

## **ADMINISTRATIVE PANEL DECISION**

Sierra Remote Observatories, LLC v. Jon Berg  
Case No. D2025-1957

### **1. The Parties**

The Complainant is Sierra Remote Observatories, LLC, United States of America (“United States”), represented by Sierra IP Law, PC, United States.

The Respondent is Jon Berg, Norway.

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

The disputed domain name <sro.com> (the “Disputed Domain Name”) is registered with GoDaddy Online Services Cayman Islands Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2025. On May 16, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 16, 2025, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 19, 2025, 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 amended Complaint on May 22, 2025.

The Respondent sent an email communication to the Center on May 26, 2025.

The Center verified that the Complaint together with the amended 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 May 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 15, 2025. The Response was filed with the Center on June 13, 2025.

The Center appointed Nick J. Gardner as the sole panelist in this matter on July 1, 2025. 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.

On July 8, 2025, the Panel issued a Procedural Order (the "First Procedural Order") in the following terms:

"The Panel has reviewed the Parties submissions and notes that the Respondent asserts in the Response that 'The Respondent bought the domain name Nov 27, 2017 from the previous owner at market rate for a three letter .com domain name. The respondents used Uniregistry as registrar for the domain sro.com. nThe Respondent has been the registered owner of the domain sro.com since Nov 27, 2017 to today'".

The Panel notes, however, that the Respondent has not provided evidence in support of said claims.

Pursuant to paragraphs 10 and 12 of the Rules, the Panel invites the Respondent to provide documentary evidence supporting the above account by July 15, 2025. The Respondent may, if he wishes, redact any commercially confidential pricing information.

The Complainant shall have until July 22, 2025, to comment on the Respondent's evidence.

The Parties' submissions should be limited to the above requested information, and submitted via email to the Center, copying the other Party.

The due date for the Decision is extended to July 29, 2025".

No evidence was provided by the Respondent by the specified date. The Complainant submitted comments on July 22, 2025.

On July 24, 2025, the Respondent asked for an extension of time to respond to the First Procedural Order.

On July 25, 2025 the Panel issued Procedural Order No 2 (the "Second Procedural Order") in the following terms:

"Pursuant to paragraphs 10 and 12 of the Rules, in his Panel Procedural Order No. 1 issued on July 8, 2025, the Panel invited the Respondent to provide documentary evidence by July 15, 2025, and the Complainant to comment on the Respondent's evidence until July 22, 2025. The Respondent did not answer by the due date, but the Complainant submitted its comments on July 22, 2025.

On July 24, 2025, the Respondent asked for an extension to respond to the Panel Order No.1.

The Panel grants the Respondent the opportunity to reply to Panel Order No.1 until July 30, 2025.

The Complainant shall have until August 4, 2025, to comment on the Respondent's evidence.

The Parties' submissions should be limited to the requested information, and submitted via email to the Center, copying the other Party.

The due date for the Decision is extended to August 9, 2025".

On July 24, 2025, the Respondent submitted a copy of an invoice dated November 27, 2017 (the "Purchase Invoice") which he said was in respect of his purchase of the Disputed Domain Name.

On August 4, 2025, the Complainant filed a supplemental statement ("the Complainant's Supplemental Statement").

#### 4. Factual Background

The Complainant is a United States corporation. It describes its business as follows “Since 2007, Complainant has provided facilities for operating observatory telescopes in the foothills of Fresno County, California, United States of America under the service mark SRO. The facilities may be rented to third parties and include enclosures for housing telescopes that include power and internet access. Complainant provides repair and maintenance for telescopes in these enclosures. Complainant also provides third party access via computer network to images of astronomical objects collected using observatory telescopes. All of these services are provided under the service mark SRO.”

There is no evidence as to the size of the Complainant’s business or as to its fame or reputation either in its specialized field of business or more generally.

On October 25, 2022, the Complainant obtained United States Service Mark Registration No. 6,882,447 from the United States Patent and Trademark Office for the mark SRO for use in conjunction with: providing maintenance and repairs of observatory telescopes for others in International Class 037, providing third party access via a computer network to images of astronomical objects collected using observatory telescopes in International Class 038, and hosting of observatory telescopes, namely, providing rental of physical facilities for housing observatory telescopes including enclosures, power and Internet access in International Class 042. This trademark is referred to as the “SRO trademark” in this decision.

The Disputed Domain Name was originally registered on October 4, 1994. There is no evidence it has ever resolved to a website with any substantive content.

The Purchase Invoice shows that the Respondent purchased the Disputed Domain Name from a third party on November 27, 2017, for the sum of USD 65,000. It was thereafter from time to time advertised as being for sale.

