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WIPO ARBITRATION AND MEDIATION CENTER, INCLUDING DOMAIN NAMES

Document prepared by the Secretariat

1. The WIPO Arbitration and Mediation Center (“Center”) forms part of the IP and Innovation Ecosystems Sector (IES). In coordination with other WIPO Sectors, IES is responsible for helping Member States develop their intellectual property (IP) and innovation ecosystems to drive enterprise and economic growth.
2. Within this framework, the present document provides an update on the Center’s activities as an international resource for time- and cost-efficient alternatives to court litigation of IP and technology disputes, acting as an administrator of cases as well as a provider of legal and technology-related expertise in alternative dispute resolution (ADR).
3. This document also provides an update on the domain name-related activities of WIPO, as previously reported in document [WO/GA/56/13](#). It covers the Center’s administration of domain name disputes under different policies and various related aspects of the Internet Domain Name System (DNS), as well as selected policy developments, including rights protection mechanisms (RPMs) for the introduction of new generic top-level domains (gTLDs), the impending review by the Internet Corporation for Assigned Names and Numbers (ICANN) of the Uniform Domain Name Dispute Resolution Policy (UDRP) and other RPMs, and the status of the recommendations made by the Member States of WIPO in the context of the Second WIPO Internet Domain Name Process.

I. MEDIATION AND ARBITRATION OF IP DISPUTES

A. CASE ADMINISTRATION

4. In 2023, the Center was involved in the resolution of 680 IP, innovation, and technology disputes. This represents a 24 per cent increase from 2022 and 280 per cent in the last five years. These disputes were referred to the Center under the WIPO Mediation, Arbitration, Expedited Arbitration, or Expert Determination Rules, and Good Offices, as well as its co-administration schemes with national IP and copyright offices and courts.

(a) WIPO Mediation, Arbitration, Expert Determination and Good Offices¹

5. The mediation, arbitration and expert determination procedures offered by the Center aim to meet parties' needs for time- and cost-effectiveness in the resolution of IP and technology disputes. The Center is engaged in the management of cases under those procedures, which includes procedural guidance,² training,³ appointing and supporting qualified mediators, arbitrators, and experts, and maintaining up-to-date case infrastructure. Cases are filed with the Center based on a prior contract clause or, increasingly, a post-dispute submission agreement (including court referrals), and also by unilateral request under Article 4 of the WIPO Mediation Rules.⁴

6. In 2023, large companies, small and medium-sized enterprises (SMEs),⁵ universities and research organizations, collective management organizations (CMOs), and innovators and creators from 64 countries used the Center's mediation, arbitration, expert determination and Good Offices services corresponding to a total of 297 requests. New cases under the WIPO Rules involved research and development (R&D) agreements including consortium agreements, patent licensing agreements including standard essential patents (SEP)/fair reasonable and non-discriminatory (FRAND) determinations, life sciences development and distribution agreements, trademark and copyright licensing, geographical indications, copyright collective management, software development and licensing, IP valuation and infringement, and unfair competition cases.⁶ The main business sectors were creative industries, information and telecommunications technology (ICT), life sciences, mechanical processes/equipment, and luxury goods.

7. Since the last Assemblies, the Center noted a particular increase in cases referred to WIPO Mediation by national courts. For example, under the framework collaboration between the Supreme People's Court of China (SPC) and WIPO, the SPC and the Center, in coordination with the WIPO Office in China, collaborate in the area of mediation to help resolve international IP and technology disputes in China. So far, more than 100 international cases pending before courts in Shanghai, Fujian, Hainan, and Guangdong have been referred to the

¹ Disputes referred to WIPO Mediation, WIPO Arbitration, WIPO Expedited Arbitration, and WIPO Expert Determination Rules (WIPO Rules) and WIPO Good Offices.

² The Center provides procedural assistance (Good Offices) to parties involved in an IP or technology dispute, to facilitate direct settlement between them or the submission of their dispute to WIPO mediation, arbitration, or expert determination, as alternatives to court litigation. See <https://www.wipo.int/amc/en/goodoffices/index.html>.

³ All workshops and other events organized by the Center are listed at <https://www.wipo.int/amc/en/events>.

⁴ The Center makes available recommended model clauses and submission agreements, as well as an online clause generator that allows parties to build core clauses and submission agreements. See <https://www.wipo.int/amc/en/clauses/index.html> and <https://amc.wipo.int/clause-generator/>.

⁵ SMEs, including start-ups, creators and innovators, overall represent more than 50 per cent of the parties involved in WIPO mediations and arbitrations. The Center offers reduced administration and registration fees in cases involving SMEs. See <https://www.wipo.int/amc/en/center/specific-sectors/smes/>.

⁶ Specific legal issues included patent, trademark, and copyright infringement, patent exhaustion, patent co-ownership, patent pools, appropriate patent licensing terms (including FRAND terms), breach of contract, royalty adjustments and payments, trademark co-existence agreements, passing-off, copyright licensing terms, removal of content from online platforms, specific performance including withdrawal of a legal action, damage claims, and trademark oppositions pending before IP offices.

WIPO Arbitration and Mediation Shanghai Service, including trademark, patent, copyright, ICT and other commercial cases, with parties from 14 jurisdictions in Asia, Europe and North America. In France, since 2023 the Center collaborates with the *Tribunal judiciaire de Paris* to facilitate referral to WIPO Mediation of suitable IP cases pending before the court. To date, the Center has administered 15 patent, copyright, trademark, industrial designs, and unfair competition cases referred under this program, involving parties from eleven jurisdictions in Asia, Europe, and North America.

8. During the period, the Center continued to administer cases referred by parties to WIPO Mediation under collaboration programs with IP offices. For example, under its collaboration with the Intellectual Property Office of Singapore (IPOS), the Center administered IPOS trademark disputes referred to WIPO Mediation. In 2023, WIPO and IPOS launched the WIPO-Singapore ASEAN Mediation Programme (AMP) to promote the use of mediation in IP and technology disputes in the ASEAN region, and the Center administered the first cases under this program.⁷ The Center also collaborates with the Intellectual Property Office of the Philippines (IPOP HL) concerning the administration of mediation proceedings involving IP rights in the Philippines, including recently under the IPOP HL Mediation Outside Litigation scheme, and has administered cases referred to WIPO Mediation under this program. Under the collaboration between the Center and the Moroccan Office of Industrial and Commercial Property (OMPIC), the Center and OMPIC developed a mediation option for IP and technology cases and have co-administered the first case in 2023.

