

## **ADMINISTRATIVE PANEL DECISION**

Startek, Inc. v. Host Master, 1337 Services LLC  
Case No. D2022-3200

### **1. The Parties**

The Complainant is Startek, Inc., United States of America (“United States”), represented by Sherman & Howard, LLC, United States.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

### **2. The Domain Names and Registrar**

The disputed domain names <startek-pin.com> and <startek-ss.com> are registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2022. On August 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 30, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 1, 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 amendment to the Complaint on September 7, 2022.

The Center verified that the Complaint together with the amendment to the 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, and the proceedings commenced on September 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 11, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on November 23, 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.

Following the issuance of the Panel's Procedural Order No. 1 of November 28, 2022, the Complainant indicated on December 1, 2022 that the requested remedy is the transfer of the disputed domain names.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is the exclusive owner of a number of registered trademarks consisting of STARTEK, including the United States trademark registration No. 2174590 registered on July 21, 1998.

The disputed domain names were registered on August 3, 2022 and at the date of the Decision resolve to a webpage with a warning message of a deceptive website ahead. The Respondent has sent phishing text messages directing recipients to the disputed domain names.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain names are confusingly similar to its registered trademarks STARTEK, as the disputed domain names include the Complainant's trademark STARTEK with the addition of "sso" and "pin" respectively and a hyphen.

As regards the second element, the Complainant argues that the Respondent does not hold any trademark rights, license or authorization to use the Complainant's trademark. The Respondent is not commonly known by the disputed domain names. The Respondent is not using the disputed domain names in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services. Rather, the Respondent has used the disputed domain names as part of a phishing scam targeting the Complainant's employees which does not confer rights or legitimate interests in the disputed domain names.

With respect to the third element, the Complainant argues that the registration of the disputed domain names well postdates the registration of the Complainant's trademarks. The disputed domain names incorporate the Complainant's trademark in its entirety together with terms that may confuse the Complainant's employees, such as "-sso", which stands for "single sign-on" to permit a user to login to an account, and "-pin", which stands for "personal identification number" to authenticate access to a system. The disputed domain names have been used in an attempt to lure the Complainant's employees to malicious websites associated with the disputed domain names in order to gain access to their personal information and login information, therefore the disputed domain names have been registered and used in bad faith.

##### **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## 6. Discussion and Findings

### 6.1. Preliminary Matters

No communication has been received from the Respondent in this case. However, the Panel notes that the Complaint was notified in accordance with paragraph 2(a) of the Rules, the Panel therefore considers that this satisfies the requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

### 6.2. Substantive Matters

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names were registered and are being used in bad faith.

#### A. Identical or Confusingly Similar

The Complainant has provided evidence of its rights in the STARTEK trademarks. The trademark STARTEK is reproduced in its entirety in each of the disputed domain names. The addition of “-pin” and “-sso” does not prevent a finding of confusing similarity with the Complainant’s trademark, which is recognizable in each of the disputed domain names. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other terms to such trademarks. The addition of the other term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain names are confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

#### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain names in

order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark STARTEK and claims that the Respondent has no legitimate reason to acquire and use the disputed domain names.

There is no evidence that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the unrebutted evidence put forward by the Complainant, the Respondent apparently used the disputed domain names in connection with a phishing scheme carried out over mobile text messaging, also known as smishing, and such activity cannot amount to a fair use of the disputed domain names by the Respondent. See section 2.13 of the [WIPO Overview 3.0](#). Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain names.

Furthermore, the characteristics of the disputed domain names are apt to suggest an affiliation or connection with the Complainant, which prevents any use of them by the Respondent from being considered fair. In this respect, section 2.5.1 of the [WIPO Overview 3.0](#) provides that "[...] where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain names were registered and are being used in bad faith.

According to the unrebutted assertions of the Complainant, its STARTEK trademarks were registered well before the registration of the disputed domain names in August 2022. The disputed domain names are confusingly similar to the Complainant's trademarks. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain names. The Respondent provided no explanations for why it registered the disputed domain names.

The Complainant argues that the Respondent used the disputed domain names in a fraudulent smishing scheme targeting its employees in an attempt to gain access to their personal information and login information. The evidence put forward by the Complainant in this respect has not been rebutted by the Respondent. The use of a domain name for illegitimate activity such as smishing is considered evidence of bad faith under the Policy (see sections 3.1.4 and 3.4 of the [WIPO Overview 3.0](#)).

In the Panel's view, these circumstances represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

## 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 disputed domain names <startek-pin.com> and <startek-ss.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: December 6, 2022