

Richmond Journal of Law and Technology

Volume 7 | Issue 1

Article 4

2000

The Development of Arbitration in the Resolution of Internet Domain Name Disputes

Christopher S. Lee

Follow this and additional works at: <http://scholarship.richmond.edu/jolt>

 Part of the [Dispute Resolution and Arbitration Commons](#), [Intellectual Property Law Commons](#), and the [Internet Law Commons](#)

Recommended Citation

Christopher S. Lee, *The Development of Arbitration in the Resolution of Internet Domain Name Disputes*, 7 Rich. J.L. & Tech 2 (2000).
Available at: <http://scholarship.richmond.edu/jolt/vol7/iss1/4>

This Article is brought to you for free and open access by UR Scholarship Repository. It has been accepted for inclusion in Richmond Journal of Law and Technology by an authorized administrator of UR Scholarship Repository. For more information, please contact scholarshiprepository@richmond.edu.



**Volume VII, Issue 1,
Fall 2000**

**The Development of Arbitration in the Resolution of Internet
Domain Name Disputes**

by Christopher S. Lee(*)

Cite As: Christopher S. Lee, *The Development of Arbitration in the Resolution of Internet Domain Name Disputes*, 7 RICH. J.L. & TECH. 2 (Fall 2000), at <http://www.richmond.edu/jolt/v7i1/article2.html>.

TABLE OF CONTENTS

I. INTRODUCTION

II. BACKGROUND

III. DESCRIPTION OF THE INTERNET & THE PROBLEM

IV. APPLICABLE LAW

V. THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

VI. ARBITRATION FORUMS

VII. FORUM SELECTION

VIII. THE UDRP AND TRADEMARK LAW

IX. PROCESS AND ASPECTS OF FILING AN ARBITRATION CLAIM

X. FEES AND SELECTION OF THE ARBITRATION PANEL

XI. INITIAL CASES

A. Decisions for the Complainant

1. **World Wrestling Federation Entertainment, Inc. v. Michael Bosman**

2. **America Online, Inc. v. QTR Corporation**

3. **Julia Fiona Roberts v. Russell Boyd**

B. Decisions for the Respondent

1. **Frank James Pearson v. Byers Choice**

2. **Calstore.com v. Calstore.net**

3. **Shirmax Retail Ltd. v. CES Marketing Group Inc.**

XII. STATISTICAL RESULTS OF INITIAL ARBITRATION HOLDINGS

XIII. QUESTIONS AND CONCERNS

XIV. ADVANTAGES OF INTERNET DOMAIN NAME ARBITRATION

XV. CONCLUSION

APPENDIX A-1

I. INTRODUCTION

{1} Web surfers who use the AltaVista Internet search engine may not realize that in 1998, Compaq Computer Corporation paid \$3.3 million for the rights to the domain name AltaVista.com. (1) A year later, eCompanies paid \$7.5 million for the domain name business.com. (2) And in February of 2000, Bank of America paid \$3 million for the domain name loans.com. (3) These transactions demonstrate that the ownership, transfer, and control of Internet domain names is a multi-million dollar industry.

{2} The growing demand for Internet domain names has spawned two types of controversies. The first type of dispute involves an established company, such as America Online, battling with an individual speculator who reserved the domain name in question before the corporation was able to. The second type of dispute involves two established companies with similar names, such as Massachusetts Institute of Technology ("MIT") and Merritt Island Technologies ("MIT"), vying for the domain name mit.com. (4)

{3} Until recently, the courts have been the primary adjudicators of Internet domain name disputes. Unfortunately, time and expense hamper the dispute resolution process. Trademark attorneys indicate that trademark litigation fees can begin at \$15,000 to \$20,000, and may take as long as six months to three years to resolve. (5)

{4}What was considered new to the Internet three months ago is often considered old and outdated today. Therefore, a multi-year dispute resolution process creates a huge loss of opportunity for companies developing their websites.

{5}In an effort to deal with mounting Internet domain name disputes, the Internet Corporation for Assigned Names and Numbers ("ICANN") approved the use of arbitration on October 24, 1999. Arbitration offers two primary benefits. First, the arbitration process can be completed in a matter of weeks, instead of months, or even years. And second, the process is considerably less expensive than a protracted court battle.

{6}This paper examines the development of arbitration in Internet domain name disputes, and analyzes the holdings in the initial arbitration cases.

II. BACKGROUND

{7}Commercial Internet domain name registration commenced in 1993 when the U.S. Department of Commerce entered into a Cooperative Agreement with Network Solutions, Inc. (NSI). (6) The Agreement called for NSI to provide registration services for the domain names ending in .com, .org, and .net. (7) In 1998, this Cooperative Agreement was extended with some modifications. (8)

{8}In 1998, ICANN was established as a non-profit corporation formed to assume the U.S. Government's domain name management functions. (9) After extensive notice and comment, negotiation, and review, the U.S. Government, ICANN, and NSI entered into a series of agreements in which ICANN was given the domain name management functions, and NSI would provide registration services for the top-level domains .com, .org, and .net. (10) Simply put, ICANN manages and coordinates Internet domain policies, and NSI maintains and operates the hardware and software supporting Internet domain registration. (11)

{9}The 1998 Cooperative Agreement also opened the doors to additional registrars to enter into the domain name registration business. (12) Under the terms of the agreement, NSI acts as the central registry administrator. Additional companies, accredited by ICANN, can also act as registrars. (13) On one level, NSI performs the unique registry administration functions, and on another level, competes with other companies as a registrar.

{10}Since the beginning of NSI's Cooperative Agreement with the U.S. Government, domain name registration has occurred on a first come, first served basis. For a nominal \$35.00 per year fee (\$70.00 for the first two year registration; \$35.00 per year for subsequent renewals), any person or entity may register any domain name that ends with .com, .org, or .net. (14) This policy created a modern day gold rush of speculators hurrying to register names ranging from corporate trademarks such as citigroup.com, (15) to those of wide popularity such as CalRipken.com, (16) to generic sounding names such as business.com. (17)

{11}Speculators, also referred to as "cybersquatters," argue that they are visionary entrepreneurs. They note that they had the foresight and opportunity to obtain domain names that any other person could have obtained or procured. Cybersquatters further argue that by right of first possession, they should be able to charge whatever the market will bear in transferring the ownership and control of the domain name. (18)

{12}On the other side of the equation, corporations argue that they have spent valuable money and resources developing their product trademark names. This investment of time and resources by corporations justifies trademark protection on the Internet as well as in the physical world. Companies also argue that cybersquatters are like extortionists, holding a trademark hostage until exorbitant sums are exacted. (19)

{13}These two opposing viewpoints have set the groundwork for courtroom litigation and, more recently, binding arbitration.

III. DESCRIPTION OF THE INTERNET

{14}The Internet has been defined as:

[A] global network connecting millions of computers. As of 1999, the Internet has more than 200 million users worldwide, and that number is growing rapidly. More than 100 countries are linked into exchanges of data, news and opinions. Unlike online services, which are centrally controlled, the Internet is decentralized by design. Each Internet computer, called a host, is independent. Its operators can choose which Internet services to use and which local services to make available to the global Internet community. Remarkably, this anarchy by design works exceedingly well. There are a variety of ways to access the Internet. Most online services, such as America Online, offer access to some Internet services. It is also possible to gain access through a commercial Internet Service Provider (ISP). (20)

{15}The controversy discussed here lies in the ownership and control of Internet domain names. An Internet domain name consists of two parts. Consider the example www.cnn.com. The "www" describes the type of server from which the information is being retrieved. The "www" in the example indicates information is being retrieved from a World Wide Web Internet server.

