

PROPOSAL TO BECOME NEW UDRP PROVIDER



Rozhodčí soud
při HK ČR a AK ČR

I. CONTACT DETAILS

Contact details of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (the "Czech Arbitration Court" or "CAC"):

Rozhodčí soud při HK ČR a AK ČR

Dlouhá 13

110 01 Praha 1

Czech Republic

Contact person for the proposal:

Mr. Zbynek Loebel, LL.M

Contact details for communication purposes:

Mr. Zbynek Loebel, LL.M

Central European Advisory Group

Betlémská 1

110 00 Prague 1

Czech Republic

Tel./Fax: +420-2-2222-0500

e-mail: zloebel@ceag.cz

With a copy to:

JUDr. Marie Moravcová

Secretary

Rozhodčí soud při HK ČR a AK ČR

Dlouhá 13

110 01 Praha 1

Czech Republic

Fax: +420-2-22-325-535

e-mail: moravcova@arbcourt.cz

II. EXECUTIVE SUMMARY

The Czech Arbitration Court ("CAC") has requested ICANN to consider the CAC's function and merits and approve its proposal to become recognized as one of the official dispute resolution service providers under the UDRP. A non-profit organization with its seat in Prague, the CAC is attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic. Established in 1949, the CAC has developed its range of competencies to include the resolution of domestic and international commercial disputes related to IP and technology matters.

OUR EXPERIENCE AND PREPARATION

In 2005, the CAC was selected as the .eu ADR Provider by EURid and the European Commission. Since the initiation of the first .eu ADR proceeding in March 2006, more than 700 proceedings have been brought before the court, and over 450 decisions have been issued and published. The CAC administers .eu ADR proceedings in 19 of the 20 official EU languages (the exception being Maltese). As of 1 January 2007, the CAC has been ready to administer .eu ADR proceedings also in Bulgarian and Romanian. The CAC has developed and implemented an innovative and unique on-line platform for the administration of .eu ADR proceedings, with the full intention to continuously enhance and improve the system whenever possible. For example, the option of utilizing advanced electronic signatures in the on-line proceedings was launched at the beginning of this year. Parties exercising this option will be communicating solely by way of the Internet, a quick, safe and paperless alternative to the standard form. We believe our system is well suited for the current and future goals of ADR administration under the UDRP rules, needing few adjustments and being flexible to change. The CAC's on-line platform can be examined at www.adr.eu.

The CAC works with approximately 140 panelists for the resolution of .eu disputes, all recognized experts in IP and technology law. Since the publication of its call in the beginning of November 2006, the CAC has received over 100 prospective UDRP panelist applications from around the world. New applications from prospective UDRP panelists are still being received. As for our panelists' training and interaction, the CAC stays in regular contact with its panelists throughout the year. We have organized three webinars, two public consultations, and one closed internal discussion forum focused on best practices in .eu ADR. Our activities will continue in March 2007, when the CAC plans to hold a seminar in Prague for its .eu panelists and prospective UDRP panelists. In addition, by the end of this year the on-line platform will serve as a venue for even more discussions (both open and closed) for important issues of the CAC.

Over the past two years, the CAC has developed a comprehensive set of standardized internal procedures enabling the successful multi-lingual administration of dispute resolution seen today. The CAC believes that the results of our research and implementation activities can be easily adopted for use in the UDRP system.

The CAC's offices located in the very center of Prague, only few meters from Old Town Square, are fully equipped to deal with a large number of cases. The CAC's professional team in charge of the administration of .eu domain name proceedings consists of six lawyers and includes supporting staff, an IT team, and a comprehensive team of trained translators. The CAC counts with enlarging its current team in 2007, so that UDRP cases are administered efficiently and with the utmost care.

NEW FEATURES FOR UDRP

For a better understanding of how the CAC may best serve the needs of the UDRP and ICANN, the CAC discussed and explored, informally, different experiences and difficulties a number of international legal experts, registrars, and other representatives have encountered when dealing with current UDRP-approved providers. From this (and at no discredit to the current UDRP providers), we ascertained that indeed there is room for further innovation, both in the application of new technology and the organization and interaction maintained with clients. Along these lines, we are confident we can implement new features directly beneficial for the clients and the UDRP.

