

PANEL DECISION

airSlate, Inc., airSlate Ireland Limited v. Aria Pour, Bynaric Ltd
Case No. DEU2023-0021

1. The Parties

The Complainant are airSlate, Inc., United States of America (“United States” or “U.S.”), and airSlate Ireland Limited, Ireland, represented by DLA Piper US LLP, United States.

The Respondent is Aria Pour, Bynaric Ltd, Ireland, self-represented.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <signnow.eu> (the “Disputed Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Disputed Domain Name is GoDaddy.com, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2023. On June 12, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the Disputed Domain Name. On July 14, 2023, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 16, 2023. In accordance with the ADR Rules, Paragraph B(3)(a), the due date for Response was July 6, 2023. The Response was filed with the Center on July 11, 2023. The Center verified that the Response satisfied the formal requirements of the ADR Rules and the Supplemental Rules.

The Complainant submitted a supplemental filing on July 12, 2023. On July 13, 2023, the Center received an email from the Respondent objecting to the supplemental filing.

The Center appointed Nick J. Gardner as the sole panelist in this matter on July 20, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the ADR Rules, Paragraph B(5).

4. Factual Background

The two Complainant entities are airSlate, Inc., a corporation established and formed under the laws of the United States, and airSlate Ireland Limited, a limited company established and formed under the laws of Ireland. For present purposes nothing turns on the distinction between these entities which together with their predecessors in interest, will be collectively referred to herein as the Complainant.

The Complainant is a provider of document workflow automation products and services, including, but not limited to, electronic signature software and solutions. Since at least 2011 the Complainant has offered a variety of products and services for electronically authenticating and signing documents under the name "SIGNNOW". In April, 2012, the Complainant obtained U.S. Trademark Registration No. 4,129,826 for the mark SIGNNOW for services in Class 42. Thereafter, in April 2014, the Complainant also obtained U.S. Trademark Registration No. 4,520,955 for the mark SIGNNOW covering goods in Class 9 and services in Classes 39 and 42. Since then the Complainant has obtained numerous trademark registrations for the SIGNNOW Mark throughout the world, including in the European Union. In particular, the Complainant owns European Union trademark registration no 018511418 registered on December 30, 2021. This latter trademark is referred to as the "SIGNNOW EU trademark" in this decision.

The Complainant's SIGNNOW branded products are widely recognised in the field of electronic signature products and have won many awards in this field.

The Complainant owns the domain name <signnow.com> which resolves to its website promoting its business.

The Disputed Domain Name was registered on April 24, 2020. For details of how the Disputed Domain Name resolves see discussion below.

The Respondent operates a website linked to the domain name <bynarc.com> (the "Bynarc Website"). That website (which the Panel has visited) describes the Respondent's business as providing "Solutions for Housing Management" and says that "Bynarc provides a cloud-based software platform that includes a range of tools and features to help housing providers manage their properties more efficiently. Our software is designed to streamline workflows, improve communication, and increase tenant satisfaction, all while reducing costs and improving the quality of service". There is no reference anywhere on that website so far as the Panel can see to any product or service named "signnow".

5. Parties' Contentions

A. Complainant

The Complainant says it has spent significant amounts of time, effort and money to ensure that, as a result of its extensive advertising and use, the SIGNNOW trademark is recognized and widely known throughout the world. The Complainant says it spends approximately USD 5.2 million annually in the production and publication of advertising in this regard.

The Complainant says that the Disputed Domain Name is identical to the SIGNNOW EU trademark.

The Complainant says that the Respondent has no rights or legitimate interests in the term "signnow".

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. The Complainant says in the Complaint as originally filed that the Disputed Domain Name resolved to the website of a competitor of the Complainant which is clear evidence of registration and use in bad faith. See further below as to how the Disputed Domain Name subsequently resolved. The Complainant further says that in July 2021, it attempted to purchase the Disputed Domain Name from the Respondent through the Respondent's registrar. In response to the Complainant's request, the Respondent offered to sell the Disputed Domain Name for USD 250,000 which is further evidence of registration and use in bad faith.

B. Respondent

The main points the Respondent makes are as follows.

The Respondent says that "it is a highly respected company that specializes in providing innovative automation solutions for the real estate industry in Ireland and the United Kingdom". It then says "Our mission is to empower housing providers to efficiently serve families with low income by offering heavily discounted rates and enabling them to access safe and affordable housing options. We have a proven track record of success in implementing social housing technology, and our commitment to improving the lives of vulnerable communities is widely recognized".

The Respondent then says that the Complainant[s] "have been employing deceptive tactics in an attempt to wrongfully acquire the domain signnow.eu. These tactics include registering the trademark for "signnow" in the European Union after our registration of the domain and subsequent usage. This opportunistic move is a clear case of fraudulent behavior, aiming to exploit legal loopholes and undermine the legitimate interests of Bynaric Ltd".

