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BAD FAITH MATTER UNDER UNIFORM DISPUTE REFORMATION POLICY & HUNGARIAN PROCEDURE LAW: A COMPARATIVE STUDY

*Original
Research*

Keywords

*Bad faith matter;
UDRP;
Code of civil procedure;
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Abstract

The conflict between main stakeholders, domain names owners & trademark holders, dominated cyberspace going beyond individual stakeholders into digital economy. As a turning point to resolve this conflict, UDRP existed as central device to solve this conflict with giving the parties freedom to go to court as alternative way to solve this conflict. In this regard, as the most of conflict cases were involved in bad faith matter, the national court has to be able to deal with bad faith matter according to the civil procedure law. In line with this, this study will try to find if the new Hungarian procedure law would be able to deal with domain names' conflict based on bad faith matter.

Methodology

The comparative approach would be used to understand the relation between Hungarian procedure law and UDRP in terms of bad faith matters.

Assumption

As for Hungarian procedure law, bad faith matter would be procedural issue while under UDRP, bad faith matter is predominantly a subjective matter and might be procedural issue subaltern. In this regard, if the UDRP conflict is subjected to Hungarian court, Hungarian civil procedural code is able to resolve the conflict based on the bad faith action, bearing in mind that UDRP bad faith issue is a case of subjective matter.

Theoretical frame

- *Hungarian civil procedural law deals with bad faith within procedural context.*
- *UDRP dealing with bad faith matter as subjective rule.*

Abbreviations

WIPO World intellectual property organization
UDRP Uniform dispute reformation policy
RDNH Reverse domain names hijacking

CIVIL PROCEDURAL LAW

Importance of civil procedural law

Civil Code has figured the principle of the application of the identified substantive legislations, as it advanced the ideal of the independent, responsible entity, advertising conscious, liable, well-prepared, and also specialist assertion (Pribula, 2017).

Civil code & civil procedural law

The civil code is a codification of exclusive law connecting to property, family, as well as commitments. In this perspective, the jurisdiction that has a civil code usually likewise has a code of civil procedures. In this regard, when settling civil claims, civil procedure is the body of law that sets out the policies and also criteria that courts adhere to. In this sense, these policies control how a legal action or situation might be begun, the kind of process' service (if any kind of) is called for; the sorts of pleadings or declarations of case, activities or applications and orders admitted civil cases; the timing and also manner of depositions and discovery or disclosure; the conduct of trials; the procedure for judgment; the process for post-trial treatments; numerous offered solutions; and also exactly how the courts and staff must operate.

UDRP NECESSARY BACKGROUND

Domain names have become valuable resources (Finger & Künneke, 2011) due to ICANN efforts (Lipton, 2010, MacLean et al., 2008). In this direction, the need to balance the interests of domain owners alongside those of trademark rights holders has been the subject of much debate in the domain name system. The WIPO Final Report (published on 30 April 1999) sought to address the disconnection between domain names and IP rights. In so doing, the report recommended the adoption of a mandatory administrative procedure that would aim to address the time, expense, and multi-jurisdictional challenges of litigating domain names around the world. In this connection, the scope of the procedure would be limited to cases of abusive registration and would be unavailable for legitimate disputes between competing rights holders.

BAD FAITH CONCEPT

Bad faith is merely deceitful behaviors (Alderman, 2019; Zimmermann, 2000) and also is "an essential element of dishonesty" (Michaels & Norris, 2001). In terms of this, bad faith was regularly associated with actions entailing malevolence, fraudulence,

collusion, unlawful conduct, dishonesty, abuse of power, discrimination, unreasonable conduct, ill-motivated conduct, or procedural unfairness (Loopstra, 2005). Moreover, this concept was likewise held to include conduct based upon an incorrect intention or carried out for an incorrect, indirect, or alternate purpose. In this respect, bad faith explains the exercise of delegated authority that is prohibited and also makes the consequential act space. Also, bad faith has to be proven by evidence of prohibited conduct in appropriate way to support the finding of fact. In this regard, the Court tends to support the idea that to sustain a bad faith cause of action premised on post-litigation misconduct, the plaintiff must allege conduct sufficiently egregious to be considered grossly reckless or otherwise committed with the specific intent of improperly avoiding payment of a claim (Harris, Krekstein & Harris, 2017).