Multiple languages

The CAC will be able to administer UDRP cases in far more languages than any other current UDRP provider (at the moment, the CAC administers .eu ADR in all official languages of the EU except Maltese). Thanks to the fact that all decisions contain English summaries and important or significant decisions in other languages are translated into English, a thorough exchange of information will be guaranteed without any hindrance to quality. Furthermore, the multilingual strategy serves the widest audience and would enhance ICANN's global role.

The option to have an electronic-only UDRP procedure

The CAC will introduce an option for advanced electronic signatures to be used by parties to a UDRP dispute. Parties signing their documents electronically in a prescribed way will not need to submit printed documents to the CAC. Such an option is not available at the moment with any UDRP provider. This option would save the parties a considerable amount of time and money. This function is already being implemented and tested with .eu ADR procedures.

The possibility to file a single complaint on behalf of multiple right holders against serial cybersquatters

The CAC will introduce the possibility for a single person representing multiple right holders to file a single complaint (a Class Complaint) against a single domain name holder in regard to multiple disputed domain names, for a reasonable price. This procedural option, which is not given by the existing UDRP providers, would respond to the needs of right holders to fight serial cybersquatters, regarding a large number of disputed domain names.

The availability of master accounts for parties involved in multiple UDRP proceedings

The on-line platform of the CAC will enable parties involved in multiple UDRP proceedings (lawyers, registrars, service providers) to have master accounts with different case files accessible through a single login. Therefore, they will be able to easily review information on all of their UDRP proceedings. In addition, each on-line case file will contain reminders regarding important deadlines for the individual respective cases.

On-line discussion

The on-line platform of the CAC will enable setting up and maintaining private on-line communications (*e.g.*, among panelists) and public discussions on current issues related to the UDRP policies and procedures.

Preventive measure for reverse domain name hijacking

The CAC intends not to accept complaints from parties found guilty three times of reverse domain name hijacking.

Possible introduction of a quasi-appeal mechanism within UDRP

The CAC would like to discuss with ICANN the possibility of introducing a quasi-appeal mechanism against UDRP decisions made by a single panel. The appeal or refiling would still be within UDRP arbitration. At the moment, no UDRP service provider offers an appeal procedure on the basis of the prevailing interpretation that the UDRP rules do not allow for it. The CAC would like to discuss this interpretation with ICANN to clarify whether or not a specific, well-constructed and narrow, refiling procedure would be allowed under UDRP. A quasi-appeal option could help significantly in creating important consistency between UDRP decisions, and it would be less costly and much quicker than the current method where a party seeks to overturn a negative UDRP decision by filing a case through common courts.

Costs of UDRP

The CAC would like to have its fees similar to the current UDRP providers. Nevertheless, the services the CAC can provide (*e.g.*, having electronic-only ADR, master accounts, the possibility to file actions with respect to a large number of domain names on behalf of multiple complainants) should significantly reduce the overall costs borne by parties to an ADR proceeding.

III. OUR APPROACH

1. Overview of the CAC capabilities

i. History of the CAC

The Czech Arbitration Court was founded in 1949 and operated attached to the Czechoslovak Chamber of Commerce. Its name was changed in 1980 to the Arbitration Court attached to the Czechoslovak Chamber of Commerce and Industry. In 1994, its name was changed to the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic.

The Arbitration Court has reviewed more than 2,000 disputes in 2006, many of them in the sphere of international trade.

ii. Experience related to the domain name dispute resolution

The Czech Arbitration Court became the only ADR provider for the resolution of all disputes related to .cz domain names. During the preparation of this new field of activity, the Czech Arbitration Court cooperated closely with CZNIC, the Czech registry for .cz domain names.

In 2005, the CAC was selected as the .eu ADR provider by EURid and the European Commission. Since its first proceeding in March 2006, more than 700 proceedings have been brought before the CAC, and over 450 decisions have been issued and published.

The CAC works with approximately 140 panelists for the resolution of .eu disputes, all recognized experts in IP and technology law, and the number of Panelists number is still increasing. As to training and interaction with the current panelists, the CAC has been in regular contact with them throughout the year.

An impartial reference can be obtained from Mr. Víctor Sáez, an official of the European Commission, responsible for .eu. His e-mail address is as follows: Victor.SAEZ@cec.eu.int, tel:

iii. In-depth Participation and Cooperation with Organizations and Professional Bodies in the field of Internet domain names

Over the course of last year, the CAC maintained regular contact with ICANN and its associated organizations, establishing a beneficial working relationship from which it has gained valuable experience and insight. In 2006, the CAC participated in all of ICANN's conferences and in many workshops of the associated bodies of ICANN. In addition, the CAC has fostered close ties with registrars and registries, EURid, VeriSign, and Register.com counted among them.