{16}The "cnn" portion of the domain name is referred to as the second-level domain ("SLD"). (21) The ownership and control of the SLD is the primary source of controversy in trademark disputes. As discussed earlier, the current Internet domain name registration process permits any individual or organization to register any domain name, regardless of who owns the actual trademark or brand name. (22)

{17}The ".com" portion of the domain name is referred to as the top-level domain ("TLD"). Commercially available TLDs include .com, .net, and .org. (23) Other TLDs include .gov, .mil, and .edu. The .gov TLD is reserved to the United States Government. The .mil TLD is reserved to the United States Military. The .gov and .mil TLDs are not commercially available. (24) NSI handles the registration of the .edu TLD, but does not charge a fee. An educational institution must demonstrate a legitimate use of a .edu domain name before NSI will grant registration. (25) There are also country code top-level domains ("ccTLD") such as .ca representing Canada and .jp representing Japan. (26) ccTLD registry is handled by the respective owner nations. (27)

{18}Meeting on July 16, 2000 in Yokohama, Japan, the ICANN Board of Directors approved the creation of new TLD's. (28) Details on creating new TLD's are being developed, and are expected to be released by ICANN towards the end of the year 2000. One interesting resolution the ICANN board approved is that for a \$50,000 application fee, any individual or organization may submit a request to create and manage their own TLD. (29) For example, instead of America Online using the domain name www.aol.com, under the newly approved resolution, AOL can submit an application to ICANN to create and manage any domain name ending in .aol. The Internet world will no longer be restricted to the three domain names .com, .net, and .org.

{19}By 1995, the Internet had grown in such popularity that calls for some type of Internet domain name dispute resolution began to surface. (30) NSI modified their registration policy in an effort to protect legal trademark holders. (31) But disputes continued, and it was clear that some type of formal dispute resolution process was necessary. (32)

IV. APPLICABLE LAW

{20}Three statutes govern Internet domain name trademarks: the Trademark Act of 1946, (33) the Federal Trademark Dilution Act of 1995, (34) and the Anti-cybersquatting Consumer Protection Act of 1999. (35)

{21}The Trademark Act of 1946, more commonly referred to as the Lanham Act, has two primary purposes. First, the Act protects consumers from confusion regarding goods and services. And second, the Lanham Act prevents counterfeiters from capitalizing on another individual's or entity's products, services, and goodwill. (36).

{22}Enacted in 1995, the Federal Trademark Dilution Act ("FTDA") amends a portion of the Lanham Act. The FTDA protects "famous marks" by barring non-trademark holders from using the mark in commercial activities. (37) The Act also includes a provision that enables a trademark owner to collect legal fees and lost profits from the individual or entity that has diluted the impact of the trademark in bad faith. (38).

{23}The Anti-cybersquatting Consumer Protection Act ("ACPA") of 1999 was signed into law on November 29, 1999. The Act amends the Lanham Act of 1946 by extending trademark protection to Internet domain names. The ACPA also establishes penalties of up to \$100,000 for unfair or unlawful use of trademarks in domain names. (39).

V. THE UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

{24}On October 24, 1999, ICANN approved the Uniform Domain Name Dispute Resolution Policy ("UDRP"). The UDRP establishes guidelines that arbitration forums are to follow in settling domain name disputes. (40).

{25}The development of dispute resolution guidelines was an outgrowth of the 1998 Cooperative Agreement between the United States Government, ICANN, and NSI. The U.S. Government recognized the need for trademark protection on the Internet, and took measures to ensure protection in this Agreement. (41).

{26}In 1998, the U.S. Department of Commerce asked the World Intellectual Property Organization ("WIPO") to research and deliver a report discussing the current state of domain name management. (42) The research process formally began on July 8, 1998, and culminated on April 30, 1999, with the publication of the final report. (43) The research process included several rounds of regional hearings and consultations with domain name subject matter experts. Hearings were conducted worldwide, in such cities as Washington, D.C.; Brussels, Belgium; Mexico City, Mexico; Budapest, Hungary; and Tokyo, Japan. (44).

{27}WIPO's recommendations on domain name disputes were referred to the Domain Name Supporting Organization ("DNSO"), a working subgroup of ICANN. DNSO made further revisions to the WIPO recommendations. (45) DNSO then submitted a final report to ICANN for approval. (46) ICANN accepted DNSO's report and recommendations, and prepared a first draft of the UDRP. The draft was opened to public comment, revised to address some concerns raised by the public, then formally adopted on October 24, 1999. (47).

VI. ARBITRATION FORUMS

{28}Since the October 24, 1999, approval of the UDRP, ICANN has accredited four arbitration forums to hear Internet domain name arbitration disputes. These four forums are the WIPO Arbitration and Mediation Center, the National Arbitration Forum, eResolution, and the CPR Institute for Dispute Resolution. (48).

{29}Based in Geneva, Switzerland, the WIPO Arbitration and Mediation Center (49) is a unit of the International Bureau of the World Intellectual Property Organization. (50) Established in 1994, the Center is recognized for its independence, and neutrality in hearing and arbitrating cases. The Center's reputation is influenced heavily by the reputation of its parent body. The Center gained approval as a dispute resolution service provider by ICANN on December 1, 1999. (51).

{30}The National Arbitration Forum ("NAF") was founded in 1986. (52) Based in Minneapolis, Minnesota, the Forum has been noted for its neutrality in decision-making, and its adherence to the use of substantive law in deciding arbitration cases. NAF has recently been cited for working with large companies such as banks, insurance agencies, and computer makers, in requiring customers to relinquish their legal rights and submit to binding arbitration in the event of disputes. (53) Some have accused NAF of siding with the larger companies that pay the arbitration fees, in hopes of retaining their business in the future. (54) NAF gained approval as a dispute-resolution service provider by ICANN on December 23, 1999. (55)

{31}eResolution is a relatively new organization based in Montreal, Quebec, Canada. eResolution was established in 1999, with the primary goal of arbitrating Internet domain name disputes. (56) eResolution is a part of the Disputes.org/eResolution.ca Consortium. (57) Interestingly enough, eResolution submitted an Internet domain name dispute to WIPO regarding its own domain name. eResolution uses the domain name eresolution.ca. A cybersquatter in California registered the domain name eresolution.com. (58) The cybersquatter demanded \$7,500 for the rights to the domain name. (59) eResolution filed for arbitration and prevailed. On April 10, 2000, the WIPO arbitrator ordered the domain name eresolution.com to be transferred from the cybersquatter to eResolution. (60)

{32}Due to the relative youth and lack of an established track record for eResolution, some attorneys have expressed concerns in dealing with the forum, and indicated they would prefer to use one of the other, more established arbitration forums. (61) eResolution gained approval as a dispute-resolution service provider by ICANN on January 1, 2000. (62)

{33}Located in New York, New York, the CPR Institute for Dispute Resolution was "established in 1979, is a widely respected alliance of 500 general counsel of global corporations and partners of major law firms formed to integrate ADR into the mainstream of law departments and law firms." (63) ICANN granted CPR accreditation on May 22, 2000. CPR has arbitrated a very small number of cases. This is likely due to the higher fees CPR charges (64) and the relative newness, and therefore lack of an established track record in domain name arbitration.

