

Quick Guide to WIPO Domain Name Dispute Resolution Services for the .AU ccTLD

WIPO Arbitration and Mediation Center

Michael Eylerts
Charlotte Spencer
Steph Viljoen

Geneva
June 17, 2021

In this webinar:

- .au Domain Administration and .au Eligibility Criteria
- Main characteristics of auDRP proceedings as compared to the UDRP
- Filing a Complaint with WIPO
- Benefits of filing a case with WIPO in comparison to court litigation
- Available Resources

After this webinar, you can:

- Download this presentation
- Download handouts
- Receive a recording of the webinar

17 June 2021

Compliance and the au Dispute Resolution Policy

Steph Viljoen
Manager
Compliance &
Analytics and
Privacy Officer



.au Domain
Administration Ltd



We are auDA – the administrator of the .au ccTLD in Australia.

- Over 3,3000,000 domains under management
- 606,316 new registrations in 2020 compared to 505,276 new registrations in 2019 – an increase of 20%
- Over the last year, average monthly registrations were 52,039
- We were established in June 1997 and we currently have 30 staff

.au registration requirements

Eligibility rules

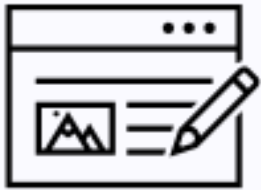
- Require an Australian presence
 - Registrants must meet requirements in each namespace

Allocation rules

- Set out what domain names a person can register

Ensuring the .au domain remains trusted and secure

auDA compliance posture



A proportionate, risk based approach to compliance.

- **Communicate and educate.**
- **Guide and facilitate.**
- **Enforce where breaches are not rectified.**

New licensing framework for the .au ccTLD began on 12 April 2021.



The legacy rules continue to apply for the term of the licence, to domain names that were registered/renewed before that date.

- Some of the rules about eligibility and allocation have changed
- Licensing complaints are dealt with by the registrar, with appeal to auDA
- Resources explaining the new rules are available here: <https://www.auda.org.au/au-domain-names/new-au-licensing-rules>

.au Dispute Resolution Policy



[https://www.auda.org.au/
au-domain-
names/dispute-
resolution](https://www.auda.org.au/au-domain-names/dispute-resolution)

- No hierarchy of rights in the .au domain – auDA does not adjudicate competing rights in a domain name.
- auDRP based on UDRP.
- Cheaper, quicker alternative to litigation.
- auDRP Overview online.

[auDRP Overview](#)

.AU Dispute Policy and Rules

■ .AU Dispute Resolution Policy (auDRP)

<https://www.auda.org.au/policy/au-dispute-resolution-policy-audrp-2016-01>

■ Rules for .AU Dispute Resolution Policy

<https://www.auda.org.au/policy/au-dispute-resolution-policy-audrp>

■ WIPO Supplemental Rules of auDRP

<https://www.wipo.int/amc/en/domains/rules/supplemental/au.html>

.AU Dispute Resolution Policy (auDRP)

- Requires registrants to submit to a mandatory administrative proceeding in the event that a complainant asserts to the applicable Provider, that*:
 - (i) your domain name is identical or confusingly similar to a name, trademark or service mark in which the complainant has rights; and
 - (ii) you have no rights or legitimate interests in respect of the domain name; and
 - (iii) your domain name has been registered or subsequently used in bad faith.

*where “you/r” indicates the registrant.

First element – Rights covered

- A complaint under the auDRP may be based **on any name** in which a complainant has rights
 - including the complainant's **company, business or other legal or trading name**, as registered with the relevant Australian government authority
 - or the **complainant's personal name**
- See for example WIPO Case No. DAU2021-0002, <gingerproductions.com.au>

Second element – Rights or Legitimate Interests

- The registrant has no rights or legitimate interests in the domain name, regardless of a registrar's determination that a registrant satisfied the relevant eligibility criteria for the domain at the time of registration.

