

ADMINISTRATIVE PANEL DECISION

Cineworld Cinemas Limited v. Aleksey A Shishkanov
Case No. D2024-2095

1. The Parties

The Complainant is Cineworld Cinemas Limited, United Kingdom (“UK”), represented by Bryan Cave Leighton Paisner LLP, United States of America.

The Respondent is Aleksey A Shishkanov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <cineworldgr.com> is registered with Beget LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 23, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On May 28, 2024, the Center informed the Parties in Russian and English, that the language of the registration agreement for the disputed domain name is Russian. On May 28, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that 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 in English and Russian, and the proceedings commenced on June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 26, 2024.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on July 4, 2024. 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

The Complainant operates 750 movie theatres around the world and 9200 movie projection screens. One hundred and two cinemas and 1099 screens are operated under the CINEWORLD brand and are promoted by reference to that brand and logo. The Complainant owns registered trademarks in the UK and in the European Union ("EU") for the term CINEWORLD and that term combined with device elements, these being CINEWORLD EU trademark No 006894109, and CINEWORLD trademark No UK00906894109, both registered on June 12, 2009; CINEWORLD trademark No UK00002410286, registered on March 23, 2007; CINEWORLD CINEMAS EU trademark No 009254814, and CINEWORLD CINEMAS trademark No UK00909254814, both registered on December 27, 2010.

The official Cineworld Group website operates at the domain name <cineworldplc.com> which has been registered since May 2006.

The disputed domain name was registered on May 10, 2024, and redirects to the Complainant's official Cineworld Group website at "www.cineworldplc.com". The disputed domain name is alleged to have been used for phishing purposes.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it has the necessary trademark rights, as established by its ownership of the registered marks referenced above and its long use and extensive promotion of those marks in commerce. The Complainant contends that the disputed domain name is intentionally identical or confusingly similar to the CINEWORLD trademarks it possesses. The Complainant points out that the disputed domain name incorporates its registered mark in its entirety and merely adds the non-distinctive abbreviation "gr" to the end of the mark in an obvious attempt to trade off the goodwill of the Complainant and its CINEWORLD marks and create confusion.

The Complainant contends that the Respondent intentionally included "gr", an abbreviation for "Group", and that to increase consumer confusion and further its scheme to impersonate Cineworld and the Cineworld Group. The Complainant says that the Respondent is using the disputed domain name to impersonate the Complainant, trying to pass itself off as Cineworld or part of the Cineworld Group, so as to send fraudulent emails to the Complainant's customers and by redirecting from the <cineworldgr.com> domain name to the authentic Cineworld Group website.

The Complainant acknowledges that it must make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name but states that it may do so simply by raising a plausible assertion that the Respondent is engaged in unauthorized use of the Complainant's trademarks. It points to the fact that the Respondent is using the disputed domain name to send fake emails posing as the Complainant in an attempt to trick the recipients (including the Complainant's customers) into giving information to the Respondent.

The Complainant asserts that the Respondent is not in any way associated with it and is not licensed or otherwise authorized to use the Cineworld marks or the disputed domain name.

The Complainant also contends that its Cineworld trademarks are extremely well-known, if not famous, and have been in use for a long time. The Complainant contends that there is no way the Respondent did not know of the Complainant's marks when registering the disputed domain name recently. This conclusion is reinforced by the fact of the Respondent's use of the disputed domain name to impersonate the Complainant through fraudulent emails, and by redirecting to the authentic Cineworld Group website. The Respondent is also not known by the disputed domain name or any term like 'Cineworld', and does not have an active website of his own, instead redirecting to the Complainant's own official site.

Further the Complainant contends that the Respondent's bad faith registration and use of the disputed domain name is shown by its fraudulent email scheme. Within days of registering the disputed domain name the Respondent used it to impersonate the Complainant and send fraudulent emails. The Complainant asserts that in an attempt to lend credibility to its fraudulent email scheme, the Respondent is using it to redirect to the Complainant's authentic Cineworld Group website. The Respondent's conduct is said to be an obvious and undeniable scheme to steal assets and information and thus the Complainant contends that bad faith is made out in every relevant manner.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that 1) the disputed domain name and the Complainant's registered marks consist entirely of English language words; 2) the Respondent is familiar with English, as shown by his sending fraudulent emails in English, and his registration of an English-language domain name; 3) English is the Complainant's primary language and the language in which it conducts its business (as it is a company based in the United Kingdom); 4) the Complainant and its counsel are unable to communicate in Russian; and 5) the Complainant will be burdened with additional and unnecessary costs and the proceedings needlessly delayed if English is not adopted as the language for this proceeding.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

Although the addition of other terms here 'gr' may bear on assessment of the second and third elements, the Panel finds the addition of these letters does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.8).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie case and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here claimed to be phishing and a deceptive redirection to the Complainant's official website, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent acquired the disputed domain name in the likely full knowledge of the Complainant's rights. The composition of the disputed domain name cannot be accidental and clearly indicates that the Respondent knew of the Complainant and its exclusive rights. A simple Google or trademark register search would in any case have established that fact. The most

immediately use the Respondent has made of the disputed domain name, for the purpose of phishing and by falsely suggesting a legitimate relationship with the Complainant's genuine website and business, all speak to a fraudulent scheme and thus to both bad faith registration and use of the disputed domain name.

The Panel finds that the Complainant has established the third element 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 disputed domain name <cineworldgr.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: July 18, 2024.