

User Perspectives on the UDRP

WIPO Conference: 10 Years UDRP – What's Next?

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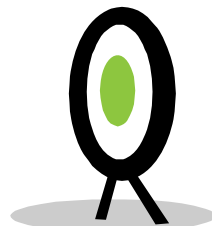
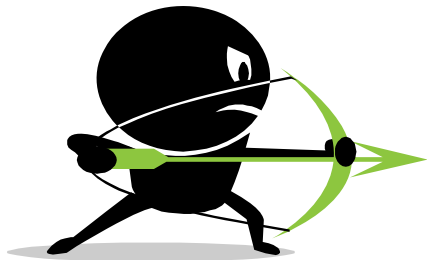
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Some Thoughts from a filing party / panelist

- What works and what doesn't?
- What works?
 - Ability to deal with infringers across many jurisdictions including a number of ccTLDs (60)
 - More cost effective than going to Court
 - Time efficient
 - Broadly predictable (for both C and R)



UDRP has had to evolve and adapt to remain on target

Dealing with "classic" cybersquatting...

After c&d letter:

- *"We have an innovative proposal that could generate millions of dollars in income" for the trade mark holder. "We have not submitted our business proposal to [the company] so how can someone say they do not wish to discuss something that will be of commercial benefit to their business if they do not know what the proposal contains".*

After complaint prepared:

- *Hoping that the company "appreciate the great name we created and we are only sad that we contacted them too late as we intended to provide them a much better service than what we are led to believe they paid \$70m for, at a fraction of that cost" and that "it would be nice however to get a token of appreciation for our intellectual creativity".*

After transfer:

- *Even reverted asking "if the transfer of the beautiful set of names has been complete?" finally commented that they were "pleased that the global brand will be using the name that we created".*

Some other correspondence received:

- *"Believe it or not I resent someone in the soliciting game accusing me of bad faith, so, I have asked an investigator to look into your past and present to evaluate the quality of your faith.*
- *I just feel like having an unorthodox go at the messenger.*
- *Expect the unexpected".*

A bad faith registration under .ie (Ireland)

- Facebook.ie (WIPO Complaint DIE2007-0009)
 - Registrant Talkbeans Media Limited
 - 2 Cease and desists sent
 - Complaint filed with WIPO
 - Only then would they agree to transfer
 - Client already put to considerable cost

Home > IP Services > Arbitration and Mediation Center > Domain Names >

All Cases: D2007-0001 - D2007-0199

Last updated: 18-Apr-2008

Case Number	Domain Name(s)	Commencement Date	Case Status
DIE2007-0001	gogle.ie google.ie googl.ie googol.ie	-	Terminated
DIE2007-0002	kelkoo.ie	-	Decided
DIE2007-0003	myhomes.ie	-	Terminated
DIE2007-0004	dermalogics.ie	-	Decided
DIE2007-0005	champagne.ie	-	Decided
DIE2007-0006	bebo.ie	-	Terminated
DIE2007-0007	whatcar.ie	-	Decided
DIE2007-0008	sedo.ie	-	Terminated
DIE2007-0009	facebook.ie	-	Decided

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talkbeans

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pink play pretty read **reading** really right soaps soccer
something **stephen** student taking things think time work



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Facebook Inc. v. Talkbeans Media Limited

Case No. DIE2007-0009

1. The Parties

The Complainant is Facebook Inc., Palo Alto, California, of United States of America, represented by Lovells, France.

The Registrant is Talkbeans Media Limited, Shankill, Co. Dublin, Ireland, and Dublin, Co. Dublin, of Ireland, represented by LK Shields Solicitors, Ireland.

2. The Domain Name and Registrar

The disputed domain name <facebook.ie> is registered with IE Domain Registry Limited.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 14, 2007.

On December 17, 2007, the Center transmitted by email to IE Domain Registry Limited a request for registrar verification in connection with the domain name at issue.