9. Mindful of the parties' needs for time- and cost-efficiency, the Center undertook initiatives to further streamline the conduct of WIPO ADR proceedings. To add efficiency to their arbitration proceedings, many parties used the Center's enhanced [WIPO eADR](#) electronic case facility.⁸ In addition, most arbitration hearings and mediation meetings continued to be conducted remotely or in hybrid format using WIPO-hosted facilities and support. To assist parties and neutrals in the preparation of such remote meetings and hearings, the Center continued to update the [WIPO Checklist for the Online Conduct of Mediation and Arbitration Proceedings](#).

10. The Center also provides tailored [ADR services for specific sectors](#). In this regard, the Center noted particular interest by users and IP authorities in its [services for disputes concerning FRAND licensing terms](#) for SEPs. To date, the Center has administered more than 80 SEP-related mediations involving SMEs, patent pools and large companies, with parties from over 20 jurisdictions. In many of these cases, parties requested mediation to facilitate the agreement of FRAND licensing terms (Deal Mediation). Reflecting this growing case experience, including cases pending before multiple courts, the Center makes available guidance to facilitate referral of such issues to WIPO mediation, arbitration, and expert determination.⁹ During the period, WIPO and the United States Patent and Trademark

⁷ Under AMP, eligible parties may claim funding to mediate IP or technology-related disputes or contract negotiations. Two trademark cases have so far successfully settled with more cases expected before the expiry of AMP at the end of 2024. Summaries of case examples are available at <https://www.ipos.gov.sg/docs/default-source/protecting-your-ideas/hearings-mediation/mediation-cases.pdf>; for further information on AMP see https://www.wipo.int/about-wipo/en/offices/singapore/news/2023/news_0011.html.

⁸ WIPO eADR enables parties and neutrals to share and access all case-related submissions through a single and secure portal. In the period, WIPO's eADR facility was also used by the America's Cup Arbitration Panel in the course of the 37th edition of the America's Cup sailing race series. See <https://www.wipo.int/amc/en/center/background.html>.

⁹ See https://www.wipo.int/export/sites/www/amc/en/docs/2022/wipo_adr_options_for_frاند_disputes_management_resolution.pdf. The publication seeks to assist parties and neutrals to better understand and make use of available dispute resolution options when negotiating or drafting FRAND licensing agreements. It covers key elements that parties may wish to consider to shape the ADR process, notably to address large SEP portfolios in the telecom, Internet of Things, and connected mobility sectors, and to manage time and cost of proceedings. Tailored model submission agreements are also included.

Office (USPTO) continued to partner on stakeholder outreach to further raise awareness of WIPO ADR services relating to SEPs, including for SMEs.

11. The Center regularly administers [life sciences mediation and arbitration cases](#), with parties across the sector including pharmaceutical, biotech, diagnostics and medical devices companies, and R&D institutions. The Center's growing caseload in this area includes high-value pharma patent, licensing, and distribution cases, recently also relating to COVID-19 vaccines. In the period, the Center published an anonymized summary of WIPO life sciences mediation and arbitration case examples. Further, as part of the WIPO COVID-19 Response Package, the Center continued to promote the use of WIPO Mediation to facilitate international life sciences licensing and other transactions (Deal Mediation), in collaboration with stakeholders in Africa, Asia, Europe and North America.¹⁰ The Center makes available the publication [WIPO ADR for Life Sciences Disputes Management and Resolution](#),¹¹ that presents WIPO ADR options tailored to life sciences.

12. With the urgent need for climate action and connected risk of [disputes related to green technology and sustainability](#), the Center has observed a growing mediation and arbitration caseload in this area, involving renewable energies, irrigation, agriculture, and other technologies aimed at developing sustainable innovation. Such disputes often involved parties from different jurisdictions and related to IP and other commercial issues such as licensing, R&D agreements, patented technologies, know-how, software, or trademarks. The Center works with WIPO Green and relevant industry stakeholders to further facilitate the efficient resolution of such disputes through WIPO ADR.

13. The Center aims to promote efficient and effective [resolution of disputes in the digital environment](#), which is critical to maintaining the integrity of online content-sharing services and protecting the rights of content creators and users alike. In light of recent legislative developments in the European Union concerning unlawful content found on online platforms, which includes issues related to IP, the Center has tailored its WIPO Expert Determination Rules to address disputes related to such infringements. The scope of the WIPO Expert Determination for Copyright and Trademarks Infringement Rules (WIPO EDCTI Rules) covers disputes between users and copyright or trademark holders, and online platforms. This [dispute resolution procedure](#) is part of a multi-tiered process that includes internal procedures made available by the online platforms, and leaves open the option to submit the disputes to the courts.

14. The video games and eSports industry continues to grow rapidly, and with it comes an increased demand for ADR services. The Center has observed an increase in requests for [ADR services for these disputes](#), reflecting the dynamic nature of this expanding field. These disputes include copyright issues related to game storylines, designs, IP infringement, IP and software licensing disputes, musical works, and trademark disputes. In response to this growing need, the Center is collaborating with industry stakeholders and other WIPO divisions to develop and implement specialized ADR options tailored specifically to the challenges of the video game and eSports sectors.

15. With the development of artificial intelligence (AI), [disputes over ownership, licensing, and infringement of AI-generated content](#) are on the rise. Disputes over unauthorized use of

¹⁰ The Center notes a growing use of WIPO mediation and arbitration clauses by life sciences stakeholders. For example, WIPO mediation and arbitration options are included in more than 75 licensing and sub-licensing agreements concluded by the Medicines Patent Pool (MPP) with licensees in some 25 jurisdictions, see <https://medicinespatentpool.org/progress-achievements/licences>.