The Respondent then says it "categorically denies any allegations of bad faith registration or usage of the domain signnow.eu. When we registered the domain on April 24, 2020, we had no knowledge of airSlate's existence or their use of the signnow.com domain. Our intention was solely to align the domain with our project and deliver our automation solution to European customers. At the time of registration, there was no evidence or indication of any conflicting interests or trademark disputes".

The Respondent says it has a legitimate interest in the Disputed Domain Name. It says it "has made significant investments in the development and promotion of the signnow.eu domain. We have dedicated substantial resources, time, and effort to establish signnow.eu as an essential component of our main offering in the real estate industry. However, due to the unprecedented impact of the COVID-19 pandemic, the launch of our full-fledged automation solutions utilizing the signnow.eu domain was temporarily delayed. During this time, we have continued to invest in refining our technology and expanding our network of housing providers. The signnow.eu domain plays a pivotal role in our business model, serving as a trusted platform through which we deliver our automation solutions and cater to the unique needs of our clients in the social housing sector. It has become an integral part of our project, enabling us to streamline processes, enhance efficiency, and contribute to the advancement of social housing initiatives. We remain committed to leveraging the potential of the signnow.eu domain to support the growth and sustainability of the social housing sector. As the effects of the pandemic gradually subside, we are prepared to fully unleash the capabilities of signnow.eu and deliver unparalleled automation solutions that empower housing providers to efficiently serve families with low income. The delayed launch due to COVID-19 does not diminish the significance of signnow.eu as a vital component of our offerings and our commitment to transforming the real estate industry".

The Respondent also says "We have been actively utilizing the domain as part of our business operations in the real estate industry, providing automation solutions to housing providers in Ireland and the United Kingdom ("UK"), thereby establishing rights and legitimate interests in the domain name" and that it "has become commonly known by this domain name within the real estate industry. Clients and partners recognize and associate the signnow.eu domain with Bynaric Ltd.'s offerings and expertise".

6. Discussion and Findings

Preliminary Issue – admissibility of Complainant’s Supplemental Statement

Paragraph 8 of the ADR Rules provides that “In addition to the Complaint and the Response, the Panel may request or admit, in its sole discretion, further statements or documents from either of the Parties”.

In the present case the Complainant’s Supplemental Statement addresses an issue it could not have addressed in the Complaint, namely how the Disputed Domain Name’s resolution was altered after the Respondent received the Complaint. It now resolves to a website (the “Respondent’s Website”) the contents of which are relevant to the issues before the Panel (see below). The Panel considers it is fair and desirable that this issue should be admitted into this proceeding and notes that the Respondent could have responded to this supplemental statement but has not done so, beyond objecting to its admission. Accordingly, the Panel will exercise its discretion to admit the Complainant’s Supplemental Statement.

The contents of the Complainant’s Supplemental Statement establish the following (which the Panel has verified by visiting the Respondent’s Website). The Respondent’s Website contains a heading “Signature for Property managers”. The remainder of the website content appears to be generic proforma text which appears to be written with a website for a company that carries out bespoke software development company for clients in mind – so for example there is a text which reads as follows “Personalized Software. At our company, we turn the digital dreams of our clients into a reality. We work closely with our users throughout development to ensure that we are still aligned with the end-goal. We are committed to producing exceptional software for each of our clients”. Testimonials that appear on the website seem likely to be fictitious – for example “Jane Doe - This company worked closely with me throughout the entire process. I loved the final product and can’t wait to use this company in the future!”. There is nothing on the Respondent’s Website which expressly refers to the Respondent and nowhere on the Respondent’s Website is there any reference to a product or service under the name “signnow”.

Substantive issues

According to Paragraph B(11)(d)(1) of the ADR Rules, the Panel shall issue a decision granting the remedy requested by the Complainant if the latter proves in the ADR proceeding that:

- (i) The Disputed Domain Name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The Disputed Domain Name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The Disputed Domain Name has been registered or is being used in bad faith.

In the present ADR proceeding, the Complainant has pleaded the cumulative existence of the circumstances provided by the ADR Rules (points (i), (ii) and (iii) above). The Panel notes that the ADR Rules list the issues under points (ii) and (iii) in the alternative.

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Disputed Domain Name is identical to the Complainant’s SIGNNOW EU trademark. It is well established that “.eu” suffix is to be ignored in making the relevant comparison. The Respondent is correct that the SIGNNOW EU trademark was registered after the Disputed Domain Name was registered but that does not matter for the purposes of this element. The only requirement of the ADR Rules is that the Complainant has a subsisting relevant trademark at the date the Complaint is filed. Of course the fact that a domain name was registered prior to a trademark being registered may be a factor to be taken into account in assessing legitimate interest and/or bad faith (see further below). Accordingly the Panel finds that the first condition of Paragraph B 11(d)(i) of the ADR Rules has been fulfilled