Bad faith matter under UDRP

According to third WIPO Overview section 3.1, bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses the complainant's mark (Reed, 2004). In this regard, the Panel has determined that there is no evidence that respondent registered or has used the Domain Name in bad faith (Stimmel, Stimmel & Roeser, n.d.). The UDRP recommends that the participant has acted in bad faith if the key intent was to market the domain to the trademark proprietor or one of its competitors for a cost over of out-of-pocket costs connected to the name. Hence, in the most outright instances of bad attention, the respondent might utilize the domain name comparable to plaintiff's mark (Andresen, 2007). In this respect, bad faith might be biased to party at the expenses of the other parties. Hereof, and also based on the Kaplan-Mayer' empirical research, Kaplan-Mayer study has actually slammed that UDRP penalties are being prejudiced toward complainants and also leaving participants without reasonable protection of their rights (Shaw, 2015).

Abuse of process at UDRP level

Misuse of process refers to the improper use of a civil legal treatment for an unintended, malicious, or depraved reason. To this effect, it was concluded that it is the harmful and deliberate abuse of routinely released civil or criminal court procedure that is not validated by the underlying lawful action (WIPO Arbitration and Mediation Center, 2019). In this sense, misuse of procedure consists of litigation's activities in bad faith that is suggested to delay the delivery of justice. Instances include offering legal papers on somebody who has not actually been submitted with the intent to daunt, or submitting a lawsuit without an authentic legal basis in order to acquire information, pressure

repayment via anxiety of legal entanglement, or to get a prohibited or unfair advantage. The determination of what is unfair as well as incorrect is for the court to determine on the individual truths of each instance (WIPO Arbitration and Mediation Center, 2019). For this purpose, and for protection given to an allegation of bad faith, para 4(c) of the UDRP highlights some premises to rebut accusations of bad faith (Carrigan, 2012). In this regard, panels have taken the freedom of locating bad faith past the 4(b) variables due to the fact that UDRP defines that bad faith is not restricted to certain situations identified in para 4(b). To this line, in *Home Interiors & Gifts, Inc. v. Home Interiors*, bad faith has appeared to the satisfaction of the panel despite the complainant's failure to show evidence of bad faith (Berkman Center for Internet & Society, n.d.).

UDRP & HUNGARIAN CIVIL PROCEDURAL LAW: SUBJECTIVE RECRUITING VS PROCEDURAL CONTEXT OF BAD FAITH MATTER

Procedural and Practical Issues

The Policies of Civil procedure need claims to be pegged with particularity. The rule states: where scams, misrepresentation, violation of trust are affirmed, the pegging shall include complete details. However, expertise might be affirmed as a reality without pleading the situations where it is to be presumed (Loopstra, 2005).

Bad faith standers & civil Procedure law

The Guidelines of Civil Procedure allow trial judges to enforce a variety of sanctions (Hess, Mendelsohn, Wolf & Wolf, 2019) versus those who submit affidavits in bad faith or sworn statements that simply postpone the court's procedures (Bevans, 2016; Cleckley, Davis, & Palmer, 2015; West Group & Florida Supreme Court, 2008). In such a situation, it should appear to the satisfaction of the court that any of the affidavits presented under this rule is presented in bad faith or solely for delay, the court shall forthwith order to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney's fees, and any offending party or may be adjudged guilty of contempt (Minnesota supreme court, 2013; Institute for Bar Review Study (Conn.), 1997). However, under this regulation, the judge can estimate the expenses of an advocate against the party that participated or presented in declaring the bad faith testament (Moore & Cueillette, 2009). In this connection, the court has broad powers authorizing it to impose monetary permissions and also jail penalty for the

wilful acts committed by the conflict parties (Bevans, 2016).

1. *RDNH as an example of bad faith matter under UDRP*

The UDRP was the enforcement tool of choice for resolving domain name disputes. However, one statistic which continues to undermine the integrity of the UDRP system is the number of instances where complainants are found guilty of misusing the policy – otherwise known as reverse domain name hijacking (RDNH). Anyhow, such cases are normally restricted to turn around Reverse Domain Name Hijacking (RDNH), or the usage of the Policy in bad faith to deny a registered domain name owner of a domain name (Law Students' Debating Society of Ireland, 2002). However, if there is no bad faith, UDRP will not be able to deal with this conflict under its competence. In other words, the bad faith matter is the main condition under the UDRP (Reed, 2011). Accordingly, most expected cases conducted by parties of the conflict are based on bad faith. In this respect, reverse domain name hijacking (RDNH) is the best example of UDRP Bad faith matter.

