

Domain Name Law and Practice

17 March 2005	Chapter III A: Uniform Domain Name Dispute Resolution Policy	Part V: Substantive Law
	UDRP Panellist Decision	
	<p data-bbox="512 439 1102 470"><u>WIPO Case No. D2004 – 0439 – enmersan.com</u></p> <p data-bbox="512 506 1031 537"><i>Trade Names are not covered by the UDRP</i></p> <p data-bbox="512 573 1382 871">The complaint concerned a dispute between a Turkish marble trading company that registered various trade names, including “Enmersan” and “Enmersan Granit”, but had no registered or unregistered trade or service mark. The Respondent registered the domain name “enmersan.com”, and when the Complainant refused to enter into negotiations, displayed a message on the website under “enmersan.com” stating that the Complainant was having financial difficulties and had stopped trading. The sole panellist found that the reference in the UDRP to a trade or service mark could not be extended trade names, and denied the transfer.</p> <p data-bbox="512 907 1082 938"><u>WIPO Case No. D2004 – 1085 – dateline.com</u></p> <p data-bbox="512 974 1091 1005"><i>Good faith registration followed by bad faith use</i></p> <p data-bbox="512 1041 1398 1173">The Complainant, a company incorporated in England and Wales, is the longest operating dating business in the United Kingdom (UK). In 1966, it began distributing contact magazines, and in 1990 began offering dating agency services under the DATELINE mark.</p> <p data-bbox="512 1209 1386 1408">The Complainant contended that the Respondent registered the domain name “dateline.com” in bad faith due to the fact that it had not been using the site for some time, and that during negotiations to purchase the domain name the Respondent quoted a selling price of \$US 1 million and since being approached to sell the domain name placed advertisements from other UK dating services on the site.</p> <p data-bbox="512 1444 1377 1576">The sole panellist considered the view of panellists in previous decisions that the UDRP was not designed to prevent such situations, and came to the conclusion that the Respondent’s subsequent use of the domain name was not in bad faith and therefore denied the transfer.</p> <p data-bbox="512 1612 1377 1677"><i>Several celebrities have successfully recovered domain names by filing a complaint before the WIPO Arbitration and Mediation Center</i></p> <p data-bbox="512 1713 1134 1744"><u>WIPO Case No. D2004-0895 – robertdowneyjr.com</u></p> <p data-bbox="512 1747 1163 1778"><u>WIPO Case No. D2004–0827 - ronaldinhogaucho.com</u></p> <p data-bbox="512 1780 1067 1812"><u>WIPO Case No. D2004-1030 - alleewillis.com</u></p> <p data-bbox="512 1814 1070 1845"><u>WIPO Case No. D2004–0957 - vargasllosa.org</u></p> <p data-bbox="512 1848 1141 1879"><u>WIPO Case No. D2004–0956 - mariovargasllosa.org</u></p>	