Third element – Bad Faith Registration or Use

- The domain name has been registered **or** used in bad faith – it is sufficient for a complainant to prove that *either* registration *or* use of the domain name is in bad faith.
- Evidence of registration or use in bad faith of a domain name:
 - Under the auDRP it is sufficient to show the prevention of the trademark or service mark owner from reflecting the mark in a corresponding domain name

Remedies

■ Similar to the UDRP, remedies available are:

■ **Transfer***

■ **Cancellation**

*transfers are only possible if the registrar determines that a complainant meets the eligibility and allocation rules for .AU

WIPO ccTLD page for .AU

WIPO Domain Name Dispute Resolution Service for .AU

Country / Territory Code	.AU
Country / Territory Name	Australia
Whois Search	Whois Search
Dispute Resolution Policy	<i>Variation of UDRP</i> .AU Dispute Resolution Policy (auDRP) <i>Relevant differences between the UDRP and the auDRP</i> ▶ Rights Covered ▶ Bad Faith ▶ Bad Faith Examples ▶ Remedies Available ▶ Communications

WIPO Toolkit

[Panel Decisions](#)

[WIPO Model Complaint](#)

[WIPO Model Response](#)

[Schedule of Fees](#)

<https://www.wipo.int/amc/en/domains/cctld/au/index.html>

Helpful Links on our ccTLD Page

■ WIPO Model Complaint and Response

<https://www.wipo.int/amc/en/domains/cctld/au/index.htm>

■ Filing Fees

<https://www.wipo.int/amc/en/domains/fees/cctlds/au/index.html>

■ WIPO .AU Panelists

<https://www.wipo.int/amc/en/domains/panel/panelists.jsp?code=auDRP>

Filing Fees

- The appropriate fee specified in the WIPO Center's Schedule of Fees must be submitted together with the Complaint