¹¹ The publication was launched at the WIPO Seminar of ADR for Life Sciences Dispute Management and Resolution on November 29, 2022, with speakers representing industry, tech transfer offices, public health partnerships and WIPO Neutrals, from Africa, Asia, Europe, and North America. See https://webcast.wipo.int/video/OTHER_WIPO_SEMINAR_1_2022-11-29_PM_117643.

datasets and claims of originality over AI-generated content are challenging traditional legal frameworks. The Center facilitates the voluntary resolution of such disputes through ADR, offering fast and efficient solutions tailored for the digital environment while preserving relationships and creators' rights, providing an alternative to traditional court litigation.

(b) Co-administration Procedures¹²

16. With the support of the Ministry of Culture, Sports, and Tourism of the Republic of Korea (MCST) Funds-in-Trust for the promotion of ADR (FIT-ROK/ADR), and in collaboration with WIPO's Solutions Design and Delivery Section (SDDS-ICTD), the Center has developed and implemented online tools to assist IP and copyright offices and courts in the administration and tracking of disputes referred to mediation and conciliation services provided by offices in collaboration with the Center. This has significantly increased the efficiency of the provision of such services, benefiting users of the system by resolving their disputes in a timely and cost-effective manner.

17. In 2023, the Center has co-administered 383 cases in collaboration with IP and copyright offices and courts. The Center has observed a significant increase in copyright dispute filings over the past year.

18. This trend is notably connected to the Center's co-administration of cases filed with the [National Directorate of Copyright of Colombia \(DNDA\)](#) and the [National Institute of Copyright of Mexico \(INDAUTOR\)](#). The online conduct of conciliation meetings has had a positive impact on the participation of the parties in the proceedings. Online conduct also allows for greater communication among the parties involved and has resulted in increased settlement rates. Recent additions to this co-administration program include the Registry of Intellectual Property of Guatemala (RPI), the National Directorate of Intellectual Property of Paraguay (DINAPI), and the Intellectual Property Office of Trinidad and Tobago (TTIPO). Since August 2023, the Center also [collaborates with the Judiciary of the United Republic of Tanzania](#), where the Center makes available WIPO online meeting tools and support in mediation cases before the Judiciary of the United Republic of Tanzania. To date, the Center has co-administered some 25 mediation cases involving parties from the United Republic of Tanzania as well as a number of other jurisdictions in Africa, Asia, Europe and North America. In addition to streamlining case management for the judiciary, this co-administration program has facilitated party participation in the proceedings, thus facilitating access to justice.

19. In another co-administration program, the Center has been making available its WIPO eADR platform for [disputes arising from the Rules of Procedure governing the 37th America's Cup](#), an international sailing competition.

B. COLLABORATION WITH INTELLECTUAL PROPERTY OFFICES AND COURTS

20. A core area of the Center's activity is the collaboration with IP and copyright offices and courts globally.¹³ Since the 2023 Assemblies, the Center has entered into 12 new initiatives with IP and judicial authorities in Member States to promote and help introduce time and

¹² Disputes co-administered in collaboration with IP and copyright offices, courts and other stakeholders where the WIPO Rules are not being used.

¹³ To date, the Center collaborates with 87 IP offices and courts in Albania, Algeria, Argentina, Australia, Austria, Belarus, Botswana, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cuba, the Czech Republic, the Dominican Republic, Ecuador, Egypt, El Salvador, the Eurasian Patent Organization (EAPO), France, Georgia, Greece, Guatemala, Hungary, India, Indonesia, Israel, Italy, Kazakhstan, Kenya, the Republic of Korea, Kyrgyzstan, Lao People's Democratic Republic, Lithuania, Mexico, Morocco, Namibia, New Zealand, Nigeria, Paraguay, the Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC Patent Office), Peru, the Philippines, Poland, Qatar, Romania, the Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Spain, Switzerland, United Republic of Tanzania, Thailand, Trinidad and Tobago, Türkiye, Ukraine, the United Kingdom, the United States of America, and Uruguay. See <https://www.wipo.int/amc/en/center/specific-sectors/ipoffices/>.

cost-efficient ADR options for IP and technology disputes outside the courts or other adjudicative bodies.¹⁴ In the period, collaboration programs included the development of country-tailored outreach and information materials for interested stakeholders concerning ADR options, assistance in the drafting of ADR clauses in connection with model R&D agreements, and training and joint events for stakeholders.¹⁵

21. Some IP offices have developed ADR options, or encourage parties to use such options, in the context of proceedings pending before them, notably trademark opposition proceedings. The Center worked with IP offices on the development of mediation options for such proceedings and collaborated with IP offices in the administration of cases submitted by parties under such programs.¹⁶ In the area of copyright, some IP offices now resort to the Center as administrator or co-administrator of pending cases, often involving CMOs or other copyright owners, and users.¹⁷

22. Additionally, the Center collaborated with IP offices in the development of R&D model agreements that include options for WIPO Mediation and WIPO Arbitration.¹⁸

23. Reflecting the growing scope and nature of these collaborative efforts, the Center makes

¹⁴ The General Directorate of Industrial Property and Magistrate School of the Republic of Albania, the National Office of Copyrights and Related Rights of Algeria (ONDA), the Austrian Patent Office, the Guangdong Higher People's Court (China), the National Institute of Industrial Property of France (INPI), the Office of Controller-General of Patents, Designs and Trademarks of India (CGPDTM), the Mediation Accreditation Committee of Kenya, the Department of Intellectual Property, Ministry of Industry and Commerce of Lao People's Democratic Republic, the Business and Intellectual Property Authority of Namibia (BIPA), the Saudi Authority for Intellectual Property (SAIP), the Turkish Patent and Trademark Office, and the National Directorate of Industrial Property of Uruguay.

¹⁵ In the period, the Center organized ADR training and outreach events with IP offices and courts of Algeria, the African Regional Intellectual Property Organization (ARIPO), Austria, Canada, Chile, China, Dominican Republic, the Eurasian Patent Organization (EAPO), Egypt, France, Georgia, Greece, Guatemala, India, Kenya, Mexico, Morocco, Nigeria, the Philippines, Poland, Qatar, Republic of Korea, Saudi Arabia, Singapore, Slovakia, Spain, Türkiye, the United Republic of Tanzania, and the United States of America.