On March 23, 2023, the Complainant offered to buy the Disputed Domain Name for USD 500. That offer was made via a marketing platform where the Disputed Domain Name was being offered for sale. A response (probably automated) was received almost immediately from a “Dag Ford” who said he was the “owner of sro.com”<sup>1</sup> and said he “will get back to you shortly”.

On April 2, 2023 Dag Ford sent an email indicating the price for the Disputed Domain Name was USD 490,000.

With effect from about March 14, 2024, the advertised price for the Disputed Domain Name increased to USD 690,000.00

The Respondent is an individual resident in Norway.

#### 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. The Complainant’s case was originally based on what it said were transfers of ownership of the Disputed Domain Name which it said occurred subsequent to it making an initial offer to buy the Disputed Domain Name. The way in which the Complainant puts its case has however changed

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<sup>1</sup> It would appear this statement was incorrect. The record is not entirely clear but it seems to the Panel most likely that “Dag Ford” was a broker acting on behalf of the Respondent.

following the Respondent producing the Purchase Invoice and is now set out in the Complainant's Supplemental Statement.

The Complainant now says that the Respondent's purchase of the Disputed Domain Name occurred over ten years after the Complainant started using the term "SRO" to promote its facilities and services. It says "Respondent came into possession of the disputed domain name SRO.COM at a time when Complainant had been using the SRO mark in commerce for nearly a decade, even though Complainant had not at that time obtained an official service mark registration. Thus, Complainant had established strong common law trademark rights in the mark SRO as of the date that Respondent took possession of the disputed domain name".

It also says "Second, based on the high purchase price paid for the subject domain name (i.e., \$65,000.00USD), the fact that Respondent has not himself made any use of the domain name after this large amount was paid nearly eight years ago, and the fact that the domain name remains for sale, it is apparent that Respondent had no intention to actually use the domain name, but was targeting the Complainant's mark in bad faith by purchasing the identical domain name, with the intention of selling it to Complainant for an even higher price".

And "Here, the Respondent apparently acquired the SRO.COM domain name for \$65,000.00 but as of April 25, 2025, the asking price was over ten times that amount, at \$690,000.00 with a minimum opening offer of \$448,500.00. (See Annexes 2.07 and 2.10.) On page 4, section C of his Response, the Respondent himself acknowledged, "SRO.com is a valuable three-letter domain, and its pricing reflects standard market valuation rather than an attempt to exploit the complainant". This indicates that Respondent never intended himself to use the domain name, but always had the intention of selling it for a significant profit".

## **B. Respondent**

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the Disputed Domain Name.

The Respondent says that SRO is a widely recognized acronym with multiple meanings across different industries, including "Software Refactoring & Optimization," "Self-Regulatory Organization," "Search Result Optimization" and "Standing Room Only."

He goes on to say that the Complainant does not have exclusive rights to the acronym "SRO," as it is commonly used in various contexts unrelated to their business. There is no evidence that consumers associate SRO.com specifically with the Complainant's brand. The Disputed Domain Name was purchased before the Complainant had registered a trademark.

The Respondent says that he registered the Disputed Domain for legitimate purposes, specifically to develop a website focused on "Software Refactoring & Optimization". He says the Disputed Domain Name serves as a professional platform for his activities as an IT-professional as follows:

- Portfolio & Case Studies – Demonstrating past projects and optimization techniques.
- Technical Blog & Articles – Sharing best practices in refactoring, performance tuning, and clean code principles.
- Being able to host project deliveries.
- Having a contact point across different projects.
- Resume & Career Highlights – Displaying professional experience, certifications, and achievements.
- Consulting & Freelance Services – Offering expertise in software optimization for businesses and startups.

The Respondent says his use of the Disputed Domain Name is entirely unrelated to the Complainant's business and it has never been used to mislead, impersonate, or disrupt the Complainant's business.

The Respondent says that holding a domain name for future development is a common and legitimate practice, and the absence of an active website does not indicate bad faith.

The Respondent says there is no evidence of any attempt to sell the Disputed Domain to the Complainant at an inflated price. The Complainant initiated the discussion about purchasing the Disputed Domain Name, and the response was a standard negotiation rather than an attempt to target their trademark. When the broker did not receive any replies, the interaction was dropped by the broker. Also the Complainant did not give any context as to who it was. The Disputed Domain is a valuable three-letter domain, and its pricing reflects standard market valuation rather than an attempt to exploit the Complainant.