2. *RDNH: scale of abuse*

RDNH was developed to deal with "circumstances where a trademark holder, relying upon its trademark enrollments, looks for to hinder the legal rights of a domain name owner that got the domain name under reputable conditions and does not utilize it in a method that would certainly justify an insurance claim of trademark violation or dilution". This indicates even more than a slipup on the component of the plaintiff, yet rather a destructive attempt to draw a registrant right into a battle that it had no business being associated with. Such conducts range from disturbance to annoyance, both leading to unnecessary financial loss for the registrant. However, the broad discretion afforded to panels and also the diverse choices searching for (or not finding) RDNH, recommends that when misuse is existing, complainant misuse is established on a moving range as opposed to a balancing act; the even more outright the act, the much less vindication for the plaintiff's conduct (Ogilvie & Valle, 2020). In this regard, the registrant's perspective might in some conditions additionally be concerned as proof of bad intention usage of a domain name that is held passively (Rodhain, 2003). In line with that, panels often infer evidence of bad faith of the registrant from an unsatisfactory response or an absence of response to the complainant or if it is impossible to contact the respondent. Equally, an excessive counteroffer made by the domain name registrant to the complainant could be regarded as evidence of bad faith use (Rodhain, 2003).

3. *Bad faith criteria under UDRP*

The principle of a domain "being utilized in bad faith" therefore is not constrained to positive action; inactiveness is consisted of because concept, as supported by the real stipulation of paragraph 4(b) of the Policy. For this reason, it is feasible in some conditions that the registrant's inactivity might be considered proof that the disputed domain name is "being made use of in bad faith". existence of subsequent conditions: (i) the plaintiff's trademarks had an online reputation and were extensively understood, (ii) no proof had been offered by the registrant worrying any kind of real or future great faith usage about the disputed domain, (iii) active steps were taken on in order to hide the registrant's identity by running under a non-listed business name, as well as (iv) false calls had actually been given as well as were not fixed by the registrant. This decision was extremely instructional due to the fact that it provided some instances of what can be comprehended by "Without Limitation" pursuant to paragraph 4(b) of the Plan. Particularly, it discussed various other situations that might be concerned as proof of bad faith registration and also usage of the domain name in inquiry (Rodhain, 2003). The absence of participant's response the participant's failing either to respond to the plaintiff's communication before the process or to give a feedback throughout the proceedings could be taken evidence of bad faith (Rodhain, 2003). In this respect, complaining parties are often found guilty of RDNH due to a lack of appreciation of their burden of proof. Accordingly, in *LaFrance Corp v David Zhang* (WIPO D2009-0415), the complainant failed to provide evidence that the respondent had selected the domain name at issue to take advantage of the complainant's LAFRANCE mark. In addition, the complainant was found to have initiated a UDRP proceeding because they previously lost an auction bid that they had placed for the domain name. Due to the proximity of the bid and the UDRP filing, the panel held that there were grounds for a finding of abuse by the complainant. In line with this, submitting such situations often requires complainants to make misleading claims versus a legit domain name owner or to make the incorrect claim that there were no previous interactions between the celebrations. Such action not just lugs the danger of being divulged by the respondent's proof but can additionally severely damage the complainant's reputation (Ogilvie & Valle, 2020).

4. *Malicious intent as criteria of abuse*

Based on furthermore investigation, the complainants are condemned of RDNH due to improper actions against the registrant (Ogilvie & Valle, 2020). Accordingly, in *Nucell LLC v Guillaume Pousaz* No CAC 101013, the panel was

found to have actually harassed the domain name owner for four years prior to the UDRP declaring. What makes the situation much more outright is that the participant cautioned the plaintiffs that they went to considerable threat of being discovered guilty of RDNH if they were to seek their instance. Regardless of the caution, the complainant pushed ahead with a UDRP (Ogilvie & Valle, 2020). In this sense, it was believed that harassment is among one of the most serious types of abuse (Ogilvie & Valle, 2020). For that purpose, such rational analyzing would indicate that the issues were generated bad faith and comprises a misuse of the administrative proceeding (Komaitis, 2010). For instance, complainant attempted to mislead the panel into believing information that was untrue (Ogilvie & Valle, 2020). According to that, in the case *CEAT Limited v Cykon Technology Limited* (WIPO D2018-2239) the complainant found guilty of RDNH was found to have manipulated (Ogilvie & Valle, 2020). In this respect, the rules specifically put the burden on the Panel to determine whether a complainant has tried to use 'the Policy in bad faith to achieve his own interests illegally (Levine, 2017b). The question arises here how can Hungarian procedural law deal with this case which is based on bad faith matter? Answering this question needs to know what is RDNH, and how UDRP deal with it, and the main standers of bad faith, then analyzing the Hungarian procedure law ability to deal with RDNH as an expected scenario.