B. Rights or Legitimate Interests

Paragraph B11(e) of the ADR Rules provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (1) prior to any notice of the dispute, the Respondent has used the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with the offering of goods or services or has made demonstrable preparation to do so;
- (2) the Respondent, being an undertaking, organization or natural person, has been commonly known by the Disputed Domain Name, even in the absence of a right recognized or established by national and/or European Union law;
- (3) the Respondent is making a legitimate and noncommercial or fair use of the Disputed Domain Name, without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

The Respondent's case is that it has a legitimate interest in the Disputed Domain Name because (1) above applies as it has been using it prior to any notice of the present case in connection with its business. It also says that (2) above applies. There are a number of difficulties involved in assessing this issue on the facts of this case. The Panel starts by noting that the Respondent would appear to be a well-established *bona fide* business engaged in the business of developing a cloud based software solution for assisting in various aspects of housing management. It appears to operate in Ireland and the UK. The Respondent does not to the Panel appear to "fit" the profile of a typical cybersquatter. The Panel reaches this conclusion based primarily on the contents of the Bynaric Website as opposed to anything in the Response, which is singularly lacking in detail about the Respondent's business. The Panel also notes that the term SIGNNOW involves the conjoining of two ordinary English words and it is at least possible the Respondent could have independently coined that term without knowledge of the Complainant. The Respondent vehemently insists this is what has happened. The Panel accepts the Complainant's evidence that its use of the term SIGNNOW is extremely well known in the field of electronic document signature. That does not however mean it is known to persons unfamiliar with that field. All of these factors may point towards there being at least a possibility that the Respondent can establish a legitimate interest

There are however a number of factors that point the other way including in particular the following.

The Respondent's description of its business is confusing and it has not provided any explanation of how or why it wanted to use the term SIGNNOW in that business.

There is no evidence of any kind that it has actually used the term SIGNNOW in relation to its business. The Panel does not find the Respondent's claim that the Covid 19 pandemic has delayed its plans particularly convincing and would thought it should at least have been able to produce some documentary evidence supporting its claim that the Disputed Domain Name is "a vital component of our offerings".

The Respondent has not challenged the Complainant's evidence that the Disputed Domain Name resolved to the website of a competitor of the Complainant. It has provided absolutely no explanation of how or why that occurred.

The Respondent has not challenged the Complainant's evidence that the Respondent offered to sell the Disputed Domain Name to the Complainant for USD 250,000. This was following an approach by the Complainant and the Respondent has not explained how or why it made that proposal.

The redirection of the Disputed Domain Name to the Respondent's Website after the Respondent received the Complaint has not been satisfactorily explained by the Respondent. The Complainant suggests this is a clumsy attempt to provide "after the event" evidence supporting the Respondent's assertions. Whether or not that is correct the Panel does not know but at the very least it calls for an explanation from the Respondent and none has been provided.

The Panel considers it inherently implausible that the Respondent would not have identified the Complainant and its website linked to <signnow.com> prior to having registered the Disputed Domain Name given it is in substance identical to the SIGNNOW brand. Any form of Internet search relating to the term “signnow” would likely have identified the Complainant and its products. The Panel also notes that although the Respondent has denied any knowledge of the Complainant it has not explained how or why it chose the Disputed Domain Name nor as to what searches it carried out at the time of registration.

The Panel also rejects the Respondent’s claim to be generally known by the Disputed Domain Name. No evidence to support this claim has been produced.

Overall not enough evidence has been provided by the Respondent to support any of the claims it makes as to what it says it has been doing in relation to the Disputed Domain Name.

Furthermore as noted above there is no evidence before the Panel that the Respondent has actually used the Disputed Domain Name at all or made any demonstrable preparation to do so prior to its receipt of the Complaint. If that is the case then the Respondent cannot fall within (1) above in any case. In all the circumstances the Panel considers that the factors suggesting that the Respondent lacks rights or legitimate interests outweigh the factors that might support a finding of rights or legitimate interests. The Respondent had an opportunity to provide explanations supported by appropriate evidence for the matters the Complainant has raised, and the Panel does not consider that the Respondent provided satisfactory evidence. Accordingly, the Panel finds that the Respondent has not rebutted the Complainant’s case, and has failed to establish it has any rights or legitimate interests under the ADR Rules. It does not in the Panel’s opinion matter that the SIGNNOW EU trademark did not exist at the time the Respondent registered the Disputed Domain Name. It is still incumbent upon the Respondent to show by appropriate and credible evidence that it has rights or legitimate interests in the Disputed Domain Name and it has failed to do so.

C. Registered or Used in Bad Faith

Given that the Panel has determined that the Complainant has sufficiently met the criteria for the second condition under section Paragraph B11(d)(1) of the ADR Rules, it is therefore unnecessary for the Complainant to also satisfy the third condition, so the Panel does not propose to address this issue further.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the Disputed Domain Name <signnow.eu> be transferred to the Complainant namely airSlate Ireland Limited¹.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: August 3, 2023

¹ As the Complainant airSlate Ireland Limited is located in Ireland, a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of Regulation (EU) 2019/517. Therefore, the Complainant is entitled to request the transfer of the disputed domain name.

The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.