VII. FORUM SELECTION

{34}Companies based in Europe generally prefer the WIPO Center for arbitration claims. WIPO's arbitrators are located in over twenty countries. A majority of arbitrators are from Europe and North America, but South America, Africa, and Asia, are represented as well. WIPO's arbitrators tend to be more familiar with European and international trademark laws. (65) Companies based in the United States generally prefer the National Arbitration Forum for several reasons. NAF arbitrators tend to be retired judges and attorneys practicing in the United States. A number of the arbitrators are trademark attorneys and, therefore, have an extensive understanding of U.S. trademark laws. (66) In some instances, the arbitrators may have more trademark experience than Federal district judges. Other benefits noted include helpful online forms and a less expensive arbitration fee than WIPO. (67)

{35}Companies based in current and former British Commonwealth countries tend to choose eResolution. A majority of eResolution arbitrators are from the United States and Canada. A small number are situated in Europe and Asia. Many of eResolution's arbitrators are university professors. (68) While eResolution is relatively new, it has been aggressive by adding dozens of new arbitrators, providing helpful forms and information on its website, and reducing fees for multiple domain name disputes and three-member panelist arbitrations. (69)

{36}With only a small number of proceedings arbitrated thus far, no clear pattern has emerged as to what type of organization would benefit from CPR's services. CPR offers a small, select group of arbitrators. (70) Prospective litigants may find a smaller pool of arbitrators useful to help narrow the choices for a

knowledgeable panelist. CPR's arbitrators are mostly attorneys practicing in the United States. A small number of panelists include judges and law school professors. (71).

VIII. THE UDRP AND TRADEMARK LAW

{37}The UDRP is based in part on the Federal Trademark Dilution Act. (72) Arbitrators follow the rules set forth in UDRP Paragraph 4 to determine the outcome of a complaint. (73) In order to prevail, UDRP Paragraph 4(a) states that a complainant must demonstrate that a respondent has violated all three of the following elements:

1. The domain name is identical or confusingly similar; and
2. The respondent has no legitimate interests to the domain name; and
3. The respondent has registered and is using the domain name in bad faith. (74)

{38}The UDRP provides an in-depth discussion of bad faith. According to the UDRP Paragraph 4(b), bad faith may include: attempts to sell, rent, or transfer the domain name to a complainant's competitor at excessive costs; past conduct; and commercial gain. In most cases, bad faith has been established by demonstrating a respondent's attempt to sell the disputed domain name to a complainant at an inflated cost. (75).

IX. PROCESS AND ASPECTS OF FILING AN ARBITRATION CLAIM

{39}Internet domain name registration guidelines require persons registering a domain name to submit to arbitration if disputes arise. (76) The UDRP Rules (77) provide a twelve-step process to arbitrate domain name disputes. The process is designed to take a maximum of sixty days to complete -- from initial submission of the complaint to the final decision rendered. The following section lists the twelve steps of the arbitration process:

Step 1: The complainant files both paper and electronic copies of the complaint with the arbitration forum and the respondent. The paper copies can be delivered via postal mail or other courier service. The electronic copies can be transmitted via electronic mail or facsimile. Parties are not required to appear at the arbitration forum's (provider) physical location. No in-person interaction is required or permitted (except in unique circumstances as determined by the arbitration panel).

Step 2: The arbitration forum acknowledges receipt via electronic mail and hard copy responses.

Step 3: The arbitration forum contacts the Internet domain name registrar(s) to provide details regarding the domain name in dispute.

Step 4: After receiving the requested information from the Internet domain name registrar(s), the arbitration forum conducts a compliance review of the complaint. If the complaint is found to be deficient, both the complainant and respondent are notified. The complainant then has five days to correct the deficiencies and resubmit the complaint. If the complaint is not corrected and resubmitted within the permitted time frame, the complaint is deemed withdrawn without prejudice (the complainant may re-file at any time, starting at Step 1 of the process).

Step 5: After the compliance review is completed, the complainant is required to submit payment for the arbitration fees. Fees can be paid by bank transfer or check. One forum even accepts major credit cards. Formal administrative proceedings commence upon payment.

Step 6: Respondent is required to submit a response to the complaint within twenty calendar days of the commencement of administrative proceedings (Step 5). If the respondent fails to submit a response within the allotted time period, the respondent is considered in default, and the process continues.

Step 7: The arbitration forum then acknowledges receipt of the response or sends notice of default by respondent to both the complainant and respondent. If the response is received after the twenty-day deadline, the arbitration panel must then decide whether or not to accept the late submission.

Step 8: The arbitration center appoints either a single-member or three-member arbitration panel, regardless of whether or not respondent has submitted a response. (78)

Step 9: The arbitration panel submits its decision to the forum within fourteen days of its appointment.

Step 10: Within three days after receipt of the decision, the arbitration forum notifies the parties, ICANN, and the respective Internet domain name registrar(s).

Step 11: If the respondent prevails, no further action is taken and the process ends. If the complainant prevails, the registrar is required to transfer the domain name within ten days from the respondent to the complainant. (79)

Step 12: The registrar(s) implements the final decision. (80)

X. FEES AND SELECTION OF THE ARBITRATION PANEL

{40}The fees listed in the table below are for arbitration of a single domain name. The fees increase for arbitration of multiple domain names. (81)

	Single Panelist Arbitration	Three Panelist Arbitration
WIPO	\$1,000	\$2,500
NAF	\$750	\$2,250
eResolution	\$750	\$2,200
CPR	\$2,000	\$4,500

{41}The complainant may designate either a single-panelist or three-panelist proceeding. The complainant pays the arbitration fees when it selects the type of panel. If the complainant selects a single-panelist proceeding, the respondent has the option to choose a three-panelist proceeding. If the respondent chooses a three-member panel, each party is required to pay half the arbitration fees. (82)

{42}The arbitration forum chooses the arbitrator in a single-panelist proceeding. In the case of a three-member panelist proceeding, both the complainant and the respondent may submit a list of preferred arbitrators. After submission, the arbitration forum selects one panelist from the complainant's list and one panelist from the respondent's list. If one or neither party submits a list, the arbitration forum makes the selection(s).

{43}The forum selects a third arbitrator to serve as the "Presiding Panelist." The Presiding Panelist is chosen in one of two methods: (i) if the parties each submit a list of preferred arbitrators, the arbitration forum chooses an arbitrator that is on both lists; or (ii) if one or both parties decline to submit a list of preferred arbitrators, the forum makes the selection. (83) The final arbitration ruling is based on a majority vote. (84) The prevailing party, therefore, must have at least two arbitrators vote for their position.

