (Preliminary Recommendation #6); and (4) developing clear, concise, easy-to-understand informational materials (Preliminary Recommendation #10). These fixes will have an impact on the service providers in terms of the costs associated with the changes they will have to make to their online filing systems.³¹

III. URS Jurisprudence as Applied

A. Clear-Cut Cases

As already noted, URS jurisdiction is more limited than that of the UDRP: "rapid suspension" is only available to mark owners with registered rights and proof of actual commercial use.³² It is not, therefore, as previously mentioned, available to mark owners claiming unregistered (common law) rights or design marks. To qualify for standing, rights holders must prove a set of additional elements beyond those necessary to meet the "standing" requirement of the UDRP. The "identical or confusingly similar" element remains, but the complainant also "[must] hold[] a valid national or regional registration . . . that is in current use."³³ Proof of use can be shown "(a) by demonstrating that evidence of use—which can be a declaration and one specimen of current use in commerce—was submitted to, and validated by, the Trademark Clearinghouse; or (b) . . . submit[ing] [proof] directly with the URS Complaint."

Recent clear-cut cases on the docket include lockheedmartin.ooo, kohls.cloud, bloomberg.page, and cleanmypc. It should be noted that the first three of these incorporate well known, perhaps famous marks. "Clean my PC"³⁴ is more like "rock solid" in being a common expression, but as the Examiner explained: "While the Complainant's mark appears to be weak as it comprises a combination of the words 'clean,' 'my' and the acronym 'pc,' the evidence provided clearly shows that the Respondent was targeting the Complainant."

For marks on the lower end of the spectrum, the complainant has to work harder. In *Principal Services*,³⁵ the Examiner held that "[h]olders of protected marks which are also commonly used, generic terms should

ensure prompt registration of their desired domains, as their trademarks, on their own accord, will not suffice to succeed on claims against legitimate registrants of such domain names.” This is aptly illustrated in *Laz.org*, in which the complainant argued that “laz.org” was confusingly similar to its marks, LA ZETA and THE Z.³⁶ It came to this conclusion based on a “belief” that the string was truncated to “laz” from “la zeta” (omitting the “eta”) and that the “la” (a “the” in Romance languages) was confusingly similar to “LA Z.” The Examiner rejected the contention, thereby reinforcing another, and most important point, well established in UDRP jurisprudence, that it is not an actionable claim for investors to sell stock from inventory lawfully registered.

B. The Evidentiary Burden

As already explained, the URS demands that complaints prove their contentions of cybersquatting by clear and convincing evidence, and the meaning of this standard is prescribed in the Procedure provisions. The URS essentially demands specific and concrete evidence that the challenged domain name is infringing. If inferences are made, they must flow directly from solid proof.

The Examiner found cybersquatting in eos.blackfriday³⁷ by inferring from the second-level domain identical to the mark that the only reason for attaching the “blackfriday” extension to the mark was to attract consumers interested in purchasing the complainant’s products. The inference was drawn from the content of the website to which the domain name resolved.

The URS prescribes two sets of factors that support conjunctive bad faith, a general set shared with the UDRP and a specific set that is unique to it. The specific set reads:

5.9.1 Trading in domain names for profit, and holding a large portfolio of domain names, are of themselves not indicia of bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner must review each case on its merits.

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5.9.2 Sale of traffic (i.e. connecting domain names to parking pages and earning click-per-view revenue) does not in and of itself constitute bad faith under the URS. Such conduct, however, may be abusive in a given case depending on the circumstances of the dispute. The Examiner will take into account:

5.9.2.1. the nature of the domain name;

5.9.2.2. the nature of the advertising links on any parking page associated with the domain name; and

5.9.2.3. that the use of the domain name is ultimately the Registrant’s responsibility.

As noted above with respect to *Laz.org*, “belief” in the correctness of one’s position does not satisfy the evidentiary burden to show bad faith because it rests on conjecture. In *Topsolid.xyz*,³⁸ the Examiner noted that “[t]he Complainant has not provided any information with regard to its scope of business activity, especially in Switzerland, where the Respondent is located. Furthermore, the disputed domain name is a combination of the generic words ‘top’ and ‘solid’ and the Complainant provided no evidence that the Respondent deliberately targets its trademark.”

A similar conclusion was reached in *Grey.email*.³⁹ It is particularly difficult to prove bad faith use of generic terms, regardless how well-known a mark may be, if used “solely in a descriptive way and not in connection with the Complainant’s services.”