In forming the background for this Proposal, the CAC discussed its plans for the UDRP center in Prague with ICANN and also sought professional advice from experts in the field, collecting recommendations and feedback. The CAC will continue to work closely with ICANN, its associated organization, and experts throughout the implementation of the UDRP Project.

iv. Multiple languages

From its experience with .eu ADR services and its success in operating its on-line arbitration platform in multiple languages, the CAC is confident that it can provide reliable and high-quality administration of UDRP cases in many more languages than any other current UDRP provider (at the moment, the CAC administers .eu ADR in all official languages of the EU except Maltese).

During the implementation procedure, the CAC will consider adding even more languages to those in which it can administer UDRP proceedings, such as Russian, Japanese, and Mandarin Chinese.

v. CAC's offices

The CAC's offices located in the very center of Prague are fully equipped to deal with a large number of cases. The CAC will not need to search for new premises for its proposed UDRP Center.

The CAC's professional team in charge of the administration of .eu domain name proceedings consists of six lawyers and includes support staff, an IT team, and a comprehensive team of trained translators. The CAC plans on enlarging its current team in 2007, so that all UDRP cases will be administered efficiently and with the utmost care.

vi. Fees

The CAC would like to have its fees similar to current UDRP providers. Nevertheless, the services the CAC can provide (*e.g.*, having electronic-only ADR, master accounts, and the possibility of Class Complaints) should significantly reduce the overall costs borne by parties to an ADR proceeding.

vii. Advisory Board of the CAC

At the end of 2006, the ADR Center for domain names attached to the CAC established its Advisory Board for reviewing policy matters related to developments within the Center and its ADR procedures. The CAC would like its Advisory Board to meet on-line every two months to discuss the procedures and practices of the CAC. Among the members of the ADR Center's Advisory Board are industry experts like Nick Wood (ComLaude) and Jean-Christophe Vignes (EURO DNS SA), along with leading European domain name practitioners such as David Taylor (Lovells).

Though the Advisory Board was formed only for EU dimensions, it can be expanded rapidly to cover interests in a global proportion during the implementation stage of the UDRP.

2. An Initial List of Panelists, Requirements

i. An Initial List of Panelists

Since the publication of its announcement at the beginning of November 2006, the CAC has received over 100 applications from prospective UDRP panelists from across the globe, and new applications are continuing to come in almost daily. Please see [Annex 1](#) of this Proposal for an initial list of panelists whom the CAC is considering. The criteria which the CAC required the panelist to meet are given in [Annex 2](#) of this Proposal. From the large number of applications received (and that in response to only one announcement), the CAC believes that there is strong interest in the global Internet legal community. During the implementation stage, the CAC will invite many more candidates from all over the world to become panelists.

ii. Requirements

Screening requirements – please see [Annex 2](#) of this Proposal.

3. Training policy

The CAC is in regular contact with its panelists throughout the year. The goal of this regular contact and training policy is to reach the highest quality of the decisions submitted and to support the consistency between decisions. The CAC provides its panelists with the following training and educational measures:

i. Web seminars - Webinars

The CAC has experience in organizing webinars. Last year, the CAC organized 3 webinars for .eu ADR panelists in cooperation with VeriSign. The webinars enabled its participants to give, receive, and discuss important information without being present at the same location with other panelists.

ii. On-line discussion fora

The on-line platform of the CAC will enable in January 2007 private on-line communications (*e.g.*, among panelists) and public discussions on current issues related to the UDRP policies and procedures. The CAC has already organized several discussions with their .eu ADR Panelists.

iii. Yearly seminars in Prague

The CAC holds an annual seminar for its panelist in Prague, where it explores new trends related to domain name dispute resolution. The next annual seminar will be held on 21 March 2007 in Prague.

4. The CAC's commitment

The Czech Arbitration Court is committed **not** to prevent or discourage any of its listed panelists from serving as a panelist for domain name disputes administered by other approved providers.

5. Supplemental rules

Please see [Annex 3](#) of this Proposal.

