

Hard Times With WHOIS? INTA Wants To Know

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ICANN WHOIS

People

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Capabilities

Trademark, Copyright

Advertising

- Intellectual Property Litigation

If you have encountered any issues accessing WHOIS information, the International Trademark Association (“INTA”) wants to hear from you.

Due to changes in privacy law brought on by the European Union’s General Data Protection Regulation (“GDPR”), it is becoming more difficult or impossible to access once-commonly available public WHOIS information, which consists of registrant information for domain names. We have written on this topic in more detail [here](#) and [here](#). Here’s the short story: because providing WHOIS information risks violating GDPR, which could result in the imposition of potentially catastrophic fines, some domain name registrars are opting not to provide WHOIS information, despite requirements by the Internet Corporation for Assigned Names (“ICANN”) that registrars provide the information. As a result, it is becoming more difficult for rights holders to identify and take action against owners of domain names containing infringing materials.

To help track and catalogue these issues, INTA has created a dedicated email account at whoischallenges@inta.org. Those encountering WHOIS problems are encouraged to send the following information to INTA:

- Where the problem is occurring (country, location, or jurisdiction).
- What the nature of the problem or case is (a procedure, a piece of evidence, or a venue).
- Anonymous descriptions of the actors or people involved (provide industry and/or non-specific information about the actors involved).

INTA plans to use this information as part of its advocacy efforts. So if you have encountered any issues, be sure to alert INTA.

It is worth noting that it is still possible to file arbitration proceedings against infringing domain names, using the Uniform Domain Name Dispute Resolution Policy (“UDRP”) or Uniform Rapid Suspension System (“URS”), even if the WHOIS information for the domain names is not available. According to the World Intellectual Property Organization (“WIPO”), a complainant should simply list the registrant information exactly as it appears in the WHOIS report, even if that information consists only of the word “Redacted.” Once alerted of a UDRP or URS proceeding, ICANN-compliant registrars are required to give the arbitration provider the full, unmasked registration data for the domain name(s) covered by the complaint. The complainant typically would receive this information and then, if necessary, may amend or withdraw its complaint based on the information revealed.