Respondents also have two sets of circumstances as defenses, general and specific. The general defenses are identical to the UDRP. The specific defenses, which are peculiar to the URS, are:

5.8.1 The domain name is generic or descriptive and the Registrant is making fair use of it...

5.8.2 The domain name sites are operated solely in tribute to or in criticism of a person or business that is found by the Examiner to be fair use.

5.8.3 Registrant’s holding of the domain name is consistent with an express term of a written agreement entered into by the disputing Parties and that is still in effect.

5.8.4 The domain name is not part of a wider pattern or series of abusive registrations because the domain name is of a significantly different type or character to other domain names registered by the Registrant.

Defenses are well illustrated in two cases that went all the way to appeal. The respondent succeeded in one and failed in the other. Both were defended by able counsel through the de novo appeal. In *Grey.email*,⁴⁰ respondent relied on 5.8.1 and 5.8.4. This is true even though mark owners have not embraced the URS for the reasons mentioned, but the Final Recommendations from RPM WG are very likely to amend it in some of the ways indicated while maintaining a delicate balance among different in-

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terests. Grey.email is counterbalanced by eos.blackfriday, discussed above.

C. From the Mark Owner's Perspective

There is an ongoing tug of war between mark owners and domain name holders over domain names composed of generic and descriptive phrases. An observant reader will notice that the Preliminary Recommendations are essentially focused on due process deficiencies (I suspect the competing interests reached an accommodation). In contrast, the Individual Proposals (where they are not technical in nature) are mostly offered by mark owners to expand the remedies and reduce protections in preparation for the URS becoming a consensus policy, which they favor. There are two Individual Proposals of particular interest. Proposal #16 states:

The URS should allow for additional remedies such as a "right of first refusal" to register the domain name in question once the suspension period ends or the ability of the Complainant to obtain additional extensions of the suspension period.

Individual Proposals #31 proposes that ICAAN declare the URS a consensus Policy because data developed by a sub-team "indicates that URS in practice has proven viable, efficacious, and fit-for-purpose as a rapid remedy for clear-cut instances of protected mark abuse."

IV. Conclusion

The URS is similar to the UDRP in both the language and elements of its three-part structure and its evidentiary demand for proving conjunctive bad faith, but it is dissimilar in being heavily prescriptive, whereas the UDRP is only minimally so. What this means for the URS is that Examiners are not authorized to leave the track laid out for them in the URS Procedure and Rules. They may cite to UDRP decisions and even quote from the WIPO Overview, now in its Third Edition, for the purpose of citing core principles and applying factors long agreed upon by consensus, but they do not have the same license as UDRP Panels to construe the language of the URS.

Nevertheless, there is a discernible development of a set of views that Examiners draw upon. This does not add up to a true jurisprudence, but it does provide guidance for parties, practitioners, and Examiners, which in itself would be the kind of educational material the RPM WG is aiming at.

