

ADMINISTRATIVE PANEL DECISION

Gravity Co., Ltd. and Gravity Interactive, Inc. v. Andres Palomino Gonzalez Cortegoso
Case No. D2022-0219

1. The Parties

The Complainants are Gravity Co., Ltd., Republic of Korea, and Gravity Interactive, Inc., United States of America (“United States”), represented by LUCEM, PC, United States.

The Respondent is Andres Palomino Gonzalez Cortegoso, Brazil.

2. The Domain Name and Registrar

The disputed domain name <roorigins.com> (the “Disputed Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 22, 2022. On January 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 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 January 31, 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 February 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 24, 2022.

The Center appointed Nick J. Gardner as the sole panelist in this matter on March 4, 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

Gravity Co., Ltd., the First Complainant, is a company incorporated in the Republic of Korea. Gravity Interactive, Inc., the Second Complainant, is a company incorporated in the United States and is a wholly owned subsidiary of the First Complainant. In practical terms, for the purpose of this proceeding, nothing turns on the distinction between the First Complainant and the Second Complainant and it is convenient to refer to them collectively as the “Complainant”.

The Complainant is a global online game company that developed an MMORPG (*i.e.* a “massively multiplayer online role-playing game”) called “Ragnarök Online” based on Norse mythology. This game was originally released in 2002.

There have been various versions of the Ragnarök Online game. The Complainant launched a version called “Ragnarök Origin” in July 2020 for Korean users, in June 2021 for Japanese users, and then in October 2021 for United States users. The Complainant’s “Ragnarök origin” game website for United States users is linked to the domain name <ragnarok-origin.com>.

The First Complainant owns over 100 trademark registrations and applications which include the word “ragnarok / ragnarök” in connection with online and mobile games, including but not limited to United States Trademark Registration No. 2882208 for RAGNAROK; issued September 7, 2004, United States Trademark Registration No. 3405849 for RAGNARÖK RAGNAROK ONLINE, issued April 1, 2008; Republic of Korea Trademark Registration No. 1726522 for RAGNARÖK ORIGIN, issued May 11, 2021; and United States Trademark Application No. 90772831 for RAGNARÖK ORIGIN, filed June 14, 2021. These trademarks are referred to collectively in this decision as the “Ragnarök Trademarks”.

At the date of this decision, the Disputed Domain Name is linked by redirection to a website at the domain name <roorigin.world> (the “Respondent’s Website”). That website displays the Complainant’s logo and appears to provide either for download or online play what purports to be a version of the Complainant’s online game “Ragnarök Origin”.

The Complainant has brought a previous UDRP Complaint (the “First Complaint”) in relation to the domain name <roorigin.com> – see *Gravity Co., LTD. and Gravity Interactive, Inc. v. Domain Privacy Service FBO Registrant / Junior Silva*, WIPO Case No. [D2021-2648](#). The First Complaint was filed on August 12, 2021. The Disputed Domain Name was registered on August 28, 2021. The decision in respect of the First Complaint was in favour of the Complainant, ruling the transfer of the disputed domain name.

5. Parties’ Contentions

Complainant

The Complainant’s case is set out in some detail but it can be summarized as follows:

- a) The Disputed Domain Name is identical or confusingly similar to the Ragnarök Trademarks. The initial letters “ro” in the Disputed Domain Name would be understood by likely visitors as referring to Ragnarök Online or Ragnarök Origin.
- b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name.
- c) The Respondent has registered and used the Disputed Domain Name in bad faith. The Complainant says

the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by use of a domain name confusingly similar to the Complainant's Ragnarök Trademarks. It says the Respondent has unfairly tried to take advantage of the Ragnarök Trademarks. It says the Respondent's website is identical to the website that was linked to the domain name at issue in the First Complaint and is clearly an attempt by the Respondent to carry on the activity that was found to be acting in bad faith in the decision made in respect of the First Complaint – specifically providing an unauthorized and pirated version of the Complainant's game "Ragnarök origin". It says the respondent in the First Complaint was based in Brazil as is the Respondent and it infers they are likely the same person or acting together.

Respondent

No Response has been filed.