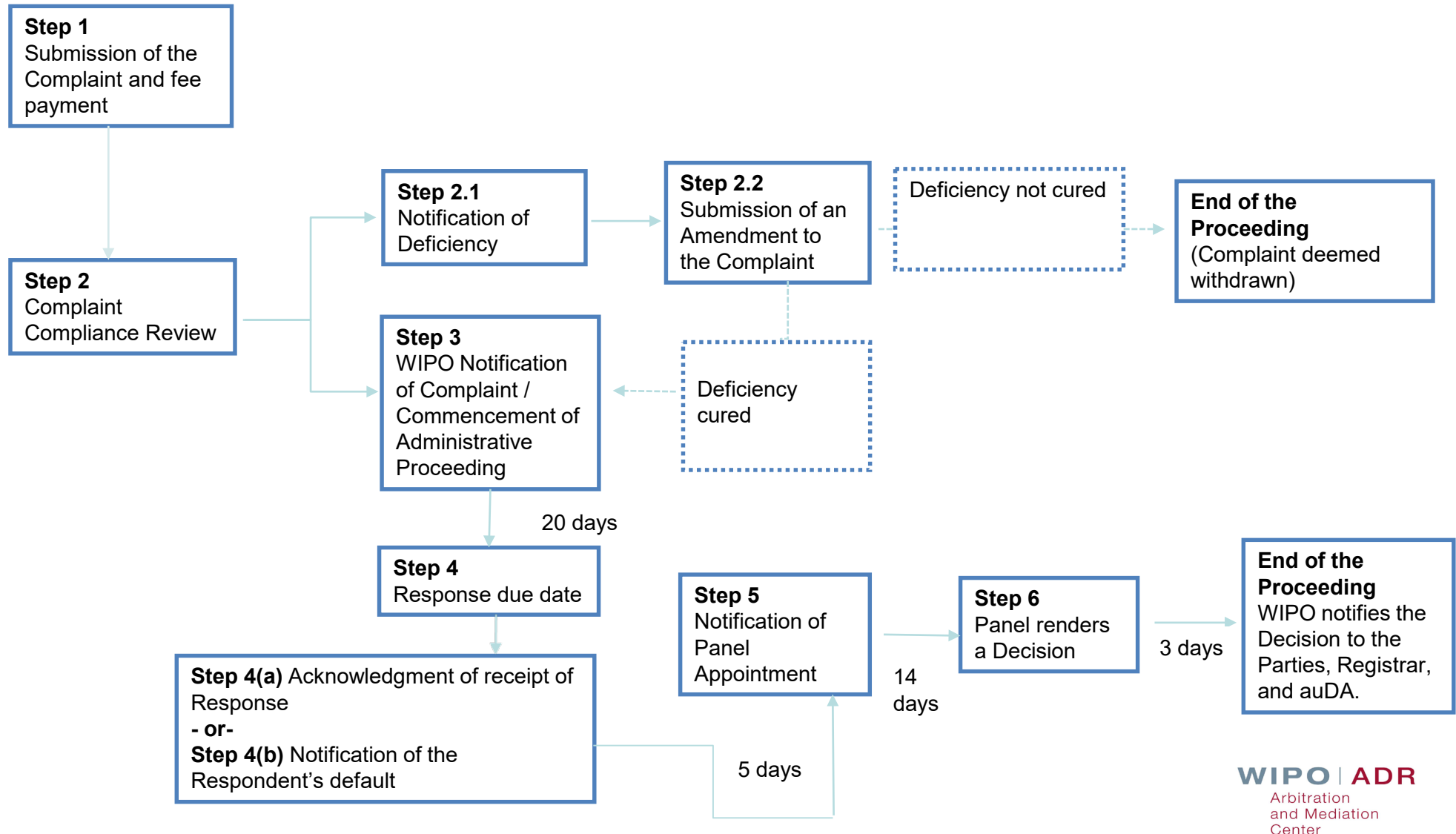
Single Member Panel

Number of Disputed Domain Names	Fee (AUD)
1-5	2,000
6-10	2,700
More than 10	To be decided in consultation with the Center

Three Member Panel

Number of Disputed Domain Names	Fee (AUD)
1-5	4,500
6-10	5,700
More than 10	To be decided in consultation with the Center