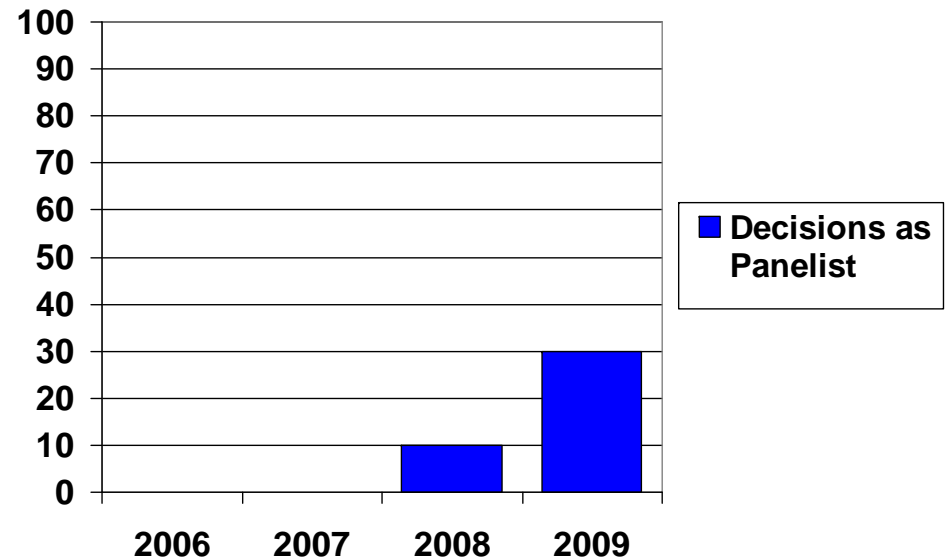
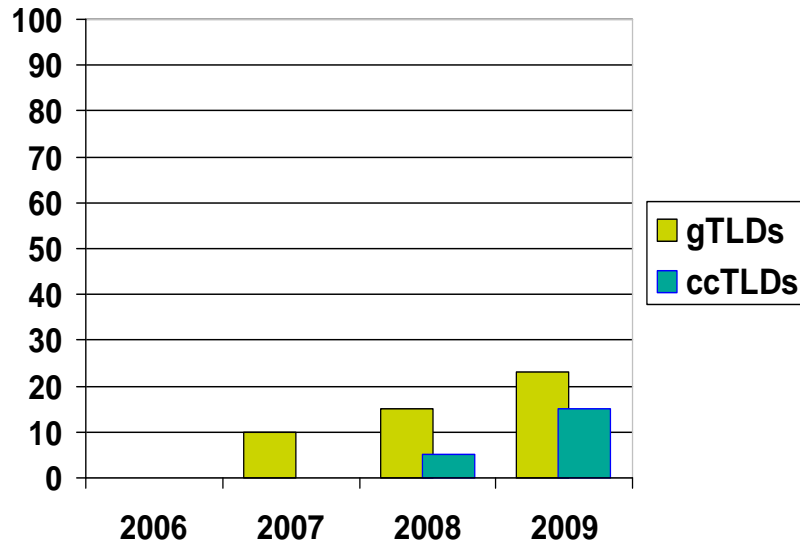
What doesn't work at the moment?

- Proxy / Privacy issues
- Is the UDRP fast enough for today's Internet?
- The impact of new gTLDs

A need to deal with the Privacy / Proxy issue

- ICANN Study:
 - estimate 15-25% using privacy or proxy services
 - thus 16-27 million registrations in gTLDs...
 - privacy / proxy services do have a role
 - but also a need to identify wrongdoers
 - privacy / proxy services are being abused by bad actors
 - gaming is the issue
 - some companies rarely comply with their ToS and reveal
 - registrars are using them themselves
 - Open to public comment through to 6 November 2009

Percentage of Lovells and Panelist cases involving Privacy or Proxy Services (gTLDs & ccTLDs)



- NB: Privacy and Proxy Service under ccTLDs:
 - Poland : two different procedures depending on the nationality of the registrant.
 - France: the data of an individual owner are private

Dealing with the Privacy / Proxy issue

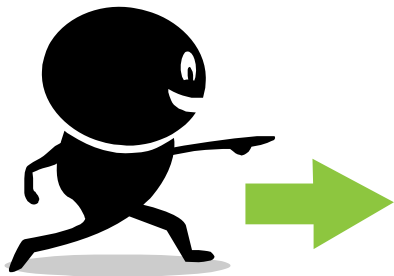
- An issue identified by IRT upfront but not able to address in the allotted time
 - Non-commercial sites = private
 - Commercial use = public
- IPC
 - Working group on the RAA (3.7.7.3)
 - IPC "Registrar Advisories"
- Comment on the ICANN Study through to 6 November 2009

Is the UDRP fast enough for today's Internet?

- Towards an expedited process?
 - Summary Decisions – Nominet
 - Summary Decisions for uncontested complaints
 - Lower filing fee
 - But still need to prepare a full complaint and panelist
 - URS (Uniform Rapid Suspension System) IRT
 - For new gTLDs only. Aim: Faster and cheaper
 - No transfer
 - Consensus at GNSO / Adoption by ICANN?
 - ESM (Expedited Suspension Mechanism) WIPO
 - If R default no panelist appointed

Conclusions (i)

- Expedited process / Fast Track UDRP inevitable
 - Adapt the UDRP or move to "new" systems?
 - All gTLDs? All providers? Provider Supplemental Rules?
 - If R defaults (73%) panelist appointment or not?
 - Ability for R to use checkbox to transfer
 - Full or short form complaint?



**A Summary UDRP pleading /
check box response mechanism?**

Conclusions (ii)

- All electronic procedures necessary
- Need to deal with the changing face of the Internet with new gTLDs
- Finding the balance is key
 - Dealing with those who game the system without usurping the rights of those who don't
 - Allow privacy v Need to identify the bad actors
 - Rapid procedures v Safeguarding innocent parties