XI. INITIAL CASES

{44}The initial holdings in the first series of arbitration cases demonstrate a distinct pattern. In general, cybersquatters that are depriving a rightful trademark owner of a domain name in bad faith are being forced to relinquish their claim to the disputed domain name

A. Decisions for the Complainants

1. World Wrestling Federation Entertainment, Inc. v. Michael Bosman

{45}The first Internet domain name arbitration proceeding was initiated by the World Wrestling Federation ("WWF") Entertainment, Inc. against Michael Bosman. (85) Mr. Bosman, acting on his own behalf, registered the domain name worldwrestlingfederation.com, and later attempted to sell the rights to the domain name back to the WWF for the sum of \$1,000. (86) The WWF filed their complaint with the WIPO Arbitration and Mediation Center on December 2, 1999, one day after ICANN granted approval to WIPO Center for arbitrating domain name disputes. The complaint was delivered via express courier. On December 9, 1999, WIPO Center completed its verification and compliance check of the complaint and commenced proceedings. WIPO Center transmitted the Commencement Notification to Mr. Bosman, the respondent, via electronic mail. (87) The transmission satisfied UDRP Rules Paragraph 2(a) permitting electronic mail communications as a sufficient means of notification. (88) Pursuant to the UDRP Rule 5, Mr. Bosman was given until December 28, 1999 to file a response to WWF's complaint. (89)

{46}The complaint averred that the WWF owns the service mark and trademark "World Wrestling Federation," as registered with the United States Patent and Trademark Office. The complaint asserted that the domain name registered by Mr. Bosman, worldwrestlingfederation.com, was identical to WWF's registered service mark and trademark. (90)

{47}Furthermore, the complaint stated that Mr. Bosman was not affiliated with World Wrestling Federation Entertainment, Inc. in any manner and had no legitimate interest in the domain name. The complaint also stated that Mr. Bosman registered the domain name in bad faith, with the knowledge and intent of selling the domain name to WWF at a considerable markup. (91)

{48}On December 14, 1999, WIPO Center designated Mr. M. Scott Donahey to serve as the single panelist for the arbitration proceedings. Then, on December 29, 1999, after Mr. Bosman failed to file a response, WIPO Center informed both parties of the Notification of Respondent Default. The projected date of the arbitrator's decision was January 11, 2000. (92) Prior to the arbitrator's decision, WWF and Mr. Bosman entered into a tentative settlement. The parties were provided several extra days to complete their settlement negotiations and submit the final agreement to WIPO Center. The arbitrator's decision was released on January 14, 2000, as no formal settlement had been reached and submitted to WIPO Center by that time. Later reports indicated that a confidential, formal settlement had been reached prior to the arbitrator's decision. The settlement appears to include the same results the arbitrator reached, as no challenges to the decision have been filed. (93)

{49}The arbitrator found that the domain name was identical or confusingly similar to the service mark and trademark owned by WWF. The arbitrator also found that Mr. Bosman had no legitimate interest or rights to the domain name. Finally, the arbitrator found Mr. Bosman registered the domain name in bad faith. (94)

{50}The arbitrator discussed the bad faith element in much greater detail than the "identical or similarly confusing" and "no legitimate interest" elements. The arbitrator cited Mr. Bosman's attempt to sell the domain name to WWF, and noted that Mr. Bosman had not established and had no intentions of establishing a

website using the domain name. [\(95\)](#)

{51} In particular, the arbitrator noted the requirement that the domain name must be "registered" and "used" in bad faith. While the arbitrator found registration in bad faith, the arbitrator noted concern in the definition of the term "used." A layperson could argue that "used" meant linking the domain name with a specific website. But the arbitrator noted the legislative history of the UDRP Rules, along with UDRP Paragraph 4(b) (i), which states that "use of a domain name in bad faith" includes "circumstances indicating you have registered or you have acquired the domain name primarily for the purpose of selling, renting [sic] or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark . . . for valuable consideration" [\(96\)](#)

{52} The arbitrator concluded that the term "used" in bad faith does not require an association with a specific website, and can be applied when a party is attempting to sell a domain name trademark for valuable consideration. [\(97\)](#) The arbitrator found in favor of the complainant, WWF, and ordered the transfer of the domain name. [\(98\)](#)

2. America Online, Inc. v. QTR Corporation

{53} The second domain name arbitration case to be decided and publicly announced involved America Online ("AOL"), of Dulles, Virginia, and QTR Corporation, of Paris, France. [\(99\)](#) AOL claimed that QTR had unfairly registered the domain name icqsms.com and was attempting to resell the domain name in bad faith. [\(100\)](#)

{54} AOL filed their complaint with the National Arbitration Forum. A single panelist was selected to review the complaint and response and then render a decision. The complaint noted that AOL owns the trademark and service mark to ICQ, along with nine other marks using the term ICQ, including ICQ SMS. [\(101\)](#) The complaint also noted that AOL registered the trademark with a number of other countries including Austria, Australia, Denmark, Finland, France, and Switzerland. [\(102\)](#) QTR Corporation was duly notified about the complaint but did not submit a response. [\(103\)](#)

{55} The arbitrator held that icqsms.com is identical and confusingly similar to AOL's registered trademark. The arbitrator also found that QTR had no legitimate interest or right to the domain name. And finally, the arbitrator ruled that QTR acted in bad faith in registering and subsequently attempting to sell the domain name. [\(104\)](#) The arbitrator held that the circumstances satisfied the requirements listed under UDRP Paragraph 4 and thus ordered the domain name icqsms.com to be transferred to AOL. [\(105\)](#)

3. Julia Fiona Roberts v. Russell Boyd

{56} Julia Roberts, the movie actress who has starred in films such as THE PELICAN BRIEF, ERIN BROCKOVICH, and PRETTY WOMAN, filed for arbitration over the domain name juliaroberts.com. [\(106\)](#) Ms. Roberts, through her attorneys, claimed the domain name in dispute was identical and confusingly similar to her own name. [\(107\)](#) She also claimed that Mr. Boyd had no legitimate interest in the domain name juliaroberts.com. [\(108\)](#) Furthermore, Ms. Roberts claimed Mr. Boyd registered the domain name in bad faith. [\(109\)](#)

{57} Mr. Boyd conceded the argument that the domain name was identical and confusingly similar. [\(110\)](#) He also acknowledged that he registered the domain name because of Ms. Roberts' popularity. [\(111\)](#) However, he did not concede Ms. Roberts' common law trademark rights and additionally argued he registered the name in good faith. [\(112\)](#) A three-member panel was selected to consider the complaint. The panel cited the Lanham Act and English common law to establish that Ms. Roberts possessed trademark rights to her name. [\(113\)](#) The

panel next found that Mr. Boyd had no legitimate interest in the domain name. (114) The panel noted that the website to which the domain name pointed to had little, if any, information related to Ms. Roberts. The panel finally found that the domain name was registered in bad faith by pointing to Mr. Boyd's repeated conduct of registering domain names to prevent legal trademark owners from gaining access to their domain names. (115) The panel found additional evidence of bad faith in Mr. Boyd's deliberate attempts to auction the domain name juliaroberts.com to the highest bidder. (116)

{58}Based on the findings, the panel unanimously ordered the domain name to be transferred to Ms. Roberts. (117)

B. Decisions for the Respondent

{59}In all of the cases where the respondent has been able to retain its domain name, arbitrators have found that the respondent had a legitimate claim to the domain name and/or the respondent did not use bad faith in dealing with the domain name and the complainant. Most prevailing respondents were found to be using the disputed domain name for a legitimate purpose, and were not cybersquatting.