¹⁶ As noted under paragraph 8, above, under its collaboration with IPOS, the Center participated in the development of mediation options for IPOS trademark and other proceedings, and an expert determination option for IPOS patent proceedings, and it administers such proceedings, including online case administration tools. The Center also collaborates with the IPOPHL concerning the administration of mediation proceedings involving IP rights in the Philippines, including recently under the IPOPHL Mediation Outside Litigation scheme, and administers cases referred to WIPO Mediation under these arrangements. In addition, the Trademark Trial and Appeal Board (TTAB) and the Patent Trial and Appeal Board (PTAB) of the USPTO encourage parties to consider ADR as a means of settling issues raised in those proceedings; the Center is one of the listed dispute resolution service providers. Under its collaboration with the Polish Patent Office (PPO), the Center participated in the development of a WIPO mediation option that has become available for pending trademark opposition proceedings. Under the collaboration between the Center and OMPIC, the Center and OMPIC developed a mediation option for IP and technology cases, co-administered by the Center and OMPIC. In collaboration with the Center, TTIPO offers a voluntary mediation option to parties to resolve trademark oppositions pending before TTIPO through mediation under the WIPO Mediation Rules.

¹⁷ For example, the Center has developed online case administration tools such as videoconferencing and tracking tools to co-administer conciliation proceedings before DNDA Colombia and INDAUTOR Mexico respectively (see <https://www.wipo.int/amc/en/center/specific-sectors/ipoffices/mexico/indautor>). The Center is currently working with additional Member State IP offices, including the Registry of Intellectual Property of Guatemala (RPI), DINAPI, and the Copyright Society of Tanzania (COSOTA) to provide similar services. The Center also collaborates in the promotion and provision of mediation services with the Companies and Intellectual Property Authority of Botswana (CIPA), the Hellenic Copyright Organization of Greece (HCO), the Kenya Copyright Board (KECOBO), the Nigerian Copyright Commission (NCC), MCST, the Korea Copyright Commission (KCC), the Korea Creative Content Agency (KOCCA), the Romanian Copyright Office (ORDA), and the Ministry of Culture and Sports of Spain.

¹⁸ For example, the EU DESCA 2020 Model Consortium Agreement, the Intellectual Property Agreement Guide (IPAG) Model Agreements in Austria, the Sample Agreements for Research and Development Cooperation in Germany, and the model R&D agreements with the Spanish Patent and Trademark Office (OEPM). Most recently, the Baltic Technology Transfer Offices Network Cooperation Agreement, concluded in 2022 in collaboration with WIPO, recommends WIPO Mediation followed, in the absence of a settlement, by court litigation. The Australia's Higher Education Research Commercialization (HERC) IP Framework Model License and Research Agreements recommend mediation followed, in the absence of a settlement, by court proceedings or WIPO Arbitration. For further information see <https://www.wipo.int/amc/en/center/specific-sectors/rd/>.

available the [WIPO Guide on Alternative Dispute Resolution for Intellectual Property Offices and Courts](#). The publication covers tailored public ADR programs developed in collaboration with the Center, involving innovative elements such as administration and co-administration schemes, online case management tools, training, and outreach, as well as R&D model agreements including ADR clauses. The Guide also presents options for interested IP offices and courts to integrate ADR, especially mediation, into their processes.

C. ADR INFORMATION RESOURCES

24. Since the last Assemblies, to meet with increased demand for online ADR resources and training, the Center continued using outreach channels, such as its ADR Highlights newsletter and the [Center's LinkedIn page](#),¹⁹ while expanding or opening social and other online avenues for users or potential users of WIPO ADR services.²⁰ For example, the Center's [WIPO ADR Young](#), launched in 2021, is a networking and training forum for young professionals in the IP and dispute resolution communities, which has so far attracted over 1,400 members from some 110 countries. The Center also organized activities and participated in events around World IP Day.

25. Now with some 20,000 followers, the Center's LinkedIn page acts as a platform for the IP, technology, and ADR community to keep current with WIPO ADR developments, events, and publications. The Center also continued its [WIPOD Arbitration and Mediation Matters podcast](#) program, with over 7,000 streams, featuring interviews with IP and ADR practitioners.

26. The Center continued to organize and participate in events, including [webinars](#), IP ADR clinics, and online WIPO Mediation and Arbitration Workshops, which are made available to stakeholders with content tailored to their area of interest in a range of languages.²¹ Topics included digital copyright (including eSports and video games, as well as NFTs and the Metaverse²²), SEP/FRAND disputes, life sciences, R&D, IP valuation, green technology and sustainability, fashion, and art and cultural heritage disputes. Center events also targeted specific audiences, such as SMEs, entrepreneurs, youth and women. Since the 2023 Assemblies, the Center has organized or participated in over 40 events, with some 3,500 registrants from over 140 countries.

27. Under the [WIPO Mediation Pledge for IP and Technology Disputes](#), signatories and collaborating entities agree to promote mediation as an alternative to court litigation to reduce the impact of disputes on innovation and creative processes. Over 930 participants have signed the Pledge, including 37 Member State IP offices and ADR industry associations.

¹⁹ Subscribers to WIPO ADR Highlights increased to over 8,500; all editions are available at https://www.wipo.int/newsletters-archive/en/adr_highlights.html.

²⁰ For example, the Center promotes WIPO ADR services in China using WeChat and in Korea using KakaoTalk.

²¹ To date, Center webinars have been delivered in Chinese, Dutch, English, French, German, Italian, Japanese, Korean, Russian, Spanish, and Swedish.

²² See the Seventh Session of the WIPO Conversation – Intellectual Property and the Metaverse. https://www.wipo.int/meetings/en/details.jsp?meeting_id=74608.