RDNH AS POTENTIAL SCENARIO OF BAD FAITH MATTER UNDER HUNGARIAN CIVIL PROCEDURE LAW

Such a scenario stems from the fact that UDRP system enables parties continuing (whether by a participant pursuant to UDRP paragraph 4(k), or otherwise), such lawsuit is typically recognized to stand for an afresh hearing of the instance under national law (World Intellectual Property Organization, 2017). In this regard, it is widely identified that nationwide courts are not bound by UDRP panel decisions. Where a domain which has been the topic of a UDRP panel choice comes to be subject to a national court proceeding (whether by a participant according to UDRP paragraph 4 (k), or otherwise), such court instance is generally acknowledged to stand for an afresh hearing of the instance under nationwide law (World Intellectual Property Organization, 2017). The various other reality originates from the fact that the Hungarian precerebral law gives the District courts material territory over the property conflicts or the value of the case based upon a property right cannot be identified, with the exemption of an activities connected to copyright, neighboring legal rights

and also industrial property legal rights Section 20/3. In this regard, the WIPO final report (30 April 1999) sought to address the disconnection between domain names and IP rights. The report recommended the adoption of a mandatory administrative procedure that would aim to address the time, expense and multi-jurisdictional challenges of litigating domain names around the world.

Bad faith legal frame in Hungarian procedures law.

Hungarian Code of Civil Procedure has adopted bad faith criteria if the defendant exercised his right of joining to the claim in bad faith as part three of section 40 suggests (Act CXXX of 2016 on the Code of Civil Procedure, 2018). In this regard, and in terms of the bad faith action, the code of civil procedure /Section 40/3 indicates that if making the statement of joining to the claim is incompatible with the requirement of exercising rights in good faith (Act CXXX of 2016 on the Code of Civil Procedure, 2018). In this regard, the court shall dismiss the request for joining to the claim If the defendant exercises his right of joining to the claim in bad faith after he was permitted to join the claim. The court shall ignore or decide on the respective procedural act of the defendant while taking the other information related to the case into account as well. The reasons for its decision adopted on the basis of this paragraph shall be provided by the court in the judgment at the latest (Act CXXX of 2016 on the Code of Civil Procedure, 2018). On the other hands, the losing defendant who acted in bad faith shall reimburse the litigation costs in favor of the successful plaintiff (Act CXXX of 2016 on the Code of Civil Procedure, 2018). The question arises here whether it is possible to lay claim to payment of the UDRP cost in this case or not. In this respect, it was thought that the complainant cannot ask for payment of the UDRP charge from the respondent even if the plaintiff is successful. A Party may, nevertheless claim settlement in a court case started after the administrative proceeding (Expert4me a.s., 2008). Furthermore, by analyzing the Hungarian Code of Civil Procedure, it was believed that bad faith matter was expanded to conclude the bearing of litigation costs. In this regard, section 540 Code of Civil Procedure has indicated that the litigation costs incurred by the successful plaintiff shall not be reimbursed by the losing defendant, unless he was presented at the seizure and acted in bad faith. The general rules pertaining to bearing litigation costs shall apply with regard to litigation costs charged in the appeal proceedings (Act CXXX of 2016 on the Code of Civil Procedure, 2018). One of the main pillars of new Hungarian Code of Civil Procedure was presented in imposing penalties and restrictions to misuse of procedural civil law (Pribula, 2017). In