1. Frank James Pearson v. Byers Choice

{60}In the dispute over buyerschoice.com,(118) the complainant, Frank James Pearson, demonstrated that he owned the trademark "Buyers Choice." Pearson used the trademark in conjunction with his real estate business. The respondent, Byers Choice, Inc., had registered two domain names, byerschoice.com and buyerschoice.com. Both domain names point to the same website. The website is used in support of the Choice's decorative Christmas figurine business. Both domain names were registered in an effort to aid customers who phonetically spell the web address. (119)

{61}The three-member panel unanimously found that the disputed domain name was identical or confusingly similar, but that Byers Choice did have a legitimate right to the domain name. (120) The two parties, both using similar sounding business names, were engaged in completely unrelated businesses. Customers would not be confused between Buyers Choice - the real estate firm, and Byers Choice - the Christmas ornament firm. In addition, the panel found that Byers Choice had not acted in bad faith. The respondent had no intentions of reselling the domain name and was actively using the name in an entirely different line of business. Therefore, the panel ruled that the Mr. Pearson failed to prove all three elements required and held forByers Choice. (121)

2. Calstore.com v. Calstore.net

{62}In Calstore.com v. Calstore.net, (122) both companies shared the exact same second-level domain but had different top-level domains. calstore.com, located in California, USA, based its domain name on the concept of a "California Store." (123) calstore.net, located in Calcutta, India, based its domain name on the concept of a "Calcutta Store." (124)

{63}The arbitrator found that the disputed domain name was identical or confusingly similar; but the arbitrator also found that both parties had a legitimate interest in the domain name and that neither party had acted in bad faith. (125) Hence, the Calcutta-based respondent was permitted to keep the domain name calstore.net. (126)

3. Shirmax Retail Ltd. v. CES Marketing Group Inc.

{64}In some cases, the disputed domain name was owned by a cybersquatter, but it was of such a generic nature that the complainant failed to demonstrate that the squatter did not have a legitimate interest in the name. This was the case in *Shirmax Retail Ltd. v. CES Marketing Group Inc.* (127). Shirmax, a Canadian marketer of maternity clothing, owns the trademarks to their merchandise lines "THYME" and "THYME MATERNITY." CES is another Canadian firm in the business of buying and selling Internet domain names, and had registered the domain name thyme.com. (128)

{65}The arbitrator found the domain name to be identical or confusingly similar. (129) The arbitrator then noted that CES was not entering into the maternity clothing business and had no intentions of selling the domain name to a Shirmax competitor.(130) The arbitrator also noted that the term "thyme" was of such a generic nature that both parties could have a legitimate interest in the domain name. (131) Therefore, CES was permitted to retain the domain name. (132)

XII. STATISTICAL RESULTS OF INITIAL ARBITRATION HOLDINGS

{66}As of August 25, 2000, a total of 1,573 arbitration proceedings have been commenced. (133) Of the 1,573 cases, 940 decisions have been rendered. In 726 of the decisions, the complainant has prevailed, forcing the domain name to be transferred or canceled. Respondents have prevailed in 207 of the decisions. In seven cases, a split decision was rendered. Thus, roughly 77% of the cases have been won by the complainants, 21% by the respondents.

XIII. QUESTIONS AND CONCERNS

{67}One concern that has been cited is what will happen when additional top-level domains, such as .store, .biz, or .web, are introduced. Will companies be forced to make a mad dash to register all potential combinations and variations of their trademarks under the new TLDs? Will prior arbitration rulings automatically extend to new TLDs? Or will new rules be implemented to extend copyright protection to domain names, thus reducing the amount of time and resources spent on defending each domain name? And what will happen to those companies that cannot afford to pay \$50,000 to ICANN to create a new TLD? (134)

{68}Other questions include: "What of domain names that use phonetic spellings of trademarks, or use hyphens or dashes to make the domain name similar, but not exactly identical to a trademark?" and "Will the trademark holder have to seek arbitration for each minute variation to a domain name?" (135)

{69}The logical solution is to extend trademark laws to protect online intellectual property; but the process of drafting, debating and enacting extensions to existing trademark laws is barely underway. Greater protection of online trademarks is still months, and more likely years, away.

XIV. ADVANTAGES OF INTERNET DOMAIN NAME ARBITRATION

{70}Internet domain name arbitration is an excellent tool for legal trademark holders to regain exclusive control of their cyberspace trademarks. Some of the benefits of arbitration include the speed and relative low cost fees. Additionally, many arbitrators are trademark attorneys, who are significantly more familiar with the rules of trademark law than federal judges.

{71}One of the unique features of domain name arbitration includes an ability to conduct the proceedings without the need to travel. The complainant, respondent and arbitrator are not required to travel to a neutral location to dispute their claims. All disputes are handled through electronic communications and courier services. One attorney noted that his client, a U.S.-based corporation, filed an arbitration claim against a

corporation based in France. Had foreign service of process been required, it would have added another six months to the litigation process. (136).

{72}Another interesting feature is that Internet domain name arbitration involves trademarks - intellectual property. No monetary damages are awarded. The only award is the right to use a domain name. Most other international arbitration cases involve disputes over goods or services.

{73}In very early cases, attorneys noted their concern over the lack of precedent to guide the arbitrators. Attorneys for complainants were concerned that if the decisions were unfavorable, expensive courtroom litigation would have to be pursued. And if that were required, it might be difficult to overcome an unfavorable arbitration ruling. (137). The decisions to date indicate that arbitration is an excellent method by which lawful trademark holders can regain their Internet domain names.

{74}Attorneys considering Internet domain name arbitration should consider the three-part test set forth in the UDRP Paragraph 4:

- 1) Identical or confusingly similar mark; and
- 2) Respondent has no legal right or interest in the domain name; and
- 3) Respondent has acted in bad faith in registering and/or using the domain name. (138).

All three elements to the test are required in order to prevail. If any part of the test is not satisfied, the challenge will fail, and the respondent will be entitled to keep the disputed domain name.

{75}In general, if the complainant owns the trademark, the complainant will likely prevail in an Internet domain name arbitration case. If both parties have a legitimate interest to the same domain name, or to a similar-sounding domain name, the respondent will likely prevail.

XV. CONCLUSION

{76}With the cost of Internet domain name litigation exceeding \$15,000, and the length of proceedings ranging from six months to three years, arbitration stands as a less expensive, faster alternative. The relative ease of filing, rapid pace of proceedings, and low costs are contributing to arbitration becoming the primary method by which corporations resolve Internet domain name disputes.

APPENDIX

Glossary

ACPA - Anti-cybersquatting Consumer Protection Act.

Cybersquatter - An individual or entity that registers a domain name with the intent to resell it.

FTDA - Federal Trademark Dilution Act.

ICANN - The Internet Corporation for Assigned Names and Numbers.

NAF - National Arbitration Forum.

SLD - second-level domain; i.e.: "companyname" in the example www.companyname.com.

ENDNOTES

[*] Christopher S. Lee is a third year evening student attending the Catholic University of America, Columbus School of Law (Class of 2002). Mr. Lee has over 12 years of work experience in Information Technology and Policy Management. Mr. Lee is currently a staff member for U.S. Senator Conrad Burns (R-MT). He has also worked at the Senate Committee on Commerce, Science, and Technology, Senate Committee on Rules and Administration, and the Senate Computer Center. While at the Senate Computer Center, Mr. Lee had the distinction of being the Senate's first webmaster. Mr. Lee holds a Master of Science degree in Systems Management, and a Bachelor of Science degree in Information Systems Management, both from the University of Maryland.

[1]. See Mark Radcliffe & Dan Cook, *Trading on Your Brand Name: Preserving Trademarks in Domain Names Is Key to Doing Business on the Web*, LEGAL TIMES, Feb. 14, 2000, at 38.

[2]. See *id.*

[3]. See Audrey Y. Williams, *Bank of America Pays \$3 Million for Name Loans.com*, CHARLOTTE OBSERVER, Feb. 9, 2000, available in 2000 WL 12904183.