II. DOMAIN NAME CASE ADMINISTRATION

A. UDRP

28. The DNS raises a number of challenges for the protection of IP, which, due to the global nature of the Internet, call for an international approach. WIPO has addressed these challenges since 1998 by developing solutions, notably in the [First](#) and [Second](#) WIPO Internet Domain Name Processes. Through the Center, WIPO provides trademark owners with efficient international mechanisms to deal with the bad-faith registration and use of domain names corresponding to their trademark rights. The main mechanism administered by WIPO, the UDRP, was adopted by ICANN on the basis of recommendations made by WIPO in the First WIPO Process.

29. Cybersquatting – the abuse of a trademark in a domain name – is a global problem. Named parties to WIPO cases covered 138 countries in 2023, to total 185 since the UDRP's inception. In function of the language of the registration agreement of the domain name at issue, WIPO so far has conducted UDRP proceedings in 29 languages.²³

30. With a greater number of people spending more time online during and following the COVID pandemic, infringers have been finding an increasingly target-rich environment. Trademark owners continue to step up their brand enforcement on the Internet as they further shift to providing their goods and services online. Limited in scope to clear cases of bad faith, the UDRP remains in high demand.²⁴ Since December 1999, WIPO has administered over 68,000 UDRP-based cases.²⁵ As businesses reacted to the proliferation of websites used for counterfeit sales, fraud, phishing, and other forms of online trademark abuse, in 2023 rights holders filed a record 6,192 UDRP-based complaints with WIPO, a nearly eight percent increase over 2022 filings and the eleventh consecutive year marking an increase in filing generally. The total number of domain names in WIPO UDRP-based cases has passed 124,000. The scope of the risks for consumers can also be seen in the top sectors for complainant business activity, including banking and finance, biotechnology and pharmaceuticals, fashion, retail, and Internet and information technology.

31. All WIPO UDRP panel decisions are posted on the Center's website. The free, online [WIPO Overview of WIPO Panel Views on Selected UDRP Questions](#) remains a vital and globally-consulted jurisprudential overview of decision trends on important case issues covering 100 topics, including reference to almost 1,000 representative decisions from over 265 WIPO Panelists.²⁶ To facilitate access to decisions according to subject matter, WIPO also offers an online searchable [Legal Index of WIPO UDRP Decisions](#).

32. Mindful of WIPO's foundational role in the UDRP, the Center actively monitors developments in the DNS with a view to adjusting its resources and practices²⁷ and organizes

²³ In alphabetical order, Arabic, Bulgarian, Chinese, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hebrew, Hungarian, Indonesian, Italian, Japanese, Korean, Norwegian, Polish, Portuguese, Romanian, Russian, Slovak, Spanish, Swedish, Turkish, Ukrainian, and Vietnamese.

²⁴ The UDRP does not prevent either party from submitting a dispute to a competent court of justice; however, very few cases that have been decided under the UDRP have been brought before a court. See Selected UDRP-related Court Cases at <https://www.wipo.int/amc/en/domains/challenged>.

²⁵ The Center makes available a wide range of online real-time statistics to assist WIPO UDRP case parties and neutrals, trademark attorneys, domain name registrants, domain name policy makers, media, and academics. See <https://www.wipo.int/amc/en/domains/statistics>.

²⁶ The increased scope of WIPO Overview 3.0 reflects a wide range of DNS and UDRP case evolutions. The WIPO Overview is instrumental in developing and maintaining consistency of WIPO UDRP jurisprudence.

²⁷ In 2023, the Center published updated guidance for parties on the practical impact of the data protection regulations on UDRP proceedings. See <https://www.wipo.int/amc/en/domains/gdpr/>.

[Domain Name Dispute Resolution Workshops](#) to update interested parties, as well as important meetings of its Domain Name Panelists.

B. COUNTRY CODE TOP-LEVEL DOMAINS (CCTLDS)

33. While the mandatory application of the UDRP is limited to domain names registered in gTLDs (such as .com), WIPO also [assists national ccTLD registries](#) in their establishment of registration conditions and dispute resolution procedures that conform with best practices in registry management and IP protection. Some ccTLD registries adopt the UDRP directly, while others have adopted UDRP-based procedures that take account of particular circumstances and needs of individual ccTLDs. WIPO provides dispute resolution services to 83 ccTLD registries, having begun accepting cases for the .GA (Gabon) and .MG (Madagascar) ccTLDs in 2023, and reinstating the administration of complaints under the .UA (Ukraine) Policy in 2023 including with respect to additional Third Level Domains.²⁸

34. In 2023, the Center provided policy support to a number of ccTLD registries. This included collaborating with relevant authorities to promote efficiency and harmonization of domain name dispute resolution mechanisms, for example by updating the registration conditions, administrative processes, Policies, Rules, and/or WIPO Supplemental Rules for .AD (Andorra), .AI (Anguilla), .AU (Australia), .BF (Burkina Faso), .BI (Burundi), .EC (Ecuador), .EU (European Union), .FR (France), .HT (Haiti), .LV (Latvia), .MA (Morocco), .MX (Mexico), .NL (Netherlands (Kingdom of the)), .PE (Peru), .RO (Romania), .SA (Saudi Arabia), .SE (Sweden), and .TR (Türkiye).

35. For all ccTLDs concerned, WIPO offers extensive online party resources, including eligibility criteria for registration, supported characters, and multilingual model pleadings and filing information,²⁹ as well as summaries of relevant differences between the respective UDRP-based ccTLD policies and the UDRP.³⁰ This information is summarized in the [Guide to WIPO's services for country code top-level domain registries](#).

III. POLICY DEVELOPMENTS IN THE DNS

36. A number of policy developments in relation to ICANN present both opportunities and challenges for owners and users of IP rights. One is ICANN's introduction of a significant number of new gTLDs. Such new gTLDs may be of an "open" nature (similar to .com), or may take on more specific or restrictive characteristics, for example taking the form of .[brand], .[city], .[community], .[culture], .[industry], or .[language]. A noteworthy element of this growth of the DNS concerns Internationalized Domain Names (IDNs) at the top level – expanding the DNS' linguistic availability. Also, ICANN's expansion of the DNS raises rights protection questions in connection with the Second WIPO Process.