6. Operating procedures

Please see [Annex 4](#) of this Proposal.

7. Implementation schedule

The CAC intends to implement the UDRP project described in this Proposal within 6 months from its approval by ICANN.

8. Statement of requested limitations

The current capacity of the on-line arbitration platform allows for the administration of around 100,000 cases. This capacity can be increased according to necessity.

The CAC's professional team in charge of the administration of .eu domain name proceedings consists of six lawyers (who together are fluent in English, Czech, Slovak, French, German, Spanish, and Russian), a support staff, an IT team, and a comprehensive team of trained translators. The CAC plans on enlarging its current team in 2007, so that UDRP cases are administered efficiently and with the utmost care.

9. Description of Proposed Administration and Interaction—the CAC's Answer of Providing Efficient and Modern Solutions for UDRP Proceedings

The CAC will provide the administration of UDRP cases conforming to UDRP Rules. We propose establishing new elements which conform to the UDRP Rules and correspond to modern needs. These new elements come out of discussions with relevant experts from different parts of the world.

i. On-line proceedings

The on-line platform of the CAC has been specifically designed for its purpose and offers safe communication, a modern solution, and a huge capacity for even more development. The on-line arbitration platform would serve as a communication tool for registries, registrars, and for ICANN as well (*i.e.*, through discussion fora)

The CAC will introduce an option for advanced electronic signatures to be used by parties to a UDRP dispute. Parties signing their documents electronically in a prescribed way will not need to submit printed documents to the CAC. At the moment, such an option is not available with any UDRP provider. This choice would save the parties a considerable amount of time and money. Implementing and testing this function with .eu ADR procedures is underway.

ii. The possibility to file a single complaint on behalf of multiple right holders against serial cyber squatters

The CAC will introduce the possibility for a single person representing multiple right holders to file a single complaint (a Class Complaint) against a single domain name holder in regard to multiple disputed domain names, for a reasonable price. This procedural option, which is not given by existing UDRP providers, would respond to the needs of right holders to fight serial cyber squatters, regarding a large number of disputed domain names.

iii. Language of proceeding

The CAC will introduce specific proceedings enabling a complainant to request a change of the language of the UDRP Proceeding before the submission of the complaint in exceptional cases. The reason is that we expect looking forward that more and more UDRP cases will be dealt in multiple languages other than English. We would like to introduce a mechanism to protect right holders against potential abusive use of the Rules on language of UDRP proceeding. The language of proceeding shall be decided by a single panel selected by the CAC. This special language proceeding is part of .eu ADR Proceedings, and the CAC has received positive feedback from its application.

iv. Preventive measure for reverse domain name hijacking

The CAC intends not to accept complaints from parties found guilty three times of reverse domain name hijacking.

v. Possible introduction of a quasi appeal mechanism within UDRP

The CAC would like to discuss with ICANN the possibility of introducing a quasi appeal mechanism against UDRP decisions made by a single panel. The reason is that the CAC would like to reach the highest consistency between decisions. We suppose that new gTLDs will be introduced, causing an increase in the number of disputes. The consistency between decisions will, therefore, become ever more important.

The quasi appeal would still be within UDRP arbitration. At the moment, no UDRP service provider offers an appeal procedure. The CAC would like to discuss this issue with ICANN so as to clarify whether or not a specific, well-constructed review procedure would be allowed under UDRP. A quasi appeal option could significantly help in creating important consistency between UDRP decisions, and it would be less costly and much quicker than the current method where a party seeks to overturn a negative UDRP decision by filing a case through common courts.

vi. Challenging the administrative rejection of a complaint

During Sunrise proceedings, the time of filing complaints is key for securing procedural rights during Sunrise. Independently of the Sunrise proceedings, terminating a complaint due to administrative non-compliance may have very serious consequences for complainants. Therefore, the CAC will introduce a special proceeding enabling a complainant to challenge the withdrawal of his complaint due to administrative deficiency. The challenge would be decided by single panel selected by the CAC.

For more details please see the proposed Supplemental Rules – *Annex 3*.

10. Publishing decisions

The CAC will publish all decisions rendered on its on-line arbitration platform.

The CAC will administer UDRP cases in many languages. Because of this, all decisions will contain English summaries, and significant decisions in other languages will contain an informal English translation.

