

# World Trademark Review Daily

Cybersquatting cases up again in 2011

Cybersquatting

International - Hogan Lovells International LLP

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The [Arbitration and Mediation Centre](#) of the [World Intellectual Property Organisation](#) (WIPO) has issued its [annual press release](#) on cybersquatting, revealing that cybersquatting cases filed under the [Uniform Domain Name Dispute Resolution Policy](#) (UDRP) in 2011 increased by 2.5% and 9.4% over the previous levels in 2010 and 2009, respectively. In 2011 brand owners filed 2,764 complaints covering 4,781 domain names with WIPO under the UDRP.

The UDRP is an alternative dispute resolution procedure for resolving cybersquatting outside the courts. Under the UDRP, a complainant must demonstrate that:

- the disputed domain name is identical, or confusingly similar, to its trademark;
- the respondent does not have a right or legitimate interest in the domain name; and
- the respondent registered and uses the domain name in bad faith.

Disputes are decided by independent panels drawn from WIPO's global list of trademark specialists. The domain name registration in question is suspended during the proceedings. After reviewing a case, panels submit their decision within a period of 14 days. If a panel's decision to transfer a domain name is not challenged in a competent court within a period of 10 business days, the registrar in question is legally bound to implement the panel's decision. The entire case normally takes no more than about two months.

Another interesting fact revealed by WIPO's recent press release was that the percentage of cases relating to country-code top-level domains (ccTLDs) rose to 16% of all cases in 2011, up from just 1% in 2000, and this percentage looks set to increase (in 2010, it was 15%). A total of 65 national domain registries have now designated WIPO to provide domain name dispute resolution services, while many others have chosen to develop and run their own procedures in-house (eg, [Nominet's Dispute Resolution Service](#) for '.co.uk' domain names and [AFNIC's Syreli](#) procedure for '.fr' domain names).

The global nature of the internet is reflected by the fact that cases filed with WIPO in 2011 included complainants and respondents from 110 countries. The cases were decided by 323 WIPO panellists from 49 countries in 13 different languages - namely (in order of frequency), English, Spanish, French, Dutch, German, Chinese, Turkish, Korean, Portuguese, Romanian, Japanese, Italian and Slovak.

Turning to the cases filed with WIPO in 2011 relating to generic top-level domains (gTLDs), 77% concerned registrations in the '.com' domain (WIPO also deals with complaints under other gTLDs such as '.net', '.info', '.org' and '.biz'). It is envisaged that the upcoming launch of new gTLDs will result in a massive increase in the number of registered domain names worldwide, meaning that cybersquatting will likely increase proportionally, thus making alternative dispute resolution solutions such as the UDRP an important tool for brand owners.

WIPO's press release also breaks down WIPO UDRP cases in 2011 by complainant activity (the top five areas were retail, internet and IT, biotechnology and pharmaceuticals, fashion, and banking and finance).

Since the UDRP's launch in December 1999, WIPO has received over 22,500 UDRP-based cases, covering some 40,500 domain names in both gTLDs and ccTLDs. However, these figures are perhaps only the tip of the iceberg when it comes to cybersquatting, given that WIPO is only one of four providers accredited by the [Internet Corporation for Assigned Names and Numbers](#) to provide services in relation to the UDRP. The others are the [Asian Domain Name Dispute Resolution Centre](#) (with offices in Beijing, Hong Kong, Seoul and Kuala Lumpur), the [National Arbitration Forum](#) (in Minneapolis) and the [Czech Arbitration Centre](#) (in Prague). In addition, and as mentioned above, many ccTLD registries have put into place their own alternative dispute resolution procedures, some closely based on the UDRP, some more akin to arbitration.

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