A. NEW GTLDS

37. Delegation of the first new gTLDs into the Internet's Root Zone took place in October 2013, with nearly all of the unique over 1,200 gTLDs delegated by June 2019,³¹ only a few (e.g., ".music") remain to launch. Together, these new gTLDs appear to have so far attracted some 29 million second-level registrations (owing e.g., to non-renewals, this figure is down from a prior 32 million). In July 2023, ICANN approved further rounds of new gTLDs,

²⁸ The full list of ccTLDs that have retained the Center as domain name dispute resolution provider is available at <https://www.wipo.int/amc/en/domains/cctld/>.

²⁹ For example, the Center's page dedicated to .CH (Switzerland) is available in German and Italian, in addition to English, French, and Spanish.

³⁰ See <https://www.wipo.int/amc/en/domains/cctld/>.

³¹ Delegated new gTLDs are listed at <https://newgtlds.icann.org/en/program-status/delegated-strings>.

which is expected to culminate in the completion of the next Applicant Guidebook in May 2025 and with new gTLD applications to follow in April 2026.

38. The Center remains committed to working with stakeholders to attempt to safeguard the observance of general principles of IP protection in new gTLDs. A number of the RPMs emerged from a series of ICANN committees and processes for new gTLDs.³² As described *inter alia* in [document SCT/46/3](#), ICANN's RPMs for GTLDs include the Pre-Delegation Dispute Resolution Procedure whereby trademark owners can lodge Legal Rights Objections (LRO) to new gTLD applications thought to infringe their rights,³³ and the Post-Delegation Dispute Resolution Procedure (PDDRP), which allows for the filing of a complaint with respect to an approved new gTLD registry operator whose manner of operation or use of its registry is alleged to cause or materially contribute to trademark abuse.³⁴ As regards second level RPMs, ICANN's New gTLD Program includes a Trademark Clearinghouse (TMCH) that serves as a centralized repository of authenticated trademark data which may be invoked as the basis for using new gTLD RPMs.³⁵ Further, while the UDRP remains available as a curative tool for new gTLD disputes involving the requested transfer of a disputed domain name to the trademark owner, ICANN has introduced the temporary-suspension-based Uniform Rapid Suspension System, which is intended to be a lighter second-level RPM for appropriate cases.³⁶

B. ICANN'S PLANNED REVISION OF THE WIPO-INITIATED UDRP AND OTHER RPMS

39. Accommodating the dynamic development of the DNS, the UDRP has been offering a highly effective alternative to court litigation for trademark owners, domain name registrants, and registration authorities. Despite its success, in 2011 ICANN's Generic Names Supporting Organization (GNSO) decided to review the UDRP following the launch of new gTLDs.³⁷

³² For further background including references, see [WO/GA/39/10](#), in particular paragraphs 23 to 30. It is noted here that ICANN rejected a proposal for a "Globally Protected Marks List".

³³ Other objection grounds recognized by ICANN were: "String Confusion Objections", "Community Objections", and "Limited Public Interest Objections". The Applicant Guidebook further includes a number of other procedures which governments could avail themselves of following ICANN announcement of new gTLD applications. Notably, section 1.1.2.4 provides for "GAC Early Warning," and section 1.1.2.7 provides for "Receipt of GAC Advice on New gTLDs" for the ICANN Board's consideration.

³⁴ See <https://www.wipo.int/amc/en/docs/icann130309.pdf>.

³⁵ The TMCH allows for inclusion of registered word marks, word marks protected by statute or treaty or validated by court, and "[o]ther marks that constitute intellectual property" (the latter being undefined). With respect to RPMs utilizing TMCH data, the availability of "Sunrise" services (*i.e.*, an opportunity for a trademark owner, for a fee, to preemptively register an exact match of its mark as a domain name) is limited to those trademarks for which current use can be demonstrated. Whether or not substantiated by demonstration of current use, trademark owners would also be eligible to participate in a time-limited "Claims" service (*i.e.*, notice to a potential domain name registrant of the existence of a potentially conflicting trademark right, and notice to the relevant trademark owner(s) in the event that the registrant nevertheless proceeds with domain name registration). As mandated by ICANN, the availability of the Claims service is for a period of 90 days after a new gTLD is opened for general public registration, but users of the TMCH can opt-in to receive notifications indefinitely. The demonstration of use required for Sunrise services similarly applies to the invocation of trademarks as a basis for a complaint filed under the "Uniform Rapid Suspension" RPM described herein. Some registry operators have introduced a provision in their Registry-Registrar Agreement for an extended Claims service of indefinite length, as for example Charleston Road Registry (part of Google) for ".app" (see <https://qtdresult.icann.org/applicationstatus/applicationdetails:downloadapplication/1343?t:ac=1343>).

³⁶ The Center communicated to ICANN in April 2009 a discussion draft of an "Expedited (Domain Name) Suspension Mechanism", (see <https://www.wipo.int/amc/en/docs/icann030409.pdf>) and has made subsequent proposals for a streamlined mechanism based on this model at ICANN Meetings (see <https://prague44.icann.org/node/31773> and <https://toronto45.icann.org/node/34325>). Such proposals took account of the need to strike a balance between the protection of trademark rights recognized by law, the practical interests of good-faith registration authorities to minimize operational burdens, and the legitimate expectations of *bona fide* domain name registrants.

³⁷ Despite discussions in 2011 in which the clear majority of participants were of the opinion that more harm than good could result from any review of the UDRP by ICANN as a registration-driven body. See <https://community.icann.org/display/gnsoudrpd/Webinar+on+the+Current+State+of+the+UDRP>; see also more generally document [WO/GA/39/10](#), paragraph 31.