[4]. See Dirk Lammers, *Domain Name Tugs of War; David and Goliath Battles over Web Addresses can be Downright Silly*, TAMPA TRIBUNE, Feb. 19, 1999, at 42.

[5]. Telephone interview with Paul Fahrenkopf, Counsel, Brown & Thornburg (Mar. 3, 2000). Telephone interview with James Davis, Associate Counsel, Arent Fox Kintner Plotkin & Kahn, PLLC (Mar. 13, 2000).

[6]. Network Solutions, Inc. was purchased by VeriSign, Inc. on June 9, 2000 in a deal valued at \$16.5 billion; see PR NEWSWIRE, *Verisign Completes Acquisition of Network Solutions* (June 9, 2000).

[7]. Management of Internet Names and Addresses, 63 Fed. Reg. 31,741 (1998), available at http://www.nita.doc.gov/ntiahome/domain/6_5_98dns.htm (June 10, 1998).

[8]. See Special Award, NCR-9218742, Amendment No. 11, Dept. of Commerce, at <http://www.ntia.doc.gov/ntiahome/domainname/proposals/docnsi100698.htm> (Oct. 7, 1998). Prior to the 1998 agreement, .com domains were reserved for commercial use, .net domains were reserved for network and telecommunications use, and .org domains were reserved for non-profit use. The 1998 agreement lifted those restrictions.

[9]. See ICANN, *Approved Agreements Among ICANN, the U.S. Department of Commerce, and Network Solutions, Inc.*, available at <http://www.icann.org/nsi/nsi-agreements.htm> (Nov. 10, 1999).

[10]. See *id.*

[11]. The focus of this paper is on the Internet domain name arbitration process. For a more in depth discussion of the development of the Internet domain name registration process, see the ICANN <http://www.icann.org> and NTIA <http://www.ntia.doc.gov> websites. Network Solutions, Inc. agreed on March 7, 2000 to be purchased by VeriSign, Inc. in a deal valued at \$21 billion, see Melanie Austria Farmer,

VeriSign buys Network Solutions in \$21 Billion Deal, CNET NEWS.COM, *available at* <http://www.usatoday.com/life/cyber/invest/in442.htm> (March 7, 2000).

[12]. See ICANN, *Registrar Accreditation: History of the SRS*, at <http://www.icann.org/registrars/accreditation-history.htm> (visited Sept. 11, 2000).

[13]. See ICANN, *Registrar Accreditation: Overview*, at <http://www.icann.org/registrars/accreditation.htm> (visited Sept. 11, 2000).

[14]. See Network Solutions, Inc., *Fee for Registration of Domain Names Policy*, at <http://www.networksolutions.com/legal/regfee-policy.html> (visited Sept. 11, 2000).

[15]. See Wendy R. Leibowitz, *From Porn Sites to Domain Fees, Trademarks in Turmoil on Web*, THE NAT'L L. J., Apr. 27, 1998, at 15. See also K.K. Campbell, *Domain Disputes Continue to Dog the Net*, TORONTO STAR, May 6, 1999, at the Fast Forward Section.

[16]. See Julia Angwin, *Net Addresses Sold Like Real Estate, Cybersquatters Stake Claim on Famous Names, Seek Sale*, S.F. CHRON., May 6, 1997, at A1.

[17]. See Radcliffe & Cook, *supra* note 1.

[18]. See *id.*

[19]. See Joan Meadows, Comment, *Trademark Protection for Trademarks used as Internet Domain Names*, 65 U. CIN. L. REV. 1323 (Summer 1997).

[20]. INTERNET.COM'S WEBOPEDIA (1999-2000), at <http://webopedia.internet.com/TERM/I/Internet.html> (visited Sept. 11, 2000). (Copyright 2000 internet.com Corporation. All Rights Reserved. Reprinted with permission from <http://webopedia.internet.com>.)

[21]. See Angela Proffitt, Note & Comment: *Drop the Government, Keep the Law: New International Body for Domain Name Assignment Can Learn from United States Trademark Experience*, 19 LOY. L.A. ENT. L.J. 601 (1999).

[22]. See Network Solutions, Inc., *Instructions for Registering a New Domain Name*, available at <http://www.networksolutions.com/help/inst-newreg.html> (visited Sept. 11, 2000).

[23]. See InterNIC, *Frequently Asked Questions (FAQs)*, at <http://www.internic.net/faq.html> (Nov. 29, 1999).

[24]. See ICANN/DNSO, *Frequently Asked Questions (FAQ)*, at <http://www.dnsso.org/dnsso/faqdnsso.html> (visited Sept. 11, 2000).

[25]. See Network Solutions, Inc., *supra* note 22.

[26]. See ICANN/DNSO, *supra* note 24.

[27]. See IANA, *Country Code Top-Level Domains (CCTLDs)*, at <http://www.iana.org/cctld.html> (Oct. 31, 1999). For more information about the evolution of Internet domain name issues, see Jonathan Zittrain, Essay: *ICANN: Between the Public and the Private--Comments Before Congress*, 14 BERKELEY TECH. L.J. 1071 (Fall 1999). See also ICANN website, at <http://www.icann.org>; IANA website, at <http://www.iana.org>; CORE Internet Council of Registrars website, at <http://www.corenic.org>; The Generic Top Level Domain Memorandum of Understanding website, at <http://www.gTLD-MoU.org>; and IHAC website, at

<http://www.iahc.org>. For information about the controversies surrounding the development and management of TLDs, see ICANN Watch website, at <http://www.icannwatch.org>.

[28]. See ICANN, *Preliminary Report, Meeting of the ICANN Board in Yokohama*, available at <http://www.icann.org/minutes/prelim-report-16jul00.htm> (visited July 16, 2000).

[29]. See *id.* at ¶ [00.48].

[30]. See James West Marcovitz, *ronald@mcdonalds.com - "Owning a Bitchin' " Corporate Trademark as an Internet Address - Infringement?*, 17 CARDOZO L. REV. 85 (Sept. 1995).

[31]. See Stacy B. Sterling, *New Age Bandits in Cyberspace: Domain Names Held Hostage on the Internet*, 17 LOY. L.A. ENT. L.J. 733, 742 (1997).

[32]. See Tricia A. Hoefling, Note & Comment: *The (Draft) WIPO Arbitration Rules for Administrative Challenge Panel Procedures Concerning Internet Domain Names*, 8 AM. REV. INTL ARB. 173 (1997).

[33]. Trademark Act of 1946, 15 U.S.C. § 1051 (1946).

[34]. The Federal Trademark Dilution Act of 1995, 15 U.S.C. § 1125 (1995).

[35]. The Anti-cybersquatting Consumer Protection Act of 1999, 15 U.S.C. § 1129 (1999).

[36]. See Meadow, *supra* note 19, at 1329.

[37]. See Leslie F. Brown, *I. INTELLECTUAL PROPERTY: C. Trademark: 2. Domain Name: a) Dilution: Avery Dennison Corp. v. Sumpton*, 14 BERKELEY TECH. L.J. 247 (1999).

[38]. *Id.* See also *Panavision Int'l, L.P. v. Toeppen*, 141 F.3d 1316 (9th Cir. 1998); Lisa Katz Jones, *Trademark.com: Trademark Law in Cyberspace*, 37 ALBERTA L. REV. 991 (Dec. 1999).