As the CAC unsuccessfully asked WIPO to permit the CAC to use the same system of decision categorization, the CAC has prepared its own system for categorizing its decisions. The CAC will offer other approved providers the use of the same system of categorization. This would allow Internet users to have a more uniformed system for researching decisions on domain names among different ADR providers.

IV. OUR TEAM

Our team consists of leading Internet domain name experts with global understanding of the strategic direction, regulation, and practice of international domain name dispute resolution systems. We present the management structure of our team, organized according to the basic categories of responsibilities during the implementation stage. In fact, our team is much wider including domain name and IT experts from whole the world. The current management structure is as following:

Team Coordinators:

Zbynek LoebI

Central European Advisory Group, Prague, Czech Republic – Managing Partner

Zbynek LoebI is the only lawyer from Central and Eastern Europe who is a member of the IT Law Europe. Zbynek LoebI is a WIPO and .eu panelist.

Mr. LoebI has managed the international team of the Czech Arbitration Court for the preparation and implementation of the .eu ADR Project.

Marie Moravcova

Czech Arbitration Court, Prague, Czech Republic - Secretary

As the Secretary of the Czech Arbitration Court, Marie Moravcova has managed the ADR Center for the resolution of .eu and .cz domain name disputes.

Strategy review:

Esther Dyson

Esther Dyson, currently doing business as EDventure.com, is former chairman of the ICANN. Board (1998-2000). She is a world-recognized participant in the global ICT industry and her impact on the computer industry has been significant. In addition to her commercial activities, which include the support of many IT start-ups, she has advised governments including those of the US, South Africa, Russia, Bulgaria and the UK on IT policies.

International domain name ADR specialists:

The Honorable Neil Anthony Brown, Q.C.

The Hon. Anthony Brown, Q.C., is Barrister and Solicitor of the Supreme Court of Victoria, and in 1984 he was appointed as Queen's Counsel. He has had a long and distinguished career in Government and the law. He was actively involved in Australian government as a Minister (e.g., Minister for Communications and Minister for Business and Consumer Affairs), Shadow Minister (Shadow Minister of Justice and Shadow Minister for Communications), Member of Parliament, and a delegate to the General Assembly of the United Nations and other international organizations.

Mr. Brown, Q.C., is a leading international arbitrator and mediator in international intellectual property matters. He is a widely recognized UDRP (WIPO and NAF) and .eu panelist.

Dietrich Beier

Bardehle Partners, Munich, Germany - Partner

Dietrich Beier is a leading specialist in Europe in the area of intellectual property with a focus on litigation and pretrial advice in matters of trademark and unfair competition as well as procuring

trademark and domain name protection. Mr. Beier is president of IT Law Europe and the author of a number of books and articles on international and national domain name dispute resolution. He is listed as both a WIPO and a .eu ADR Panelist. Dietrich Beier was a key member of international team for the preparation and implementation of .eu ADR.

Enrique Batalla

Batalla Abogados, Madrid, Spain – Founding Partner

Enrique Batalla is a leading specialist in the area of technology and IP law worldwide. Enrique Batalla is vice-president of the Executive Committee of ITech Law Association (former CLA) and a member of the Board of the International Bar Association (IBA). Like Dietrich Beier, Enrique Batalla was also a key member of international team for the preparation and implementation of .eu ADR. He is listed as both a WIPO and a .eu ADR Panelist.

International IP and IT Specialists:

Sajai Singh

J. Sagar Associates, Bangalore, India, Partner

Sajai Singh is a leading ICT and transactional lawyer in Asia. He is also a keen organizer of many venues and conferences on investing in India. Mr. Singh is member of the Board of Directors of the ITech Law Association (former CLA).

Esther Nunes

Pinherio Neto Advogados, Sao Paulo, Brazil, Partner, member of Steering Committee

Esther Nunes is a leading IT and IP lawyer in South America. She is a former president of ITech Law Association and a current member of its Advisory Board.

Industry liaison:

Fay Howard

Fay Howard is a recognized international expert in Internet and domain name environments. She was the Project Manager of EURid in the .eu Project and the General Manager of CENTR at its foundation and again, on an interim basis, in 2006. She is also a non-executive director on the board of NOMINET.

V. LIST OF ANNEXES

Annex 1 - An initial list of panelists the CAC proposes in its list of UDRP Panelists

Annex 2 - Screening requirements

Annex 3 - Supplemental Rules

Annex 4 - Operating procedures