[ICANN's 2015 Preliminary Issue Report](#) describes a range of complex substantive and process questions. The Center provided observations highlighting the UDRP's long-proven success and the risks associated with any attempted ICANN revision of the UDRP. Following a public comment period, ICANN published its Final Issue Report in January 2016 recommending that the GNSO launch a Policy Development Process (PDP) to review all RPMs in two phases; the now-concluded initial phase issued a [Final Report](#) focused on RPMs developed for the New gTLD Program, notably the TMCH (including "Sunrise" and "Claims" RPMs) and URS resulting in a range of operational and procedural suggestions for changes to those items.³⁸ The Phase I Final Report contained 35 consensus recommendations³⁹ and was approved by the GNSO Council and ICANN Board for implementation in several stages.⁴⁰

40. Phase II (initially anticipated to begin chartering work in 2022) will focus on the UDRP.⁴¹ This is a matter of serious concern, noting also the accreditation by ICANN of further UDRP providers and the uncertainty of how the UDRP may evolve in this ICANN process, and the Center continues to closely follow ICANN stakeholders' intentions with regard to the UDRP and trademark RPMs generally. In this effort, the Center continues consultations with stakeholders such as the European Communities Trademark Association (ECTA), the International Trademark Association (INTA), and MARQUES, in addition to ICANN. Notably with respect to the UDRP, calls have been made from within ICANN's constituent bodies for a focused consultative expert-led initial review of the UDRP to be undertaken by the WIPO Secretariat to assess the UDRP's operation to inform ICANN's policy process within the existing UDRP framework.⁴²

C. WHOIS DATABASE

41. As a result of the European Union's General Data Protection Regulation (GDPR),⁴³ which came into force on May 25, 2018, publicly-available Whois data generally no longer includes full contact details of domain name registrants. Notably, the registrant's name and email address in most instances is not visible. However, in order to facilitate contact with the domain name registrant, the concerned registrar is required to provide an "anonymized" email address or web-based contact form. In addition, where a UDRP complaint has been submitted to a UDRP provider, registrars are instructed by ICANN to provide registrant contact information on request from such provider (and at the same time "lock" the domain name's registration and registrar details), further to due process requirements codified in the UDRP Rules. An ICANN "Temporary [contract] Specification" for gTLD Registration Data expressly acknowledges that

³⁸ See Final Report at <https://gns0.icann.org/sites/default/files/file/field-file-attach/council-recommendations-rpm-pdp-phase-1-report-10feb21-en.pdf>.

See also presentation to the GNSO Council at

<https://gns0.icann.org/sites/default/files/policy/2021/presentation/presentation-gns0-rpm-final-report-11Jan21-en.pdf>.

³⁹ These comprised the following four categories of recommendations: to Maintain Status Quo (9), to Modify Operational Practice (10), to Create New Policies and Procedures (15), and for Overarching Data Collection (1).

⁴⁰ See <https://www.icann.org/resources/board-material/resolutions-2022-01-16-en#2.a..>

⁴¹ See <https://gns0.icann.org/en/issues/new-gtlds/rpm-final-issue-11jan16-en.pdf>. See also the ICANN GAC Communiqué 74, which states: "Following the public comment period on the Policy Status Report relating to the UDRP, the GAC received input from some GAC Members in relation to whether the scope of the UDRP could be extended to address Geographical Indications. The GAC therefore intends to consider the matter in preparation for discussion at subsequent meetings."

⁴² See, *inter alia*, the ICANN GAC Communiqué 74, stating: "The GAC received an update on the status of a planned review of the UDRP, and in particular notes reference to section 13.1 of the ICANN Bylaws which calls on and indeed encourages, the Board and constituent bodies to seek advice from relevant public bodies with existing expertise that resides outside of ICANN (notably the World Intellectual Property Organization—WIPO, as author and steward of the UDRP) to inform the policy process and looks forward to further exploring this provision prior to any review of the UDRP."

⁴³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

registrars must provide full “Registration Data” to UDRP providers.⁴⁴ This appears to be on the recognition that UDRP providers meet the GDPR’s Article 6(1)(f) “legitimate purposes” and Article 6(1)(b) “performance of a contract” criteria,⁴⁵ such that registrars have been required to provide Whois data to UDRP providers. In July 2018, the GNSO initiated the Expedited PDP (EPDP) to review the “Temporary [contract] Specification” and discuss a standardized access model to non-public registration data⁴⁶. A Final Report was submitted to the GNSO Council in July 2020 including the EPDP Team’s recommendations for a System for Standardized Access/Disclosure (SSAD)⁴⁷ on which a number of concerns were raised by governments and IP stakeholders and for which consultations are still underway. The Center continues to monitor SSAD-related policy discussions, which remain ongoing.⁴⁸

42. Most recently, ICANN [launched a Registration Data Request Service \(RDRS\)](#), which is a new centralized service that introduces a more consistent and standardized format to submit requests to participating registrars for access to non-public registration data related to gTLDs. The Center has published an updated [FAQ webpage](#) which raises awareness of ICANN’s RDRS and discusses potential UDRP case implications. Touching in some respects on EPDP and Whois-related issues, the European Union has adopted a [revised directive on measures for a high common level of cybersecurity across the Union](#) (NIS2 Directive) to be transposed into the national law of Member States of the European Union, and which is anticipated to potentially impact WHOIS-related practices and requests.

43. The Center continues to closely monitor the impact of the GDPR on UDRP proceedings. Separate from the Center’s UDRP function, with a view to addressing broader IP enforcement concerns occasioned by GDPR implementation, as noted above with respect to the proposed SSAD for Whois queries, a range of discussions continue on a possible Whois “accreditation and access” model, including as to a potential WIPO role to certify IP owners’ rights for such access.⁴⁹

D. OTHER IDENTIFIERS

44. In addition to and in connection with the above, there are further developments taking place at ICANN in relation to the protection of non-trademark identifiers.

(a) International Governmental Organizations (IGOs)

45. As previously reported *inter alia* in [document SCT/46/3](#), an ICANN Working Group arrived at a set of recommendations to provide IGOs access to the UDRP, and these recommendations were approved unanimously by the GNSO Council on September 27, 2018. On January 27, 2019, the recommendations were adopted by the ICANN Board and ICANN was directed to implement the recommendations. So far, ICANN implementation work on these policy

⁴⁴ See <https://www.icann.org/resources/pages/gtld-registration-data-specs-en>, at Annex F. See also <https://www.icann.org/en/announcements/details/icann-board-reaffirms-temporary-specification-for-gtld-registration-data-29-1-2019-en>.

