



December 11, 2009

Dear Mr. Jeffrey, Dear Mr. Giza,

Re: Registrar Nameview Inc.

By way of follow-up to our previous communications to ICANN, including of [April 16, 2008](#) regarding certain registrar-related practices, the World Intellectual Property Organization Arbitration and Mediation Center (WIPO Center) notes two recent WIPO UDRP decisions which suggest drawing ICANN's attention to the practices of the ICANN-accredited registrar Nameview which undermine the efficient functioning of the UDRP normally expected by parties.

As these decisions show, two particular observed practices by Nameview described in the aforementioned letter remain ongoing.

*Nameview-permitted registrant WhoIs detail changes to reflect UDRP complainant details.*

Nameview continues to engage in a practice of allowing purported registrants to change their WhoIs details to reflect those of a UDRP complainant *after* notice of the existence of a UDRP complaint. However, on numerous documented occasions, those complainants confirm they do not in fact control such disputed domain names.

An absence of action to address this continuing practice (called the "Nameview Practice" by some UDRP panels), may be seen by some as amounting to an implicit endorsement. As a result, proceedings are delayed, parties are put to undue expense, and the efficacy of the UDRP as an alternative to court litigation is frustrated.

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This issue was most recently raised by a panel in *Loders Croklaan B.V. v. Loderscroklaan.Com/ Loders Croklaan, Paul Bakker*, [WIPO Case No. D2009-1216](#). That panel specifically noted in its published decision that this practice should be brought to ICANN's attention for appropriate follow-up:

“The Panel notes that the name and contact details of the registrant on the Registrar's [Nameview] WhoIs database were changed following the Complaint and the Center's request for registrar verification, and that this has occurred in other cases concerning domain names registered with the Registrar [Nameview], as discussed in *FOSS A/S, FOSS NIRSystems INC v. fossnirsystems.com c/o Whois IDentity Shield /Admin, Domain*, WIPO Case No. D2008-1256. The Panel further notes that the Center drew this practice to the attention of ICANN by letter of April 16, 2008.

As well as causing inconvenience and delay in proceedings under the UDRP, it appears to the Panel that this conduct is in breach of paragraph 8(a) of the UDRP if done on the instructions of the registrant and in breach of paragraph 7 of the UDRP if done without. Either way, the involvement of the Registrar [Nameview] in such conduct is not compatible with its responsibilities as an accredited registrar. The Panel would respectfully suggest that this issue be addressed by ICANN without further delay.”

*Nameview deletion of domain names during UDRP proceedings.*

Paragraph 3.5.7.5 of ICANN's Expired Domain Deletion Policy in effect provides that where a domain name that is subject to a UDRP proceeding is deleted or expires during the dispute, the complainant may renew or restore the domain name under the same commercial terms as the registrant. Adding further complexity to the above-described practice, it has more recently been observed that Nameview has permitted the deletion of a domain name subject to UDRP proceedings without enabling appropriate party recourse to this provision. This is still further complicated by Nameview apparently having permitted prohibited registrar and/or registrant transfer in violation of such action under UDRP paragraph 8.

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The ramifications of such instances, alone or in combination, are detailed in another recent WIPO UDRP decision, *Funix B.V. v. Domain Administrator*, [WIPO Case No. D2009-1048](#), where a different panel also requested that Nameview's conduct be brought to ICANN's attention:

“As the foregoing recitation of the procedural history makes clear, Nameview appears to have violated the [UDRP] by not placing the Domain Name under Registrar lock as required by paragraph 8. This does not appear to be the first UDRP case in which this type of conduct by Nameview has occurred. Nameview also failed to afford Complainant the opportunity to restore the Domain Name in contravention of paragraph 3.7.5.7 of the ICANN Expired Domain Deletion Policy. That Nameview offered to restore the Domain Name to Complainant strongly suggests that, contrary to Nameview's initial representations to the Center, Nameview did continue to have control over the Domain Name throughout August 2009. Nameview's demand that Complainant pay a USD 250 restoration fee may constitute a further violation of the Policy (to the extent those were not the same commercial terms as those previously governing the registration). And, Nameview's subsequent allowance of the transfer of the Domain Name to a new registrant and/or registrar not only violated paragraph 8 of the Policy, but also suggests that Nameview was engaged in bad faith throughout these discussions with Complainant.”

We believe there would be utility in ICANN acting to remedy such specific and systemic instances of problematic registrar conduct.

Naturally, the WIPO Center stands ready to provide further specific information to the extent it would assist such ICANN efforts at all levels, both presently, and also if and as ICANN's DNS expansion program unfolds.

We are posting a copy of this letter on the WIPO website for public information at <http://www.wipo.int/amc/en/domains/resources/icann/>.

Yours sincerely,



Erik Wilbers  
Director

WIPO Arbitration and Mediation Center