this connection, the UDRP is considered as administrative committee with one level confined the dispute between domain names and trademark holders. Bearing this in mind, most of this conflict is based on bad faith. For this reason, the committee examines the case based on the objective level, not the procedural level. From this point, the importance of changing conducted in Hungarian Code of Civil Procedure would be curtailed. As it was aforementioned, UDRP Rule defines RDNH as: "using the Policy in bad faith to attempt to deprive a registered domain name holder of a domain name" (Yu, 2007). In this respect, and according to world intellectual property organization review, it was concluded that the conflict parties may realize that unlike in the UDRP system, certain nationwide courts may (where conjured up) impose financial penalties (consisting of compensatory damages) where the equivalent of RDNH is located" (Levine, 2017a). In this connection, another question arises here: how do panels treat complainant claims of illegal activity in relation to potential respondent rights or legitimate interests? Panels have unconditionally held that making use of a domain name for unlawful task (e.g., the sale of imitation items or unlawful pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or various other types of fraud) can never give legal rights or legit rate of interests on a participant (World Intellectual Property Organization, 2017). Particularly, in the situation of pharmaceuticals and also fakes, this holds true regardless of any type of disclosure on the relevant site that such infringing products are "replicas" or "reproductions" or certainly using such term in the domain itself (World Intellectual Property Organization, 2017). In this connection, Panels are normally unprepared nevertheless to accept simply conclusory or entirely unsupported allegations of illegal task, including counterfeiting, even when the participant remains in default. On the other hand, panels have actually located that inconclusive evidence can support a plaintiff's otherwise legitimate case of prohibited participant activity (World Intellectual Property Organization, 2017).

The advantage given by Hungarian procedural law VS bad faith cases matter under UDRP

In this respect, the formerly procedure act did not split the initial instance civil proceedings into lawfully established sections. However, it has treated them as one system (Pribula, 2017). On the other hand, this plan indicated the risk that in a fairly late section of the initial circumstances, the events would change their declarations, discussions, or claims in such a step that made all the previously executed activities unnecessary, paving the way to the lengthening of the procedure.

In return, the new act will make amendments in a way to push parties to make a declaration initially, after that secondly generating evidence for their testimony. However, they cannot change their declaration depending upon the end result of the evidence (Pribula, 2017). In this regard, this change is believed to be integrated to the conjunctive requirement of UDRP which means that past and present conduct must be considered. The registration of a domain name in good faith, despite subsequent bad-faith use, will not suffice under the UDRP. In this context, this approach reflects the importance of new amendments of Hungarian Code of Civil Procedure that related to this matter. For that purpose, and in his trying to explain this mechanism, Pribula justifies the reason beyond the fact that first instance procedure solves right into two sections, separated by a judiciary decision (Pribula, 2017). In line with this, the first part is called the procedure access section (Pribula, 2017). The goal of the procedure entrance area is to define the framework of the disagreement. In this section the complainant needs to offer the statements of facts, of allurements, as well as of case, while the respondent needs to offer an extensive response for the case too (Pribula, 2017). In this area, the parties of conflict have to send evidence according to their declarations, and also there is a possibility to perform a number of lawful acts only in this section, such as interfering on either event's side, modification of the conflict parties (Pribula, 2017). The judiciary closes the treatment setup section with an unappeasable court decision called procedure caesura, and after that in the second, substantive disagreement area the substantive showing acts take area. For that purpose, it is possible that an unpredictable circumstance which is past the parties' obligation warrants the redefinition of the structure of the conflict (Pribula, 2017). In that direction, it was noted that if the modifications originate from the same lawful partnership, adjustment of action as well as statement of defence in the course of procedure entrance section is allowed (Harmathy, 2019). Based upon which even after the ended-up entrance section, the declaration or the counter statement can be changed, new evidence claims can be proposed, and in this phenomenal scenario, the entrance can be changed as clearly allowed by the judiciary, according to stringent treatment regulations (Pribula, 2017). From the intro of the separated procedure framework, the legislator anticipates that "it urges the events to a much more intensive preparation, and makes it possible for a more focused, tighter treatment the anticipation for it is that the resuming of the procedure entry area is feasible just in very phenomenal situations (Pribula, 2017).

Bad faith sanctions under Hungarian procedural law

As for principle, Hungarian Code of Civil Procedure (section 502) has given the party whose rights were infringed by another party based on bad faith action to have the right to apply for sanctions against the infringing party. In line with this, the sanction shall be specified in the request for remedy (Act CXXX of 2016 on the Code of Civil Procedure, 2018). In this case, the plaintiff may only request separate action for applying any other sanction pertaining to the violation of personality rights.

"(1) The parties shall be obliged to enable the proceedings to be conducted and completed in a concentrated manner.

