

ADMINISTRATIVE PANEL DECISION

Sniffies, LLC v. Larin Vladislav Sergeevich
Case No. D2023-3306

1. The Parties

The Complainant is Sniffies, LLC, United States of America ("United States"), represented by Hanson Bridgett LLP, United States.

The Respondent is Larin Vladislav Sergeevich, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <sniffies.website> (the "Domain Name") 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 August 2, 2023. On August 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Not Applicable) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 25, 2023, 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 August 25, 2023.

The Registrar also indicated that the language of the registration agreement is Russian. On August 25, 2023, the Center sent an email communication to the Parties in both Russian and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into Russian; or submit a request for English to be the language of the administrative proceedings. On August 25, 2023, the Complainant filed a request for English to be the language of the proceedings. The Respondent did not comment on the language of the proceedings.

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 in both English and Russian, and the proceedings commenced on September 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 25, 2023.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on October 18, 2023. 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 is a provider of online platforms. Since at least February 2017, the Complainant has offered the SNIFFIES-branded online dating and social meetup platform.

The Complainant is the owner of numerous SNIFFIES trademark registrations, including:

- the United States Trademark Registration for SNIFFIES No. 6820819, registered on August 16, 2022; and
- the European Union Trademark for SNIFFIES (word) No. 018596060, registered on November 15, 2022.

The Complainant claims that it is also the owner of the domain name <sniffies.com> incorporating its SNIFFIES trademark.

The Domain Name was registered on July 19, 2023.

At the time of submitting the Complaint, the Domain Name was redirecting to various third-party websites offering services similar to, and competing with, those of the Complainant (the “Competitive Websites”). According to the Complainant, the Competitive Websites appeared to be scams to elicit credit card numbers from visitors to these websites.

As of the date of this Decision, the Domain Name resolves to inactive website.

5. Parties’ Contentions

A. Complainant

The Complainant requests the transfer of the Domain Name. According to the Complainant, each of three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is identical to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters – Language of the Proceedings

The language of the Registration Agreement for the Domain Name 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 into the language of the proceeding.

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 Complainant has submitted a request that the language of the proceeding be English. First, the Complainant notes that the Domain Name is composed exclusively of English wording, namely the Complainant's SNIFFIES trademark and the generic Top-Level Domain (“gTLD”) “.website”. Moreover, the Complainant submits that the Competitive Websites to which the Domain Name redirects are also in English. Accordingly, the Respondent has demonstrated its ability to communicate in English. Finally, the Complainant alleges that it is unable to communicate in Russian.

The Panel finds that substantial additional expenses and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment on (let alone object) to the Complainant's arguments concerning the language of the proceeding.

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

6.2. Substantive Matters – Three Elements

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 Domain Name is identical 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 Domain Name; and
- (iii) the 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 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid SNIFFIES trademark registrations. The Domain Name incorporates this 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 that 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 gTLD “.website” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is identical to the Complainant’s SNIFFIES trademark. Thus, the Complainant has satisfied the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or 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 is 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.

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 on record that the Complainant’s SNIFFIES trademark registrations predate the Respondent’s registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the SNIFFIES trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, the Domain Name has redirected Internet users to the Competitive Websites. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

Furthermore, the composition of the Domain Name, wholly incorporating the SNIFFIES trademark by itself, carries a high risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

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 Name. Thus, there is no evidence in the case file that refutes the Complainant’s *prima facie* case. The Panel concludes that the Complainant has also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is 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 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes 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 was 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 SNIFFIES trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Competitive Websites offering services similar to, and competing with, those of the Complainant. Moreover, it has been proven to the Panel's satisfaction that the Complainant's SNIFFIES trademark is well known and unique to the Complainant. Thus, the Respondent could not reasonably likely ignore the reputation of services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's SNIFFIES trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to redirect Internet users to the Competitive Websites. The Respondent presumably intended to earn profit from the confusion created with Internet users. In consequence, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Competitive Websites by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Competitive Websites.

For the reasons discussed above, the Panel finds that the Complainant has satisfied 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 Name <sniffies.website> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: October 20, 2023