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The Legal Position of UDRP Decision —Focus on Chinese and Taiwanese Court Judgment

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Abstract

UDRP (Uniform Domain Name Dispute Resolution Policy) is neither national law nor international treaty. Even so, it solves hundreds of thousands domain name disputes. What is its legal position under the current law? It is a question worthy for the academic study and cannot be voided in the judicial practice. This article firstly discusses the different kinds of possible legal positions for UDRP decision, then argues that UDRP decision shall have no legal effect under the current law from the view of national judicial sovereignty, the legislative intent of UDRP, and party's right. This article also makes an empirical study on Chinese and Taiwanese Court Judgments. In the study, this article finds that China has an uniform judicial explanation from the Supreme People's Court that correctly guide the lower courts to deal with the UDRP decision. In the contrast, Taiwan has splitting opinions among several judgments. This article gives its comments on Chinese the judicial explanation and several court opinions concerning the above issue, and expects that

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the law for the conflict between trademark and domain name has a good development and same treatment all over the world.

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