



## **High Court of Appeals Underlines Lack of Applicable Legal Regulation for Annulment of Decisions of WIPO Arbitration and Mediation Center regarding Domain Name Disputes**

**Authors:** Dr. Gönenç Gürkaynak, Esq., Tolga Uluay, Doruk Altın, Beril Elif Sancar

### **1. Introduction**

Under Turkish law, annulment of arbitral awards is governed either by the Civil Procedure Code No. 6100 or the International Arbitration Law No. 4686, depending on the legal framework applicable to the relevant arbitral award. In a recent decision, the 11<sup>th</sup> Civil Chamber of the High Court of Appeals (“**High Court**”) ruled that neither of these legal frameworks is applicable to decisions rendered by the World Intellectual Property Organization’s (“**WIPO**”) Arbitration and Mediation Center about domain name disputes.

This article analyzes the decision of the High Court dated May 7, 2026, numbered 2025/1888 E. and 2025/3165 K. (“**Decision**”), ruling that annulment of the decisions ruled by WIPO Arbitration and Mediation Center regarding domain name disputes cannot be requested and different legal approach should be adopted under Turkish International Arbitration Law.

### **2. Legal Framework for Domain Name Disputes Under Turkish Law**

Legal framework regarding the domain name disputes is regulated by Regulation on Domain Names No. 27752 (“**Regulation**”) and the Communiqué on Domain Name Dispute Resolution Mechanisms No. 28742 (“**Communiqué**”). These regulations include provisions about the legal remedies that can be followed in case of dispute and dispute resolution mechanisms and its organization which will be responsible for resolution proceedings.

Disputes arising from domain names that has ".tr" domain extension, which is the country-code top-level domain (ccTLD) for Türkiye, can be resolved via Dispute Resolution Mechanisms

governed by Dispute Resolution Services Providers (“**DRSP**”) in accordance with the Article 23 of the Regulation. According to the Article 25 of the Regulation, (i) if the disputed domain name is identical or confusingly similar to the Complainant’s trademark, trade name, business name and other introducing elements, (ii) the domain name holder does not have any legitimate right or connection over the disputed domain name, and (iii) the domain name is registered in bad faith, those who claims to have rights over the disputed domain name may apply to Dispute Resolution Mechanism and request the transfer or cancellation of the domain name from the DRSP.

Currently, there are three DRSPs, which are Information Technologies and Internet Security Association (BTİDER), TOBBUYUM Mediation and Dispute Resolution Centre and İstanbul Arbitration Centre (ISTAC), serving as the dispute resolution mechanism in Türkiye.

Disputes arising from domain names that has “.com” generic top-level domains (gTLDs) are subject to Uniform Domain-Name Dispute-Resolution Policy (“**UDRP**”) implemented by ICANN. Similarly to the Turkish regulation, those who seek remedy may apply to services providers<sup>1</sup> approved by Internet Corporation for Assigned Names and Number (“**ICANN**”). The most preferred provider for the dispute resolution is WIPO Arbitration and Mediation Center.

According to the UDRP Article 4, if (i) the disputed domain name is identical or confusingly similar to a trademark which the Complainant has rights over, (ii) the registrar has no rights or legitimate interest over the disputed domain and (iii) the domain name has been registered and is being used in bad faith, those who claims rights over the domain name shall submit to a mandatory administrative proceedings, in other words, apply to service providers approved by ICANN to resolve the matter. In the proceedings, the Complainant must prove that all three of the conditions are met.

Once the Complaint reaches WIPO, the Panel responsible for resolving the disputes examines the situation based on both the Complainant’s and the Respondent’s (domain name holder) claims and explanations and determines whether the conditions for the Complaint has been fulfilled. As a result of this evaluation, WIPO may decide to reject the Complaint or accept the

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<sup>1</sup> Please visit the following link for the list of all registered service providers:  
<https://www.icann.org/en/contracted-parties/consensus-policies/uniform-domain-name-dispute-resolution-policy/list-of-approved-dispute-resolution-service-providers-25-02-2012-en>

Complaint and decide for the transfer of the disputed domain name to the Complainant or cancellation of the domain name based on the request.

### **3. Analysis of the Decision**

In the dispute subject to the Decision, the plaintiff sought annulment of the decision issued by WIPO Arbitration and Mediation Center pursuant to the UDRP. The plaintiff argued that, although WIPO Decision No. D2024-2365 ordered the transfer of the disputed domain name “duocap.com” to the defendant, the defendant does not hold any legal rights over the domain name. Accordingly, the plaintiff requested both annulment of the WIPO decision and suspension of its execution. The Defendant, on the other hand, argued that the Plaintiff is using the disputed domain name in bad faith and unlawfully and the WIPO decision is legally correct.

In evaluating the claims and defenses of the parties, the Regional Court of Appeals (“*Regional Court*”) noted that the decision at issue is not an arbitral award under the International Arbitration Law, but rather a decision issued in accordance with the UDRP. The Regional Court further noted that there is no regulation providing for the annulment of such decisions, and that the International Arbitration Law is not applicable to this type of decision.

The Regional Court also emphasized that the subject matter WIPO decision does not eliminate the jurisdiction of Turkish courts regarding a domain name registered in Turkiye; and if, within the ten-day waiting period for the enforcement of the decision, the domain name holder files a lawsuit against the other party before a court with general jurisdiction or the court in the location of the registration authority, and this is proven to the registration authority, enforcement of the decision can be prevented as per UDRP Article 4/k titled “Availability of Court Proceedings”. The Regional Court, however, notes that the lawsuit to be filed cannot be for annulment of the decision, but rather for determination of ownership rights.

In conclusion, the Regional Court underlined that the current case is filed as an annulment lawsuit and rejected the request on procedural grounds. The defendant appealed this decision before the High Court, and the High Court upheld the decision of the Regional Court and confirmed the approach adopted therein.

#### **4. Conclusion**

The Decision highlights the legal pathway stipulated under Turkish law with regard to arbitral awards for domain name disputes. The Turkish law already has a concrete regulation on annulment of arbitral awards, but this Decision shows that filing an annulment action for WIPO's decision on domain name disputes will result in rejection on procedural grounds, which means that the option to further challenge a WIPO decision is available only under the UDRP Rules.

Under Turkish law, the applicable arbitration rules govern each arbitral award, unless a specific regulation applies to that award. The legal framework for annulment of arbitral awards in Turkey is clear. Annulment before Turkish courts is available only for domestic arbitral awards that are subject to the Civil Procedure Code or for foreign-related arbitral awards in which seat of arbitration is stipulated as Turkey or the governing law is stipulated as the International Arbitration Law. This is consistent with the practice adopted for other arbitral awards that fall outside the scope of the Civil Procedure Code or the International Arbitration Law.

Article Contact: Dr. Gönenç Gürkaynak

E-mail: [gonenc.gurkaynak@elig.com](mailto:gonenc.gurkaynak@elig.com)

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