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WIPO panel: no cybersquatting, no jurisdiction

International - [Hogan Lovells](#)

- The complainant, who claimed that he had unregistered trademark rights in IGROUTKA, sought the transfer of 'igroutka.net' under the UDRP
- The complainant claimed that the domain name had been stolen from him by someone who presented forged identity papers to the registrar
- The panel stated that the UDRP was designed to combat cybersquatting, and not for this type of case

In a recent [decision](#) under the [Uniform Domain Name Dispute Resolution Policy](#) (UDRP) before WIPO, a panel has refused to transfer the domain name 'igroutka.net', finding that WIPO was not the appropriate forum to settle the dispute at hand.

Background

The complainant was Aleksandr Danilchuk, an individual who was the registrant of the disputed domain name between June 2016 and July 2020. The domain name originally resolved to a website offering various online games and displaying advertisements. The website was called "ИгроУтка - бесплатные онлайн игры" (which translates as "IgroUtka - free online games"). The complainant had no registered trademark but asserted that he had unregistered trademark rights in IGROUTKA as a result of his use of the website and the high number of visitors.

The respondent was initially identified as a privacy service. The registrar then disclosed the registrant information and identified Vadym Didenko as the respondent. The respondent was recorded as the registrant of the domain name in July 2020. At the time of the proceedings, the domain name resolved to a website similar to the initial one, featuring various online games and advertising.

The complainant asserted that the disputed domain name was stolen from him in July 2020 by someone who presented forged copies of the complainant's identity papers to the registrar. Moreover, according to the complainant, the account relating to the contact email address provided for the domain name registration had also been hacked.

The complainant initiated proceedings under the UDRP for a transfer of ownership of the domain name.

To be successful under the UDRP, a complainant must satisfy the requirements of Paragraph 4(a) of the UDRP:

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

Decision

The complainant made various arguments under all elements of the UDRP in support of his claim, and the respondent countered by providing various documents. However, the panel did not address the parties' contentions under the three elements in any detail and, instead, considered the issue of whether this dispute was within the scope of the UDRP.

The panel underlined the fact that the UDRP was initially designed to combat cybersquatting, but in fact this case dealt with the question of who was the rightful owner of the domain name and whether the respondent had acquired it legitimately or through forgery and theft. According to the panel, the UDRP was not designed for this type of case and, as such, it was not the appropriate forum for the dispute.

As a result, the complaint was dismissed, although the panel made it clear that this in no way restricted the complainant's ability to pursue the matter before the courts of competent jurisdiction.

Comment

This decision is a reminder of the purpose, as well as the limits, of the UDRP. As underlined by the panel in this case, the UDRP's core purpose is to combat cybersquatting. The dispute resolution mechanism set forth by the UDRP does not provide for classic procedural methods aimed at ensuring due process, such as hearings or cross-examination. The standard of proof is also lower than what would be required by most national courts in order to establish fraud or theft. As such, disputes involving accusations that go beyond cybersquatting may not be settled under the UDRP and parties must resort to the appropriate national jurisdiction.

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