

FAST FACTS: DOMAIN NAME DISPUTE RESOLUTION

Introduction:

- The National Arbitration Forum (FORUM) is one of only four ICANN-approved providers of Internet domain name dispute resolution services.
- Over 7,550 domain cases have been filed with the FORUM since the program's inception in 2000. In 2006 over 1,600 domain cases were filed with the FORUM, a number that continues to increase each year. From 2005 to 2006 the FORUM registered a 21% increase in the number of domain cases administered and from 2004 to 2005 the FORUM registered a 25% increase.
- Disputes arise from abusive registrations of domain names like:
 - **Cybersquatting:** The act of registering and using a domain name with bad faith intent to profit from the goodwill of someone else's trademark. Examples of "bad faith" include directing web traffic to the website of a competitor or planning to sell the domain name to the trademark holder for a profit.
 - **Typosquatting:** A form of cybersquatting using a domain name that contains a misspelling, or typo, of someone else's trademark. For example, the registered owner of expeda.com used Expedia's trademark with the bad faith intent to profit from it.

The Advantages:

- **Quick:** The FORUM's domain name arbitration is significantly shorter than the average domain name lawsuit. With the FORUM, parties can see resolution of a domain name dispute in less than 50 days from date filed to date decided.
- **Inexpensive:** The arbitration process is preferred over a lawsuit because it can cost as little as \$1,300 plus legal fees.
- **Neutral:** Cases follow established policies and rules and are decided by unbiased legal experts.
- **Expert:** Cases are heard and decided by either one or three arbitrators from the panel of 150 intellectual property experts. The Panelists are located around the world and have specialized trademark, copyright and e-commerce experience.

Why Fight For Domain Names?

- To parties domain names are valuable assets. They act as unique identifiers on the Internet for a company, product, service, individual or any other trademark holder. Domain names allow Internet users to easily find and communicate with a trademark holder. Domain names can be fundamental business tools for promoting and sustaining a trademark. Improper usage can damage a party's identity.
- Bringing a legal action for a domain name with the National Arbitration Forum proves to be quick, inexpensive, neutral and expert. It's too easy not to secure an invaluable online trademark.

STEP-BY-STEP: DOMAIN NAME DISPUTE RESOLUTION

The Policies:

- Domain name dispute resolution policies, such as the Uniform Dispute Resolution Policy (UDRP), are created and sponsored by organizations like the Internet Corporation of Assigned Names and Number (ICANN), NeuStar and New.net. Different policies and rule sets were created to govern the different TLDs (top level domains), extensions such as .com, .org, .biz or .net.
- Each policy also has a set of corresponding Supplemental Rules issued by the National Arbitration Forum (FORUM). These Supplemental Rules govern the FORUM's procedures for administering domain name dispute cases.

The Process:

- A party files a domain name Complaint with the FORUM in accordance with the appropriate policy and Supplemental Rule set. A copy is sent or transmitted to the Respondent and the disputed domain name's registrar.
- Once the case is filed, the FORUM reviews the Complaint for administrative compliance. The Complainant has 5 days to bring the Complaint into compliance with the rules or the Complaint will be dismissed.
- Once processed and accepted by the FORUM, the case is commenced. In most cases the Respondent has 20 days to file a response with the FORUM in accordance with the appropriate policy and Supplemental Rule set.
- The Respondent files a written response with the FORUM. If the Respondent does not provide a written response, the deciding panel will only consider the Complainant's submissions.
- The FORUM's own Supplemental Rules allow for each party to submit one additional submission following the FORUM's acceptance of the Response.
- The FORUM assigns a panel (or arbitrator(s)) to hear the case.
- The panel reviews the Complaint and the Response, and has the discretion to review any additional submissions from the parties.
- The panel issues a decision. The decision is published by the FORUM and communicated to the parties, the registrar, and the appropriate Internet body (such as ICANN or NeuStar).

The Decision:

- A final decision is reached after a close examination of the three elements of the ICANN policy. All elements must be satisfied before a disputed domain name will be transferred to the Complainant. If all three elements are not satisfied the request for transfer claim will be denied. The three elements are:
 1. The domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.
 2. The Respondent has no rights or legitimate interests in respect of the domain name.
 3. The domain name has been registered and is being used in bad faith.