

## Understanding the Czech Arbitration Court's Reduced UDRP Filing Fees

The Czech Arbitration Court (CAC) recently announced a reduced filing fee for complaints filed under the popular Uniform Domain Name Dispute Resolution Policy (UDRP) that involve “expedited decisions.” (Although not as well-known as the World Intellectual Property Organization (WIPO) or the National Arbitration Forum (NAF), CAC has offered UDRP services since January 2009.) This document answers some of the most important questions about this new fee structure.

**Q** What is CAC's reduced fee for UDRP complaints?

**A** For a UDRP complaint involving one to five domain names and a single panelist, CAC's “initial” filing fee – as of March 15, 2010 – is 500 euros (about \$685). By comparison, CAC's filing fee for an identical case previously had been 1,300 euros (about \$1,800). **Thus, the new fee is about 62% lower than the old fee.**

**Q** How does CAC's new filing fee compare to the other UDRP service providers?

**A** At WIPO, the filing fee for a similar UDRP complaint is \$1,500. At NAF, the filing fee for a UDRP complaint involving one or two domain names and a single panelist is \$1,300.

**Q** Are there any limitations on the new fee structure?

**A** Yes. In announcing the new fees, CAC explained that they are available “for simple cases where no response is filed and there is no need for Panellists to produce a detailed decision.” As a result, **CAC may charge an additional fee** if the domain name registrant files a response or if “the Panel determines that it is appropriate for the Complainant to pay the Additional UDRP Fees, having regard to the complexity of the proceeding.” The additional fee for a basic complaint (as described above) is 800 euros – bringing the total filing fee back to 1,300 euros (about \$1,800). **Therefore, although CAC's initial UDRP filing fee is less expensive than the filing fee at WIPO or NAF, the total filing fee (if an additional fee is required) actually could be greater than at WIPO or NAF.**

**Q** Is a UDRP decision under CAC's reduced fee structure of less importance than any other UDRP decision?

**A** Domain name registrars are required to abide by UDRP decisions issued by ICANN-accredited service providers. Therefore, a victorious trademark owner in a UDRP decision issued by a CAC panelist will have the disputed domain name(s) transferred to it just as if the decision had been issued by a WIPO or NAF panelist (subject to the same limitations applicable to all UDRP decisions). However, CAC has said that decisions under its reduced filing fee structure “will be quite short and will just outline reasons for the decision.” By comparison, UDRP decisions otherwise typically include detailed discussions of the facts and legal analysis, providing the parties (and the public) with insight into why a particular decision was reached and enabling the decision to serve as precedent in future domain name disputes.

**Q** Are UDRP complaints filed under CAC's reduced filing-fee structure different than any other UDRP complaints?

**A** As in any UDRP case, the complainant/trademark owner bears the burden of proof on all three elements set forth in the UDRP itself, regardless of the complexity of the case. In addition, because it is impossible when filing a UDRP complaint to know whether the domain name registrant will file a response (and because CAC's supplemental UDRP rules do not specifically allow a complainant to amend its complaint if a response is in fact filed), a UDRP complaint filed at CAC should make the same factual and legal arguments, supported by the same evidence, as a UDRP complaint filed at any service provider.

**Q** This sounds confusing. How can I determine whether I should take advantage of CAC's reduced filing-fee structure?

**A** **A decision about where to file a UDRP complaint always should be made on a case-by-case basis.** CAC's new filing-fee structure complicates the decision by putting additional emphasis on the facts of the case (including how the disputed domain name(s) is/are being used and the registrant's history); the trademark owner's financial resources; and the importance, if any, of having a detailed decision as opposed to a short decision.

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*This Q&A was published on March 15, 2010, by Doug Isenberg, an attorney who has counseled clients on domain name disputes since 1996. Doug serves as a domain name panelist at the Czech Arbitration Court and the World Intellectual Property Organization.*

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