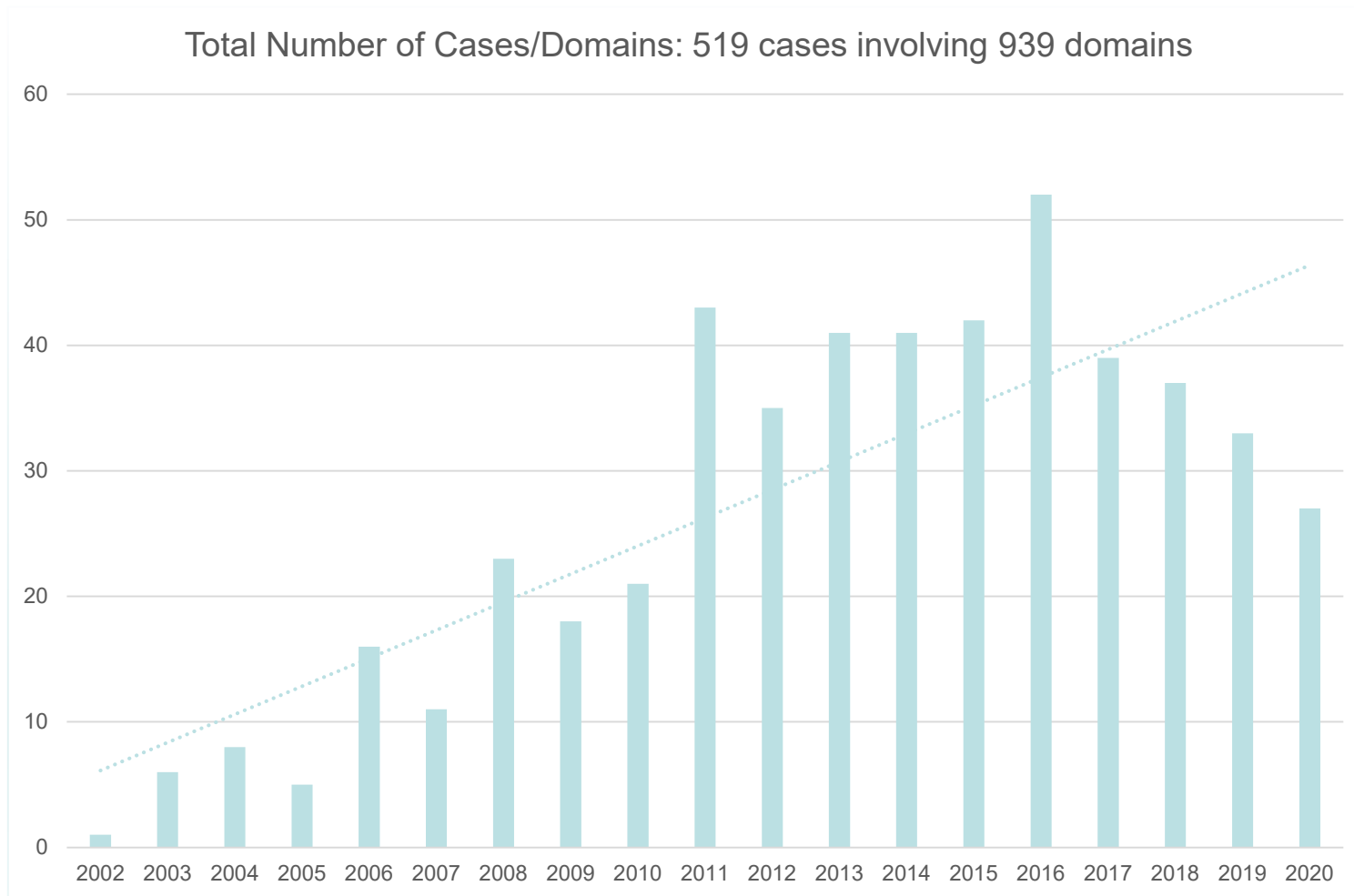
WIPO Flowchart for .AU Proceedings (simplified version for single-member panel)



Main benefits of the .AU procedure

- Time-effective procedure (2 months)
- 100% paper-less procedure (WIPO model pleadings available for parties)
- Decision implementation coordinated between Registrar and auDA

Distribution of cases per year in .AU



Noteworthy .AU Cases

- WIPO Case No. DAU2020-0010,
<snsnail.com.au>
- WIPO Case No. DAU2021-0001,
<skinfairy.com.au> and <theskinfairy.com.au>
- WIPO Case No. DAU2021-0007,
<abcstore.com.au>
- WIPO Case No. DAU2021-0013,
<cbdresses.com.au>, <cbstyles.com.au>,
<houseofcb.com.au>, and
<houseofcbonline.com.au>



HOUSE OF CB

auDA auDRP Overview 1.0

- auDA Overview of Panel Views on Selected auDRP Questions, First Edition (auDA auDRP Overview 1.0”), July 2014
- The auDA auDRP Overview 1.0 provides a jurisprudential overview of auDRP decisions, summarizing consensus views and providing procedural guidance

- Available here:

https://assets.auda.org.au/a/2020-11/auDRP-Overview-2014b.pdf?VersionId=yjOrxJkeDYxTarz7Uc8EOpML_5KCE9z1

Contact Us

■ Queries: arbiter.mail@wipo.int

■ Further information: <https://www.wipo.int/amc/en/domains>

■ WIPO Center Domain Name Newsletter

■ https://www3.wipo.int/newsletters/en/#adr_highlights

■ WIPO Center Webinars

■ <https://www.wipo.int/amc/en/events/webinar.html#upcoming>

■ WIPO Center Offices

■ Geneva, Switzerland

■ Singapore, Singapore