

Federal Appellate Court Rules that Domain Name Dispute Resolution Proceeding is not "True" Arbitration Entitled to Judicial Deference and Limited Review

February 27, 2003

The Third Circuit Court of Appeals has overruled a district court which had treated an arbitration proceeding initiated under the Uniform Domain Name Dispute Resolution Policy ("URDP") as governed by the Federal Arbitration Act ("FAA"). An arbitration panel had ordered the transfer of the domain name <leestrasberg.com>, however the registrant chose not to participate in the proceeding, instead initiating a federal lawsuit against the URDP petitioners. The appellate court found that, due to its non-binding nature, a proceeding under the URDP is not a "true" arbitration under the FAA and, therefore, not subject to judicial deference.

This case is a good reminder that **only** if alternative dispute resolution procedures are formalized to the extent that they are intended to replace litigation, will a court apply a limited and deferential standard of judicial review to the outcome. If arbitration or another alternative dispute resolution process is optional or non-binding, a court may very well engage in a *de novo* review of the matter, essentially reopening the entire case.