

ADMINISTRATIVE PANEL DECISION

Signal Technology Foundation, Signal Messenger, LLC v. Sergei Gromov,
Sergei Zdrilyuk
Case No. D2022-0588

1. The Parties

The Complainant is Signal Technology Foundation, Signal Messenger, LLC, United States of America (the “USA”), represented by IPLA, USA.

The Respondents are Sergei Gromov, and Sergei Zdrilyuk, Russian Federation.

2. The Domain Names and Registrar

The disputed domain names <signal.press> and <us-signal.org> (the “Domain Names”) are registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 19, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On February 22, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 23, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 26, 2022.

The Registrar confirmed that the language of the Registration Agreement for the Domain Names is Russian. On February 23, 2022, the Center sent an email communication to the Parties in both English and Russian regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on February 26, 2022. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint in both English and Russian, and the proceedings commenced on March 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent's default on April 4, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on April 27, 2022. 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 Rules, paragraph 7.

4. Factual Background

Signal Technology Foundation (the "first Complainant") and Signal Messenger, LLC (the "second Complainant"), the Complainants in the present proceedings, are respectively an American non-profit organization and its subsidiary. The Complainant developed and operates the Signal Messenger app (the "Signal Messenger"). Since 2014, the Signal Messenger has had over 105 million downloads, with over 40 million users as of January 2021.

The Complainants are the owner of numerous SIGNAL trademark registrations, including:

- the Russian Registration SIGNAL No. 776472 registered on September 28, 2020;
- the United States Registration SIGNAL No. 5230850 registered on June 27, 2017.

The Complainants are also the owners of numerous domain names incorporating its SIGNAL trademark, including <signal.org> and <signalfoundation.org>.

The Domain Names <signal.press> and <us-signal.org> were registered respectively on January 19, 2022 and December 20, 2021.

In accordance with the screenshots attached to the Complaint, after their registration the Domain Names were used to send emails to individuals offering alleged paid sponsorship agreements with the Complainants. As of the date of this Decision, the Domain Names resolve to inactive websites.

5. Parties' Contentions

A. Complainants

The Complainants request that the Domain Names be transferred to the first Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainants submit that the Domain Names are identical or confusingly similar to the SIGNAL trademark registrations of the Complainants.

Second, the Complainants argue that the Respondents has neither rights nor legitimate interests in the Domain Names.

Third, the Complainants submit that the Domain Names were registered and are being used in bad faith.

B. Respondents

The Respondents did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural considerations

A. Consolidation of the Respondents

The Complainants have submitted a request for the consolidation of proceedings against multiple Respondents.

Paragraph 3(c) of the Rules provides that the complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. Moreover, pursuant to section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.

In the present case, the Panel accepts that the Respondents’ use of both Domain Names in a similar fashion provides significant evidence that the Domain Names are owned and/or controlled by a common individual/entity. The Domain Names are used to send identical and/or nearly identical fraudulent emails impersonating the Complainant. Additionally, the naming format is highly similar for both Domain Names.

Accordingly, the Panel finds that the Domain Names are subject to common control for the purposes of these proceedings. The Respondents have not denied these assertions, thus the Panel permits the consolidation of the proceedings and refers hereinafter to both registrants of the Domain Names as the “Respondent”.

B. Language of Proceedings

The language of the Registration Agreement for the Domain Names is Russian. Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. a/k/a Edison Electric Corp. General Energy, Edison GE, Edison-GE and EEEGE.COM*, WIPO Case No. [D2006-0334](#)).

The Complainants have submitted a request that the language of the proceedings be English.

The Complainants contend *i.a.*, that the Respondent can understand the English language, as the content of emails sent using the Domain Names are almost exclusively in English.

This Panel accepts that according to the evidence in the record the Respondent is in all likelihood familiar with the English language. Moreover, the Panel finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Finally, the Panel notes that the Respondent did not comment on the language of the proceedings.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceedings to be conducted in English.

6.2. Substantive considerations

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2, [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the Domain Names are identical or confusingly similar to the Complainant’s trademark rights.

The Complainants hold numerous valid SIGNAL trademark registrations (which precede the registration of the Domain Names).

The Domain Names incorporate the Complainants’ SIGNAL trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term “us” in the Domain Name <us-signal.org> does not prevent confusing similarity between this Domain Name and the Complainants’ trademark. UDRP panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive, geographical, pejorative, meaningless, or otherwise, would not prevent a finding of confusing similarity under the first element. See section 1.8, [WIPO Overview 3.0](#).

The generic Top-Level Domains “.press” and “.org” in the Domain Names are viewed as a standard registration requirement and as such are disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the one of the Domain Names – <signal.press> is identical to the Complainants’ trademark, while the other – <us-signal.org> is confusingly similar. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Names.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has made preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services prior to the dispute; or

(ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or

(iii) that it intends to make a legitimate, noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that there are the Complainants' SIGNAL trademark registrations, which predate the Respondent's registration of the Domain Names. There is no evidence in the case that the Complainants have licensed or otherwise permitted the Respondents to use the SIGNAL trademark or to register the Domain Names incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Names.

Moreover, it results from the evidence in the record that the Respondent does not make use of the Domain Names in connection with a *bona fide* offering of goods or services, as well as it does not make a legitimate, noncommercial or fair use of the Domain Names without intent for commercial gain. On the contrary, the Domain Names are being used by the Respondent to email individuals and convince them to click unsafe malware links under the guise of entering a sponsorship deal with the Complainant. Thus, the Respondent uses the Domain Names for the purpose of phishing, installing malware, or engaging in other deleterious activities. Such use of the Domain Names does not confer rights or legitimate interests on the Respondent.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Names. Thus, there is no evidence in the case file that refutes the Complainant's submissions. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third requirement the Complainant must prove is that the Domain Names have been registered and are being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use include without limitation:

(i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or

(iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the SIGNAL trademark predate the registration of the Domain Names. This Panel finds that the Respondent was (or should have been) aware of the Complainants' trademark at the time of registration of the Domain Names. This finding is supported by the content of the Respondent's emails sent from the Domain Names, which intend to impersonate the Complainant. Moreover, it has been proven to the Panel's satisfaction that the Complainants' SIGNAL trademark is well-known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of products and services this trademark identifies. In sum, the Respondent in all likelihood registered the Domain Names with the expectation of taking advantage of the reputation of the Complainants' trademark.

Moreover, the Complainants presented evidence that the Domain Names were used in bad faith by the Respondent to email individuals and convince them to click unsafe malware links under the guise of entering a sponsorship deal with the Complainants. Thus, the Respondent used the Domain Names for the purpose of phishing, installing malware, or engaging in other deleterious activities. Given the above, the Panel accepts that the Respondent is using the Domain Names in an attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of its activities.

For the reasons discussed above, the Panel finds that the Complainants have proved the requirements under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names <signal.press> and <us-signal.org> be transferred to the first Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: May 10, 2022