[39]. See *Sporty's Farm L.L.C. v. Sportsman's Market, Inc.*, 202 F.3d 489 (2nd Cir. 2000). See also Thomas R. Lee, *In Rem Jurisdiction in Cyberspace*, 75 WASH. L. REV. 97 (Jan. 2000).

[40]. ICANN, *Uniform Domain Name Dispute Resolution Policy*, at <http://www.icann.org/udrp/udrp-policy-24oct99.htm> (last modified June 2, 2000).

[41]. See *supra* note 8.

[42]. See *supra* note 8.

[43]. WIPO, *Process Timetable*, at <http://wipo2.wipo.int/process2/timetable/index.html> (visited Aug. 22, 2000).

[44]. See *id.*

[45]. DNSO, *Results of DNSO Names Council Teleconference on June 11th, 1999*, at <http://www.dnso.org/dnso/notes/19990612.NCtelecon.html> (June 12, 1999).

[46]. ICANN/DNSO, *WG-A Final Report to the Names Council*, at <http://www.dnso.org/dnso/notes/19990729.NCwga-report.html> (July 28, 1999).

[47]. ICANN, *Timeline for the Formulation and Implementation of the Uniform Domain-Name Dispute-*

Resolution Policy, at <http://www.icann.org/udrp/udrp-schedule.htm> (last modified July 27, 2000).

[48]. ICANN, *Approved Providers for Uniform Domain Name Dispute Resolution Policy* (last modified May 21, 2000) <http://www.icann.org/udrp/approved-providers.htm>. For more information about accreditation of future arbitration forums, see ICANN, *Information Concerning Approval Process for Dispute-Resolution Service Providers*, at <http://www.icann.org/udrp/udrp-provider-approval-process.htm> (last modified May 6, 2000).

[49]. See WIPO Arbitration and Mediation Center website, at <http://arbiter.wipo.int/center/index.html> (visited Aug. 22, 2000).

[50]. See *id.*; see also WIPO website, at <http://www.wipo.org> (visited Aug. 22, 2000).

[51]. See ICANN at note 48.

[52]. See NAF website, at <http://www.arbforum.com> (visited Aug. 22, 2000).

[53]. See Caroline E. Mayer, *Win Some, Lose Rarely? Arbitration Forum's Rulings Called One-Sided*, THE WASHINGTON POST, Mar. 1, 2000, at E1.

[54]. See *id.*

[55]. See ICANN, *supra* note 48.

[56]. See Sarah Dougherty, *Virtual Court in Session, Montreal-based eResolution Resolves Business Disputes Online*, montrealgazette.com, at <http://www.montrealgazette.com/technology/pages/000623/4329289.html> (June 23, 2000).

[57]. See eResolution website, at <http://www.eresolution.ca> (last modified July 31, 2000).

[58]. See David Akin, *Resolution Firm Accused of Conflict of Interest*, THE NAT'L POST, Mar. 9, 2000, at C9.

[59]. eResolution v. eResolution.com, WIPO D2000-0110, at § 4, available at <http://arbiter.wipo.int/domains/decisions/html/d2000-0110.html> (Apr. 10, 2000).

[60]. See *id.* at § 8.

[61]. See *supra* note 5.

[62]. See ICANN, *supra* note 48.

[63]. See CPR Institute for Dispute Resolution, *CPR Institute for Dispute Resolution Selected by ICANN to Provide Neutrals for Internet Domain Name Disputes*, at <http://www.cpradr.org/pressrelease000515ICANN.htm> (May 15, 2000).

[64]. See CPR, CPR'S Supplemental Rules and Fee Schedule, at http://www.cpradr.org/ICANN_RulesAndFees.htm (visited Aug. 20, 2000).

[65]. See generally WIPO Domain Name Panelists, at <http://arbiter.wipo.int/domains/panel/panelists.html> (visited Aug. 22, 2000).

[66]. See Electronic mail correspondence with Molly Buck Richard, Member, Strasburger & Price, L.L.P., Austin, TX (Mar. 13, 2000). See also *supra* note 5.

[67]. See generally *List of Qualified Dispute Resolution Panelists*, at <http://www.arbforum.com/domains/domain-judges.html> (visited Aug. 22, 2000).

[68]. See eResolution: List of Neutrals, at <http://www.eresolution.com/services/dnd/arbitrators.html> (visited Aug. 22, 2000).

[69]. See generally *supra* note 57.

[70]. CPR, *CPR Specialized Panels*, at http://www.cpradr.org/specpan_domainname.htm (visited Aug. 20, 2000).

[71]. *Id.*

[72]. The UDRP was approved on October 29, 1999. The ACPA was enacted one month later, on November 29, 1999. As the UDRP precedes the ACPA, elements of the ACPA were not included in the UDRP. The UDRP is subject to periodic revision. In the future, elements of the ACPA may be incorporated into the UDRP.

[73]. See *supra* note 40 at ¶ 4.

[74]. See *id.*

[75]. See *id.*

[76]. See *id.*

[77]. ICANN, *Rules for Uniform Domain Name Dispute Resolution Policy*, at <http://www.icann.org/udrp/udrp-rules-24oct99.htm> (Oct. 24, 1999).

[78]. If either party files a lawsuit over the disputed domain name during Steps 1 through 8, the arbitration panel may decide whether to continue or postpone the proceedings; *id.* at Rule 6(c).

[79]. If the respondent files a lawsuit against the complainant at Step 9 or Step 10, no action will be taken until the lawsuit is resolved; see *supra* note 44 at ¶ 4(k).

[80]. See WIPO Arbitration and Mediation Center: *The Uniform Domain Name Dispute Resolution Procedure* (based on the ICANN Rules adopted on October 24, 1999 and the WIPO Supplemental Rules in effect as of December 1, 1999), at <http://arbiter.wipo.int/domains/models/UDRPflowchart.pdf> (visited Aug. 22, 2000).

[81]. For more information on fees, see *WIPO: Schedule of Fees*, at <http://arbiter.wipo.int/domains/fees/index.html> (Dec. 1, 1999); *NAF: Schedule of Fees*, at <http://www.arbforum.com/domains/domain-fees.html> (Dec. 23, 1999); and *eResolution: Schedule of Fees*, at <http://www.eresolution.ca/services/dnd/schedule.htm> (Jan. 1, 2000). Note: All fees are subject to change without notice.

[82]. See *supra* note 77, Rule 6(c).

[83]. See *WIPO: Supplemental Rules for Uniform Domain Name Dispute Resolution Policy*, at <http://arbiter.wipo.int/domains/rules/supplemental.html> (Dec. 1, 1999); *The Forum's Supplemental Rules To ICANN's Uniform Domain Name Dispute Resolution Policy*, at <http://www.arbforum.com/domains/domain-rules.html> (Dec. 29, 1999); *eResolution Supplemental Rules*, at

http://www.eresolution.ca/services/dnd/p_r/supprules.htm (Jan. 1, 2000).

[84]. *See supra* note 77, Rule 15(c).

[85]. *See WIPO Arbitration and Mediation Center: World Wrestling Federation Entertainment, Inc. v. Michael Bosman*, at <http://arbiter.wipo.int/domains/decisions/html/d99-0001.html> (Jan. 14, 2000).

[86]. *See id.* at § 4, ¶ 3.

[87]. *See id.* at § 3, ¶ 8.

[88]. *See id.*

[89]. *See id.*

[90]. *See id.*

[91]. *See id.*

[92]. *See id.* at § 3, ¶ 11.

[93]. *See id.* at § 3, ¶ 12.