The Respondent requests a finding of Reverse Domain Name Hijacking (“RDNH”). He says this for the following reasons:

- The Complainant’s timeline falsely claims the disputed domain name was registered after the Complainant’s trademark and misrepresents Whois data to suggest bad faith. This deliberate misrepresentation indicates an attempt to mislead the Panel, constituting bad faith.
- The Complainant knew or should have known that its trademark, registered in 2022, postdates the Disputed Domain Name’s registration in 2017.
- The Disputed Domain Name is a three-letter acronym with inherent value and multiple potential uses unrelated to the Complainant’s trademark. The Complainant’s attempt to claim exclusive rights over a generic term is an abuse of the UDRP process.
- The Complainant’s offer of USD 500 USD to purchase the domain suggests an attempt to acquire it at a low cost before resorting to the UDRP. This “Plan B” approach, after failing to secure the domain through negotiation, indicates bad faith and harassment.
- The Complainant’s failure to satisfy any of the three UDRP elements, combined with their misleading timeline and knowledge of their weak case, and all of these factors evaluated in combination shows reckless disregard for the UDRP process. This warrants an RDNH finding to deter such abusive filings.

## **6. Discussion and Findings**

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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 respect of the Disputed Domain Name;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

### **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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has rights in the SRO trademark. The Panel finds the Disputed Domain Name is identical to this trademark. It is 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](#).

It does not matter for the purposes of this element that the Disputed Domain Name was acquired by the Respondent before the SRO registered trademark existed – the Panel agrees with the consensus approach as explained in [WIPO Overview 3.0](#) section 1.1.3:

“While the UDRP makes no specific reference to the date on which the holder of the trademark or service mark acquired its rights, such rights must be in existence at the time the complaint is filed.”

Registration of a domain name before a complainant acquires trademark rights in a name does not prevent a finding of identity or confusing similarity under the UDRP. The UDRP makes no specific reference to the date on which the holder of the trademark or service mark acquired rights. However, in such circumstances it may be difficult to prove that the Disputed Domain Name was registered in bad faith under the third element of the UDRP. See below as to bad faith issues.

The Panel would however add that it does not accept the Complainant’s claim to have unregistered trademark rights in the term SRO. In this regard [WIPO Overview 3.0](#) section 1.3 addresses this issue as follows:

“What does a complainant need to show to successfully assert unregistered or common law trademark rights?”

To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant’s goods and/or services.

Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.

(Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant’s goods and/or services.)

Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning.”

In the present case there is a complete lack of any evidence supporting the claim to unregistered trademark rights and the Panel does not accept that claim.

However given the Complainant’s registered trademark rights (see above) the Panel finds that the Disputed Domain Name is identical or confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

## **B. Rights or Legitimate Interests**

Given that the third element under the Policy is not established (see below) the Panel does not need to determine this issue.

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

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.

The Complainant's case is that (i) applies. It in essence now says that it had common law trademark rights such that the Respondent must have had the Complainant in mind when he purchased the Disputed Domain Name in November 2017 for USD 65,000. The problem with this argument is that there is absolutely no evidence to support the proposition that the Complainant had common law trademark rights, or that there was any reason to have supposed that the Respondent, based in Norway, would have any knowledge of the Complainant.

The Panel regards with considerable scepticism the Respondent's claim to have purchased the Disputed Domain Name for use in promoting his IT skills in the field of "Software Refactoring & Optimization". He purchased the Disputed Domain Name in November 2017 and there is no evidence that he has taken any steps since that date to use the Disputed Domain Name in the manner he suggests. Further the price paid, USD 65,000 seems high for a domain name intended for such a limited use. It seems far more likely to the Panel that the Respondent purchased the Disputed Domain Name because he considered it potentially valuable as a three-letter acronym which could potentially be of interest to any number of organisations who had a name that could be represented by such an acronym. In other words, he purchased it as a potentially valuable asset which he could resell at a profit. There is nothing wrong with that, if a domain name is purchased for its generic characteristics and without intent to target a specific trademark owner.