(2) Unless otherwise provided by an Act, the parties shall bear the burden of presenting the relevant facts of the case and submitting the respective supporting evidence.

(3) The parties shall make all statements of facts and other statements truthfully.

(4) If a party makes through his own fault a statement regarding any relevant fact of the case which proves to be untrue, the court shall oblige the party at fault to pay a fine and shall apply other legal consequences specified in this Act." (Act CXXX of 2016 on the Code of Civil Procedure, 2018).

In such a scenario, it needs to appear to the satisfaction of the court that any of the sworn statements presented pursuant to this guideline are offered in bad faith or solely for the objective of delay. In this sense, the court will forthwith order to pay to the other party the quantity of the sensible costs which the declaring of the affidavits caused the various other event to sustain, including practical lawyer's fees, and also any kind of upsetting party or others behaviors might be adjudged guilty of sarcasm (Minnesota supreme court, 2013; Institute for Bar Review Study (Conn.), 1997). However, under these regulations, the judge can estimate the expenses of an advocate against the party that participated or presented in declaring the bad faith testament (Moore & Cueillette, 2009). Along these lines, court's power in addition contains extra rules, which can cause monetary permissions and also a finding that parties' willful acts are worthwhile of jail penalty (Bevans, 2016). These sanctions would be as rationale sequence to good faith principle and speak the truth. To this effect, and in terms of the parties' obligation to facilitate the proceedings and speak the truth, the Code of Civil Procedure has indicated that the parties shall be obliged to make it possible for the proceedings to be carried out and also finished in a smooth way. Furthermore, the plaintiffs will make all statements of realities as well as various other claims and declarations honestly and truthfully (Act CXXX of 2016 on the

Code of Civil Procedure, 2018). Moreover, the code of civil procedure goes beyond that in the section 40 /4 and has clearly indicated that If a litigant makes through his very own mistake a statement relating to any kind of relevant reality of the situation which proves to be not true, the court will require the participator at mistake to pay a penalty and also will use other legal effects specified in this Act (Act CXXX of 2016 on the Code of Civil Procedure, 2018).

Principle of good faith under Hungarian procedural law

As for the most important principle of serving justice, and to emphasize the importance of good faith in legal relationship before law, the Code of Civil Procedure has set good faith as general principle of legal relationship between all parties and guideline in terms of their rights as well as their exchange commitments. In this regard, the parties participating in the procedure shall act in good faith when fulfilling their procedural rights and obligations, or otherwise, the court shall oblige that party or person to pay a fine and apply other legal consequences specified in this Act (CXXX of 2016 on the Code of Civil Procedure, 2018). From this point of view, Hungarian Code of Civil Procedure has indicated under Principle of good faith in section 5 that (as in force on 1 July 2018) this document was produced for informational purposes:

(1) The parties and other persons participating in the procedure shall act in good faith when exercising and fulfilling their procedural rights and obligations.

(2) If the behaviour of a party or another person participating in the procedure is inconsistent with the requirement of good faith, the court shall oblige that party or person to pay a fine and apply other legal consequences specified in this Act.

CONCLUSIONS

While UDRP has existed based on the purpose of solving the conflicts according to bad faith matter, it was noticed that the main core of Hungarian Code of Civil Procedure - as mentioned in the first article – is that the parties and other persons participating in the procedure shall act in good faith when exercising and fulfilling their procedural rights and obligations. In line with this, this law was adopted to deal with bad faith matter effectively. In doing so, and according to RDNH as potential scenario based on bad faith matter, the study concluded that this law is highly qualified to deal with this case in very effective way according to the tools that were included in this law. Accordingly, one of these tools is the Principle of good faith. With this in view, and according to the

purposes of this law, the judges would have broad powers to track and fix bad faith attention. Conversely, resolving the conflict based on bad faith action under UDRP was limited and confined to bad faith criteria under WIPO guideline. Another tool that would give the Code of Civil Procedure perfect property against UDRP is the right to impose sanction and compensation unlike UDRP policy that is lacking such mechanism. In addition, this study has included that although RDNH is a small fraction of the entire number of cases, the impact it has on the UDRP as an unbiased procedure cannot be ignored. Furthermore, and based on the supposed potential scenario, the study has concluded that new Code of Civil Procedure will be able to resolve the conflict resulted from bad faith action between domain name owner and trademark holder smoothly and effectively.

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