[94]. *See id.* at § 6, ¶ 3.

[95]. *See id.* at § 6, ¶ 4-7.

[96]. *See id.* at § 6, ¶ 6 (quoting ¶ 4(b)(i) of the Uniform Dispute Resolution Policy).

[97]. *See id.* at § 6, ¶ 8.

[98]. *See id.* at § 7.

[99]. *America Online, Inc. v. QTR Corp.*, NAF FA0001000092016, *available at* <http://www.arbforum.com/domains/decisions/92016.html> (Feb. 10, 2000).

[100]. *See id.* at Findings of Fact, ¶ 5.

[101]. ICQ is an Internet service that allows users to chat, send instant messages, and play games online. For more information on ICQ, *see ICQ, What is ICQ?*, at <http://www.icq.com/products/whatisicq.html> (visited Aug. 20, 2000).

[102]. *See id.* at Findings of Fact, ¶¶ 1-2.

[103]. *See id.* at Procedural Findings, ¶ 2.

[104]. *See id.* at Conclusions, ¶¶ 1-2.

[105]. *See id.* at Decision ¶ 1.

[106]. *Julia Fiona Roberts v. Russell Boyd*, WIPO D2000-0210, *available at* <http://arbiter.wipo.int/domains/decisions/html/d2000-0210.html> (Mar. 25, 2000).

[107]. *See id.* at Parties' Contentions, A ¶ 1.

[108]. *See id.* at Parties' Contentions, A ¶ 2.

[109]. *See id.* at Parties' Contentions, A ¶ 3.

[110]. *See id.* at Parties' Contentions, B ¶ 1.

[111]. *See id.*

[112]. *See id.*

[113]. *See id.* at Discussions and Findings, Identity or Confusing Similarity, ¶ 3.

[114]. *See id.* at Discussions and Findings, Rights or Legitimate Interest, ¶ 6.

[115]. *See id.* at Discussions and Findings, Identity or Confusing Similarity, ¶ 3.

[116]. *See id.* at Discussions and Findings, Bad Faith, ¶ 4.

[117]. *See id.* at Decision, ¶ 1.

[118]. Frank James Pearson v. Byers Choice, NAF FA 92015, *available at* <http://www.arbforum.com/domains/decisions/92015.html> (Mar. 9, 2000).

[119]. *See id.* at Findings of Fact, ¶ 3.

[120]. *See id.* at Decision, ¶ 1.

[121]. *See id.* at Decision, ¶ 2.

[122]. Calstore.com v. Calstore.net, NAF FA94206, *available at* <http://www.arbforum.com/domains/decisions/94206.htm> (March 20, 2000).

[123]. *See id.* at Findings of Fact, ¶ 2.

[124]. *See id.* at Findings of Fact, ¶ 3.

[125]. *See id.* at Conclusion, ¶ 2.

[126]. *See id.* at Decision.

[127]. Shirmax Retail Ltd. v. CES Marketing Group Inc., Case Number AF-0104, *available at* <http://www.eresolution.ca/services/dnd/decisions/0104.htm> (Mar. 20, 2000).

[128]. *See id.* at Facts, ¶¶ 1-2.

[129]. *See id.* at Analysis, § 1, ¶ 3.

[130]. *See id.* at Analysis, § 3, ¶ 6.

[131]. *See id.* at Analysis, § 2, ¶ 3.

[132]. *See id.* at Conclusion.

[133]. *See* ICANN, *Summary of Status of Proceedings*, at <http://www.icann.org/udrp/proceedings-stat.htm> (last modified Aug. 25, 2000).

[134]. *See* A. Michael Froomkin, A Commentary on WIPO's "The Management of Internet Names and Addresses: Intellectual Property Issues", Ver. 1.0a, ¶¶ 77 - 83, at <http://www.law.miami.edu/~amf/commentary.htm> (May 19, 1999).

[135]. *See generally id.* at ¶ 113 (discussing a possible definition for "misleadingly similar," a term used, but not defined in WIPO's Final Report).

[136]. *See supra* note 5.

[137]. The Federal Arbitration Act, 9 U.S.C. §§ 1-14 (1925) declaring statutory policy of rapid and unobstructed enforcement of foreign and domestic arbitration awards; upheld in *Cortez Byrd Chips, Inc. v. Bill Harbert Constr. Co.*, 120 S. Ct. 1331 (2000).

[138]. *See supra* note 40, ¶ 4.

Related Browsing

<http://www.adr.org> American Arbitration Association website dealing with Rules and Procedures along with other topics.

<http://www.abanet.org/dispute> American Bar Association Section of Dispute Resolution.

<http://www.interarb.com/vl> The World Wide Web Virtual Library: Arbitration. International Arbitration, Commercial Arbitration, 'ADR', Mediation, Conciliation and other methods of private dispute resolution.

<http://www.usam.com> United States Arbitration and Mediation website.

<http://www.ccma.org.za> This Home Page of the Commission for Conciliation, Mediation and Arbitration (CCMA) offers a wide range of information about this exciting independent statutory organisation, established in terms of the Labour Relations Act (66 of 1995), to resolve labour disputes.

<http://www.cpradr.org> This organization was established by ICANN to provide information on ADR procedures for resolving domain disputes.

http://www.eff.org/pub/Intellectual_property/Internet_address_disputes This site offers an archive of policy papers on the issue of cybersquatting and domain disputes.

<http://www.dnlnr.com/searchindex.html> This site provides a directory of ICANN cases, articles, and related links.

<http://www.ladas.com/GUIDES/TRADEMARKS/DomainDisputeResolution.html> This article provides support for the author's proposition that alternative dispute resolution is better for Internet domain disputes.

<http://www.igoldrush.com> This site includes free domain name news and information, an introduction to domain names, guides to buying and selling names, 500 threaded news articles, a comprehensive FAQ, and

over 150 links to further information.

<http://www.ispo.cec.be/legal/en/ecommerc/domnames.html> This site contains articles with topics related to a unified governance for domain name listing.

http://www.ispo.cec.be/legal/en/news/9912/NovDec99text.htm#_84 This article is about the Uniform Dispute Resolution Policy adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) essentially adopting the WIPO Internet Domain Name Process recommendations on the introduction of a uniform and mandatory administrative dispute-resolution system to address "cybersquatting" cases.

<http://www.ntia.doc.gov/ntiahome/domainname/proposals/icann/letter.htm> This page updates the progress since the "White Paper" in which NTIA called on private sector Internet stakeholders to form a not-for-profit corporation to administer policy for the Internet name and address system.

<http://webdesign.about.com/compute/webdesign/cs/buyingandselling/index.htm?iam=mt&terms=%2Bdomain+%2Bnames> This site includes domain name appraisal information including information on how to sell an unused domain name and information on purchasing a domain name from a private party.

<http://www.looksmart.com> This site includes Internet Domain Name Disputes and Arbitration information.

<http://www.ladas.com/GUIDES/TRADEMARKS/DomainDisputeResolution.html> This page, entitled "Resolution of Domain Name Disputes in the Context of the New Internet Governance", is a great summary of the major developments in the legal issues surrounding the domain name problem, especially with arbitration as a solution.

http://www.pcworld.com/heres_how/article/0,1400,13568,00.html This is an article listing three steps to use in claiming a domain name.

<http://www.thestandard.com/article/display/0,1151,18239,00.html> This page includes an article discussing recent happenings with the WIPO.