Was the Respondent targeting the Complainant? Curiously the Response itself is silent as to whether or not the Respondent had any knowledge of the Complainant at the date he purchased the Disputed Domain Name. The Panel takes the view that there are some three letter trademarks where the evidence of fame and reputation is well established on a world-wide basis and it is generally straightforward to at least draw an inference that registration of a corresponding domain name will have been targeting that trademark holder. See for example *BMW AG v. Loophole*, WIPO Case No. [D2000-1156](#), concerning the domain name <bmw.org>. There may be other cases where a trademark holder can establish some fame and reputation in its trademark/acronym on a limited geographical or field of use basis but that is not sufficient to raise an inference that a domain name registration by a party in a different geographical area or field of activity lacked a legitimate interest. See for example the decision of the present Panel in the earlier case of *ETH Zürich (Eidgenössische Technische Hochschule Zürich) v. Andre Luiz Silva Rocha, Construtora Norberto Odebrecht S/A*, WIPO Case No. [D2016-0444](#), concerning the domain name <eth.com>. Commonly if the evidence establishes that three letter acronym is registered without knowledge of a complainant, and for the inherent value of the acronym a case may fail. See in this regard *Banca Monte dei Paschi di Siena S.p.A v. Charles Kirkpatrick*, WIPO Case No. [D2008-0260](#) concerning the domain name <mps.mobi>, where the panel highlighted the significance of short-letter expressions that have meanings other than those claimed by the complainant by noting:

“The Respondent was at the time of registration, of the view that no one company could claim exclusive rights in MPS because it stood for so many things. From its own searches of the term ‘MPS’, the Panel finds the Respondent’s view reasonable”.

See also *PCO AG v. Register4Less Privacy Advocate, 3501256 Canada, Inc.* WIPO Case No. [D2017-1778](#) concerning the domain name <pco.com>. In this case, no response had been filed but the panel declined to find for the complainant. It noted that “[t]he Complainant claims to be widely known by the name ‘PCO’ and to have a strong reputation worldwide but it has supplied no evidence in support of this assertion”. The position is precisely the same in the present case. The Panel considers that the Complainant has failed to establish that it had any fame or reputation such that an inference could be drawn that the Respondent had the Complainant in mind when he registered the Disputed Domain Name. Given the Respondent’s silence on this issue the Panel cannot be certain, but even if the Respondent did have knowledge of the Complainant the Panel agrees with the Respondent that there are multiple other uses for the acronym “sro” such that the Respondent could legitimately purchase it as a domain name of potential value to many interested parties.

The Panel does not consider the fact that the Respondent subsequently asked for a very large amount for the Disputed Domain Name is evidence of use in bad faith. The evidence establishes that the Respondent did seek a very substantial sum for the Disputed Domain Name after he became aware that someone was interested in buying it. If the Respondent’s interest in the Disputed Domain name is legitimate he is entitled to seek whatever price he wishes. Although in some circumstances asking a very large price may give rise to an inference of bad faith registration and use, the Panel does not consider that to be the case here, given the nature of the Disputed Domain Name as a three-letter acronym. Three letter “.com” domain names are likely to be of substantial value given that they are likely to be readily memorable, there are only a limited number of them, and there will typically be many organisations who will have a name or brand name that corresponds in acronym form to the domain name.

Taking all of the above into account the Panel finds the third element of the Policy has not been established.

#### **D. Reverse Domain Name Hijacking**

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at RDNH or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

As set out in the [WIPO Overview 3.0](#) section 4.16, reasons articulated by panels for finding RDNH include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required three elements – such as the complainant’s lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith (such as registration of the disputed domain name well before the complainant acquired trademark rights, (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the Whois database, (iii) unreasonably ignoring established Policy precedent notably as captured in this WIPO Overview – except in limited circumstances which prima facie justify advancing an alternative legal argument, (iv) the provision of false evidence, or otherwise attempting to mislead the panel, (v) the provision of intentionally incomplete material evidence – often clarified by the respondent, (vi) the complainant’s failure to disclose that a case is a UDRP refiling, (vii) filing the complaint after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis, (viii) basing a complaint on only the barest of allegations without any supporting evidence”.

In the view of the Panel this is a Complaint which should never have been launched. The Complainant should have appreciated that establishing registration and use in bad faith in respect of a domain name which was a three-letter acronym, where there was no real evidence of reputation, was likely to prove impossible unless there was specific evidence of targeting, and no such evidence existed. The Complainant made no attempt whatsoever to show that it had any reputation at all in the acronym. Instead, it initially relied upon a complex and unrealistic analysis of WhoIs data to reach what turned out to be an erroneous conclusion as to the date when the Respondent acquired the Disputed Domain Name. Once the Respondent produced the Purchase Invoice the Complainant's original case become untenable. It then simply relied upon what it said were its unregistered trademark rights at the applicable date, without producing any evidence at all to substantiate such rights. Given the nature of the Policy and the multiplicity of previously decided cases dealing with similar issues in relation to short acronym type domain names (see above), this was a case that had no reasonable prospects of success. In all the circumstances the Panel agrees with the Respondent that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

## **7. Decision**

For the foregoing reasons, the Complaint is denied. The Panel finds that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding.

*/Nick J. Gardner/*

**Nick J. Gardner**

Sole Panelist

Date: August 9, 2025