⁴⁵ In 2018, the Center published informal WIPO guidance for parties on the practical impact of the GDPR on UDRP proceedings. See <https://www.wipo.int/amc/en/domains/gdpr>.

⁴⁶ See <https://gnso.icann.org/en/group-activities/active/gtld-registration-data-epdp>.

⁴⁷ See <https://gnso.icann.org/en/group-activities/active/gtld-registration-data-epdp-phase-2>.

⁴⁸ See <https://gnso.icann.org/sites/default/files/file/field-file-attach/policy-briefing-icann70-03mar21-en.pdf>. See also the Governmental Advisory Committee (GAC) Minority Statement on the Final Report of Phase 2 of the EPDP on gTLD Registration Data at: <https://mm.icann.org/pipermail/gnso-epdp-team/attachments/20200824/aeab8dd/gac-minority-statement-epdp-phase2-24aug20-0001.pdf>.

⁴⁹ See <https://www.icann.org/en/system/files/files/framework-elements-unified-access-model-for-discussion-18jun18-en.pdf>.

See also

<https://www.ipconstituency.org/assets/Outreach/DRAFT%20-%20WHOIS%20Accreditation%20and%20Access%20Model%20v1.7.pdf>

recommendations remains outstanding. Together with other involved IGOs, the Center continues to closely monitor implementation developments in this longstanding ICANN file.

(b) Geographical Terms

46. Concerning geographical terms, the GAC in particular has expressed concerns about their use and protection in the new gTLDs.⁵⁰ In 2007, the GAC issued the “GAC Principles regarding New gTLDs”, which states *inter alia* that ICANN should avoid delegation of new gTLDs concerning country, territory or place names, and regional language or people descriptions, unless in agreement with the relevant governments or public authorities. GAC members have expressed further reservations regarding a number of new gTLD applications on grounds of correspondence to geographical or other “sensitive” terms, advising the ICANN Board not to proceed beyond initial evaluation, and seeking Board clarification on the scope for applicants to modify their new gTLD applications to address specific GAC concerns.⁵¹

47. Concerning possible future new gTLD rounds, a so-called Work Track 5 “cross community” working group had submitted a [Final Report to the New gTLD Subsequent Procedures PDP Working Group](#) on the subject of geographic names at the top level. While overall ICANN’s next application round appears likely to maintain the status of the 2014 round, the broader subject of geographical names remains a topic of interest to a number of ICANN stakeholders, including governments and potential applicants.⁵²

48. In December 2016, ICANN authorized the release of all previously-reserved 2-character domain names at the second level in new gTLDs provided that registry operators first allow respective governments a thirty-day period to acquire such domain names; require registrants to represent that they would not falsely imply government affiliation in connection with the use of such 2-character domain name; and provide a means for post-registration complaints.⁵³ In this context, the Center [submitted comments to ICANN](#) noting that the Second WIPO Process considered the possibility of exploring measures for the UDRP to apply to third-level registrations in order to mitigate the potential for trademark abuse. ICANN did not react to this Center submission. GAC members have asked ICANN to provide coordinated information on related requests and delegations.

49. On these and other DNS-related issues, the Center has endeavored to apprise relevant sectors within the Secretariat, including in support of the work of the Standing Committee on the

⁵⁰ See <https://archive.icann.org/en/topics/new-gtlds/gac-principles-regarding-new-gtlds-28mar07-en.pdf>.

⁵¹ See <https://www.icann.org/en/system/files/correspondence/gac-to-board-27mar14-en.pdf>, at “4. Specific Strings”. While the Board has accepted the GAC’s advice against proceeding with certain applications, it has sought further information from the GAC, as well as public comments, on a range of additional safeguards sought by the GAC concerning several broad categories of new gTLD applications such as for those new gTLDs which correspond to regulated industries or dictionary terms. See <https://www.icann.org/en/system/files/correspondence/gac-to-board-11apr13-en.pdf>. A GAC Sub-group on Geographic Names (a Sub-group of the GAC Working Group on Future New gTLDs) has developed a draft document for future new gTLD rounds outlining several public policy aspects related to geographic names, which is subject to further ICANN discussions. See <https://gac.icann.org/download/attachments/35455403/Geo%20names%20in%20new%20gTLDs%20Updated%20%20V3%20%2029%20august%202014%5B4%5D.pdf?version=1&modificationDate=1411549504000&api=v2>. See also <https://www.icann.org/resources/board-material/resolutions-2019-05-15-en#1.c.>

⁵² In 2023, the European Parliament and Council approved a Regulation for the protection of geographical indications (GIs) relating to craft and industrial products including in the DNS, see at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32023R2411>. A Regulation on wine, spirits, and agricultural products, which includes some provisions on domain names, has been approved by the European Parliament, see https://www.europarl.europa.eu/doceo/document/TA-9-2024-0101_EN.html, and the Council of the European Union. While some European ccTLDs already account for GIs in their ADR systems, the approved Regulation will impact a number of European ccTLDs’ ADR policies as they will need to be updated.

⁵³ Together these comprise ICANN’s so-called “confusion mitigation” plans. See e.g., <https://www.icann.org/en/system/files/files/implementation-memo-two-character-ascii-labels-22jan19-en.pdf>.

Law of Trademarks, Industrial Designs and Geographical Indications (SCT).⁵⁴ The Secretariat will continue to monitor these developments and provide input where appropriate.

50. The WIPO General Assembly is invited to take note of the document “WIPO Arbitration and Mediation Center, Including Domain Names” (document WO/GA/57/10).

[End of document]

⁵⁴ See e.g., documents [SCT/37/4](#), [SCT/37/5](#), [SCT/38/3](#), [SCT/39/5](#), [SCT/40/4](#), [SCT/41/5](#), [SCT/42/3](#), [SCT/43/4](#), [SCT/44/2](#), and [SCT/45/3](#). See also meeting [SCT/IS/GEO/GE/17](#).