Endnotes

1. <http://www.zooknic.com/Domains/counts.html>.
2. The first dot com, symbolics.com, was registered March 15, 1985; nordu.net was registered Jan. 1, 1985.
3. Reported at https://www.verisign.com/en_US/domain-names/dnib/domain-name-industry-brief-reports/index.xhtml#2019. Country code extensions almost double this number. https://www.verisign.com/en_US/domain-names/dnib/index.xhtml.
4. Described on the ICANN website at <https://newgtlds.icann.org/en/program-status/delegated-strings>.
5. Schedule of launching can be found at <https://www.webnames.ca/domain-registration/new-domain-name-launch-schedule.aspx>.
6. WIPO Release dated March 17, 2014 is available at http://www.wipo.int/pressroom/en/articles/2014/article_0003.html.
7. The URS is an ad hoc rather than a consensus policy which means that it cannot be upgraded to include legacy gTLDs without multi-stakeholder input and ultimate approval of ICANN's Board.
8. ICAAN implemented the URS in June 2013.
9. <https://www.icann.org/public-comments/rpm-initial-report-2020-03-18-en>.
10. ICANN website at <https://newgtlds.icann.org/en/applicants/urs>.
11. URS 1.2.6.1: "the domain name is identical or confusingly similar to a word mark" (emphasis added).
12. See *Dr. Seuss Enterprises, L.P. v. Contact Privacy Inc.* Customer 0156025452, FA2003001868801 (Forum November 14, 2019) (gringestore). Submitted the wrong screenshot of a web site resolving from the domain name to seussville.com).
13. See *Central Florida Educational Foundation, Inc. v. Matthew Klein et al.*, FA2003001887817 (Forum April 2, 2020) (livingworship.org).
14. URS Procedure 8.3: "For a URS matter to conclude in favor of the Complainant, the Examiner shall render a Determination that that there is no genuine issue of material fact." URS Procedure 8.5: "Where there is any genuine contestable issue as to whether a domain name registration and use of a trademark are in bad faith, the Complaint will be denied. . . . The URS is not intended for use in any proceedings with open questions of fact, but only clear cases of trademark abuse."
15. URS Procedure 8.6.
16. URS Procedure 10.2, 10-4.
17. Cfa.business has come around twice within months of each other (same registrars); and also skx.science with different respondents and registrar.
18. WIPO published its recommendation in *The Management of Internet Names And Addresses: Intellectual Property Issues* (Final Report, Apr. 30, 1999).
19. RAA, 3.7.7.11.
20. Forum Supplemental Rules, Paragraph 18: <http://www.adrforum.com/resources/URS/URS%20Supplemental%20Rules.pdf>.
21. Canada Internet Registration Authority ((CIRA), Paragraph 4.6: "the Panel may order complainant to pay to the Provider in trust for the Registrant an amount of up to five thousand dollars (\$5000) to defray the costs incurred by the Registrant in preparing for, and filing material in the Proceeding."
22. URS Procedure 6.1.

23. URS Procedure 9.6: "A Determination shall be rendered on an expedited basis, with the stated goal that it be rendered within three (3) Business Days from when Examination began. Absent extraordinary circumstances, however, Determinations must be issued no later than five (5) days after the Response is filed."
24. URS Procedure 3.2.
25. *The Prudential Insurance Company of America v. REDACTED PRIVACY*, FA1809001806523 (Forum October 11, 2018).
26. *Entrepreneur Media, Inc. v. Smith*, 279 F.3d 1135, 1147 (9th Cir. 2002) ("Although EMI has the exclusive right to use the trademark 'ENTREPRENEUR' to identify the products described in its registration, trademark law does not allow EMI to appropriate the word 'entrepreneur' for its exclusive use.")
27. *The Prudential Insurance Company of America v. Terrance McQuilkin et al.*, FA150500 1618256 (Forum May 29, 2015) (rocksolid.financial). This point is made again in a claim involving bnp-paribas.icu. The Examiner dismissed the complaint even though the second level domain is identical to complainant's mark because "[while] [t]he evidence submitted by the Complainant show[s] a picture showing a parked page with pay-per-click links which appears to target the Complainant . . . the website under the disputed domain name does not resolve to a parked page." Therefore, "[a]s noted by other Panels . . . [w]hen the evidence submitted by the Complainant is not in line with the actual use of the disputed domain name the case must fail," *BNP PARIBAS v. GDPR Masked*, FA1810001810412 (Forum October 29, 2018) (bnp-paribas.icu).
28. Under URS Procedure Paragraph 12, either party can file for de novo appeal (Paragraph 12.1) within 14 days after a default or final determination (Paragraph 12.4). The Forum charges differential fees depending on whether the appellant uses the hearing record or elects to enlarge the record (Forum Supplemental Rules).
29. Individual Proposal #36.
30. URS Procedure 12.
31. Private conversation with Renee Fossen, Director of Arbitration – Forum.
32. URS Procedure 1.2.6.1: "The registered domain name(s) is/are identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use."
33. URS Procedure 1.2.6.1.
34. *MacPaw Inc. v. Sonora Inmuebles et al.*, FA1810001811412 (Forum Oct. 30, 2018).
35. *Principal Financial Services, Inv. v. T YS et al.*, FA1407001570598 (Forum Aug. 11, 2014)
36. *Central Florida Educational Foundation, Inc. v. Domain Administrator / NameFind LLC et al.*, FA200300 1887839 (Forum Mar. 26, 2020).
37. *Canon Kabushiki Kaisha v. North Sound Names et al.*, FA1507001628473 (Forum Sept. 11, 2015).
38. *MISSLER SOFTWARE SA v. Jonas Kropf*, FA1707001738392 (Forum Feb. 17, 2016).
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