6. Discussion and Findings

6.1. Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel 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 is able to proceed to determine this Complaint 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 (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

6.2. Substantive Matters

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements in respect of the Disputed Domain Name: (i) the Disputed Domain Name is identical to or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in the Disputed Domain Name; (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the Ragnarök Trademarks. The Panel finds the Disputed Domain Name is confusingly similar to the Ragnarök Trademarks. As was the case in *Gravity Co., LTD. and Gravity Interactive, Inc. v. Domain Privacy Service FBO Registrant / Junior Silva*, WIPO Case No. [D2021-2648](#) the Panel acknowledges that this is not a straightforward comparison in that the Disputed Domain Name does not contain the trademark either in its entirety or as an obvious variation or abbreviation. The Complainant says that the initial "r" and "o" in the Disputed Domain Name would be taken as an acronym for "Ragnarök Online" or "Ragnörak Origin" by persons interested in the game. Given the evidence the Panel accepts this is likely to be the case. Further while UDRP panels typically do not refer to the content of the website under the first element, in this case the Respondent's Website targets the Complainant's Ragnarök Origins game, which affirms the confusing similarity. See section 1.15 of the [WIPO Overview 3.0](#). The Panel notes that the panel in *Gravity Co., LTD. and Gravity Interactive, Inc. v. Domain Privacy Service FBO Registrant / Junior Silva*, WIPO Case No. [D2021-2648](#) reached a similar conclusion in relation to a domain name almost identical to the Disputed Domain Name.

It is also well established that the generic Top-Level Domain ("gTLD"), in this case ".com", does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Ragnörök Trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy non-exhaustively lists three circumstances that demonstrate a right or legitimate interest in a domain name:

- “(i) before any notice to you of the dispute, your use of, or demonstrable 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; or
- (ii) you (as an individual, business or other organisation) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

None of these apply in the present circumstances. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the Ragnörök Trademarks. The Complainant has prior rights in the Ragnörök Trademarks which precede the Respondent's registration of the Disputed Domain Name. The Complainant has therefore established a *prima facie* case that the Respondent has no rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce relevant evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see for example *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)). The Panel finds that the Respondent has failed to produce any evidence to establish any rights or legitimate interests in the Disputed Domain Name. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

In the present circumstances, the Panel concludes that the Respondent chose to register a name confusingly similar to the Complainant's Ragnörök Trademarks in order to facilitate a business where the Respondent's Website could offer for download and/or on-line play a game which purports to be a branded Ragnörök product. Manifestly the choice of a confusingly similar name was not coincidental. The timing raises a clear inference that the Respondent registered the Disputed Domain Name for use in case the decision in respect of the First Complaint was adverse to the respondent in that case (as it was), and with the intention of using it to carry out the same activities.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- “(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

In the present circumstances the Panel agrees with the Complainant that factor (iv) applies as the Respondent was seeking to attract customers by creating a likelihood of confusion with the Complainant's Ragnarök Trademarks. The Respondent offers or purports to offer a version of the Complainant's game when it has no authority to do so. In reaching this finding the Panel does not need to reach a conclusion as to whether the game the Respondent is offering is counterfeit or not. The Panel however infers the present Respondent and the respondent in the First Complaint are either the same person or are acting together. The Panel accepts the Complainant's evidence that the Respondent's Website is identical to that at issue in the First Complaint. Accordingly the Panel concludes the Disputed Domain Name was likely registered as part of a scheme to circumvent any decision adverse to the respondent in relation to the First Complaint, which itself in the Panel's opinion amounts to bad faith registration and use. Even if the Respondent was not the same person or acting in concert with the respondent in *Gravity Co., LTD. and Gravity Interactive, Inc. v. Domain Privacy Service FBO Registrant / Junior Silva*, WIPO Case No. [D2021-2648](#), the Panel would still find that the Respondent registered and used the Disputed Domain Name in bad faith. The Panel also notes that the Respondent has not filed a Response and hence has not availed himself of the opportunity to present any case of good faith that he might have. The Panel infers that none exists.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 4 of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <roonlines.com>, be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: March 18, 2022