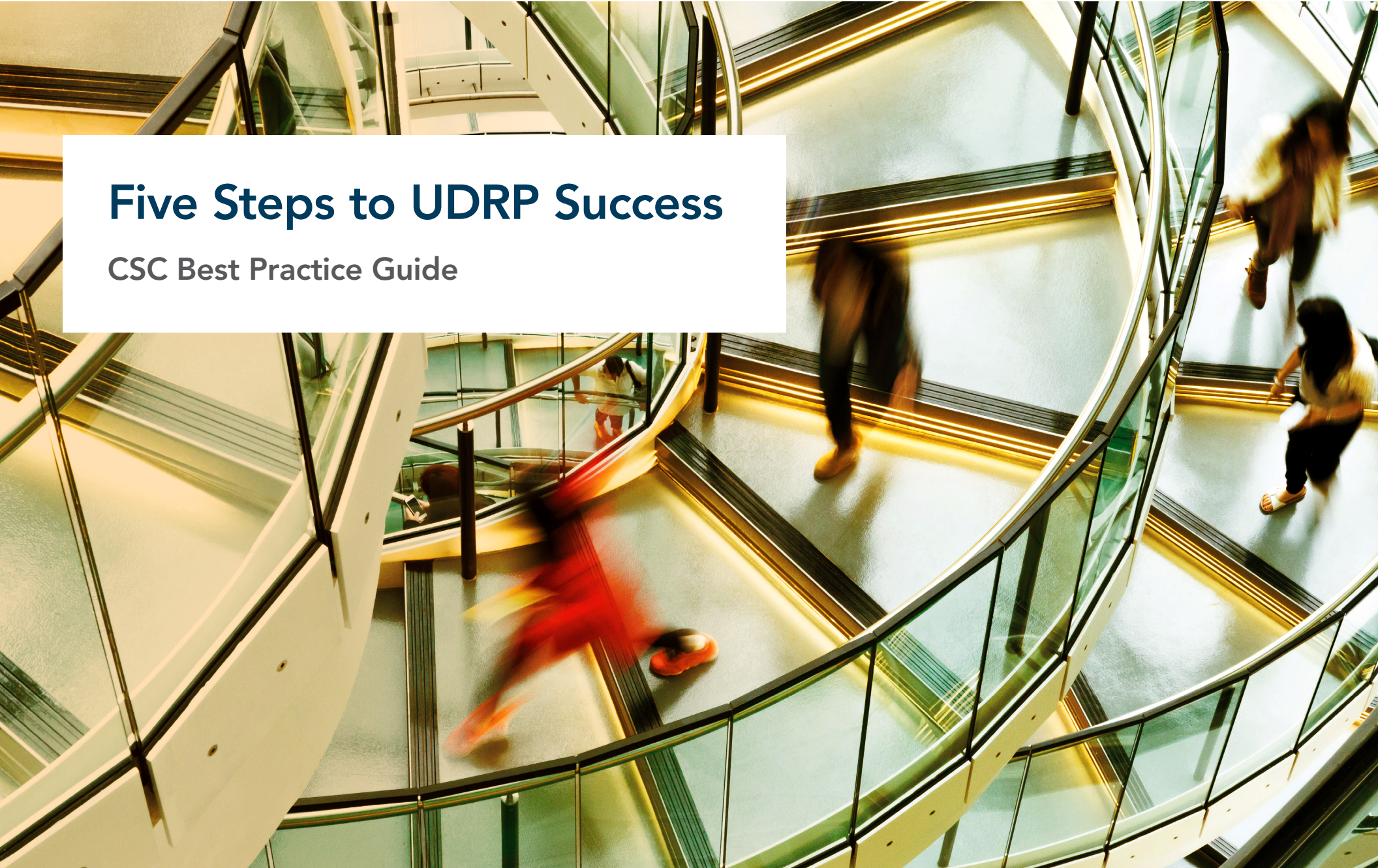




CSC® Best Practice Guide

Five Steps to UDRP Success

CSC Best Practice Guide



Introduction



With cybersquatting showing no signs of abating, the Uniform Domain-Name Dispute-Resolution Policy (UDRP) continues to be an important tool for brand owners to protect their brands and trademarks in the domain space. CSC shares five best-practice tips for addressing this continuing challenge and ensuring UDRP success.

1 Pick your battles.



When someone is abusing your brand and trademark online, it's important to take action. Even though the UDRP offers a clear framework for enforcing your IP rights, it pays to follow certain steps before filing a complaint.

CSC's enforcement experts are located across the globe and have filed more than 800 UDRP cases with a 99% success rate. Here, they share five practices that will help you understand and more effectively use the UDRP.

2 Determine whether the registrant has rights.



3 Don't underestimate the value of the cease and desist letter.



4 Be thorough when preparing your complaint.



5 Keep track of the process.



A note about new gTLDs



Introduction



1 Pick your battles.



1. Pick your battles.

Some brand owners uncover hundreds of infringements each month. Because it would be far too costly to take action against each one, prioritization is the best way to ensure efficient online brand protection. To decide which infringements pose the biggest threat to your organization, consider three things:

- I. The content of the infringing domain's website;
- II. How the domain string uses your trademark (e.g., trademark+keyword.com); and
- III. The traffic the site is generating. Low-traffic, inoffensive infringements may not be worth your time and money. A simple cease and desist letter may also do the trick here, which is explored further below.

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2 Determine whether the registrant has rights.



2. Determine whether the registrant has rights.

It is not enough to show that you have rights to the domain—it must also be clear that the registrant does not. With some investigation, it's often easy to establish that the registrant does not have legitimate rights to the name. However, you still need to make this clear in your claim.

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3. Don't underestimate the value of the cease and desist letter.

Cease and desist (C&D) letters play an important role in domain name disputes. The sooner the brand owner sends a C&D letter, the sooner the registrant is put on notice. C&D letters can be a quick and cost-efficient solution, often leading the registrant to transfer the domain name without further action. However, quality is the key to success. To make letters effective, tailor them to the registrant and circumstances. Something as simple as sending a C&D letter in the appropriate language can make a big difference.

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4. Be thorough when preparing your complaint.

It's not unusual to see complaints denied, mainly because they were poorly prepared. One mistake that people make is to claim the trademark is well known without providing any supporting evidence. Never assume that panelists will find information on their own—it is your responsibility to educate them about the trademark and brand. Furthermore, more automated complaints may fail to adequately address complex issues and can miss on points like mutual jurisdiction and language of proceedings. Brand owners must also carefully document any changes to an infringing domain's WHOIS record and website, from initial analysis through finalization of the complaint—such changes may require that you adjust your arguments.

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5. Keep track of the process.

Once you've submitted your complaint and initiated the dispute, it is important to track all communications from the dispute-resolution provider. You may receive requests to file an amendment, follow up on language of proceeding requests and panel orders, or get requests for additional information. Missing or ignoring these communications can be detrimental to your case.

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It is also important to monitor for infringement across the new generic top-level domains (gTLDs). While the introduction of these domain names has not created entirely new problems—instead, largely exacerbating existing ones—brand owners need to understand the implications of the new gTLDs on their brand protection strategies and approach to enforcement. Not only may new gTLDs require further analysis to determine the relevancy of the top-level domain under the UDRP, but brand owners must now also determine whether the Uniform Rapid Suspension system (URS) presents a better enforcement option for them. Introduced as an additional enforcement mechanism for tackling abuse under the new gTLDs, the URS can offer “rapid relief to trademark holders for the most clear-cut cases of infringement¹.” The key to success is understanding when and how to use these different tools.

¹ICANN: <http://newgtlds.icann.org/en/program-status/>



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