

PANEL DECISION

UAB Planner5D v. Sergey Nosyrev, Planner 5D
Case No. DEU2025-0004

1. The Parties

The Complainant is UAB Planner5D, Lithuania, represented internally.

The Respondent is Sergey Nosyrev, Planner 5D, Lithuania.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <p5d.eu> is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is GoDaddy.com, LLC.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2025. On January 29, 2025, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On February 3, 2025, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which confirmed the named Respondent and but differed from the contact information in the Complaint. The Center sent an email communication to the Complainant on February 4, 2025, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on February 5, 2025.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the “ADR Rules”) and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the “Supplemental Rules”).

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 13, 2025. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was March 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Parties of the Respondent’s default on March 7, 2025.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on March 21, 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 ADR Rules, Paragraph B(5).

Since the Registrar is located outside the European Union, on March 24, 2025, the Panel issued a Panel Order asking the Complainant to amend the Complaint to comply with paragraph 7 of the ADR Rules. On the same date, the Complainant submitted an amendment to the Complaint.

4. Factual Background

The Complainant is a Lithuanian company, established in 2011, that operates an online interior design tool called Planner 5D. It is the proprietor of several registrations for its PLANNER 5D mark, including the following:

- European Union Trademark Registration No. 017137043 for PLANNER 5D (device mark), registered on December 7, 2017 for goods and services in classes 9 and 42;
- International Trademark Registration No. 1646478 for PLANNER 5D (device mark) registered on December 9, 2021 for goods and services in classes 9 and 42, designating, inter alia, Lithuania.

The Complainant asserts unregistered trademark rights in the P5D and PLANNER 5D marks based on continuous use of these marks since 2011. The Complainant states that the PLANNER 5D mark has been used to market the Complainant's online interior design platform, and the mark has been promoted in social media including Facebook, Instagram, LinkedIn and YouTube. The P5D mark has been used alongside the PLANNER 5D mark as an abbreviation of it. The P5D mark is displayed on the models generated by the Complainant's design tool and within the links shared through the Complainant's website at <planner5d.com> and its YouTube account. The Complainant's corporate vehicle used the Lithuanian license plate "P5D".

The Complainant operates its primary business website at the domain name <planner5d.com>, which it registered in 2010.

The Respondent was employed by the Complainant from 2014 to 2021.

The disputed domain name was registered by the Respondent on November 10, 2015 using the Respondent's email address and listing the Complainant as the registrant organization. At the time of the Complaint and of this Decision, it did not resolve to an active website. Email exchange ("MX") records have been configured for the disputed domain name, linked to the Complainant's servers.

The Complainant provided written requests to the Respondent to transfer the disputed domain name on November 21 and 25, 2024. The record does not reflect the Respondent's response thereto.

5. Parties' Contentions

A. Complainant

The Complainant's contentions may be summarized as follows. It is the creator and the owner of the online interior design tool known as Planner 5D, which has more than 100 million users worldwide. The Complainant has 100 employees and turnover of EUR 9 million in 2024. Since its establishment in 2011, the Complainant has marketed its services and products under the trademark PLANNER 5D and its abbreviation, P5D.

As described above, the Complainant asserts unregistered trademark rights in the PLANNER 5D and P5D marks from 2011. On January 24, 2025, the Complainant filed European Union Trademark application no. 019135374 to register P5D (word mark) in respect of goods and services in classes 9, 35 and 42. At the time of this Decision, this application had been published for opposition.

The Complainant asserts that the disputed domain name was filed by the Respondent using his personal email address, but listing the Complainant as the organization, during the Respondent's term of employment as Managing Director of the Complainant. In this role, the Respondent was aware of, and indeed participated in, the Complainant's marketing of the P5D mark. For example, the Respondent executed the lease agreement for the Complainant's corporate vehicle using the "P5D" license plate. At the time of the Respondent's termination of employment in 2021, the Parties had agreed that the Respondent would transfer the disputed domain name to the Complainant. However, the Respondent did not transfer the disputed domain name as agreed. The Respondent is not known by, and has no rights in, the P5D or the PLANNER 5D marks. The disputed domain name is not being used in connection with a website.

The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Under paragraph B(11)(d)(1) of the ADR Rules, in order for the Complaint to succeed, it is for the Complainant to establish:

- (i) that the disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) that the disputed domain name has been registered by Respondent without rights or legitimate interest in the name; or
- (iii) that the disputed domain name has been registered or is being used in bad faith.

Furthermore, Article 22(10) of the Regulation provides that "[f]ailure of any of the parties involved in an ADR procedure to respond within the given deadlines or appear to a panel hearing may be considered as grounds to accept the claims of the counterparty".

A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law

The Complainant has provided evidence establishing that it has trademark rights in the PLANNER 5D Mark through use and registration in the European Union. This is sufficient for the Panel to make a finding that the Complainant has rights recognized by European Union law for the purposes of standing to bring a Complaint under paragraph B(11)(d)(1)(i) of the ADR Rules.

The Panel notes that, while the ADR Rules make 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.

In comparing the Complainant's Mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to the Complainant's PLANNER 5D Mark, since it is recognizable in the disputed domain name. It is well established in decisions under the ADR Rules that the country code Top-Level Domain ".eu" is typically ignored when assessing the similarity between a trademark and a domain name.

The Panel therefore finds that the Complainant has established the first element according to paragraph B11(d)(1)(i) of the ADR Rules.

B. Rights or Legitimate Interests

Under paragraph B(11)(e) of the ADR Rules, the Respondent may demonstrate its rights or legitimate interests in the disputed domain name for purposes of paragraph B(11)(d)(1)(ii) by showing any of the following circumstances, in particular but without limitation:

(1) prior to any notice of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the Respondent, being an undertaking, organization or natural person, has been commonly known by the disputed domain name, even in the absence of a right recognized or established by national and/or European Union law;

(3) the Respondent is making a legitimate and noncommercial or fair use of the disputed domain name without intent to mislead consumers or harm the reputation of a name in which a right is recognized or established by national law and/or European Union law.

At the outset, the Panel notes that panels tend to assess claimed respondent rights or legitimate interests in the present, i.e., with a view to the circumstances prevailing at the time of the filing of the complaint. See, for example, the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 2.11.

As noted above, the disputed domain name does not resolve to an active website. There is no evidence of the Respondent having made demonstrable preparations to use the disputed domain name in connection with a bona fide offer of goods or services. The Respondent’s non-use of the disputed domain name does not support a finding of the Respondent having made any legitimate noncommercial or fair use of the disputed domain name.

In terms of the composition of the disputed domain name, the Panel finds that the use of the Complainant’s mark tends to suggest sponsorship or endorsement by the trademark owner and does not support a claim of fair use of the disputed domain name. There is no evidence that the Respondent, a former employee of the Complainant, is commonly known by the name “P5D” nor that he has rights in this mark. The Panel finds that the composition of the disputed domain name creates a risk of implied affiliation with the Complainant.

On this record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. The Respondent, in failing to submit a Response, has not produced any evidence to rebut the Complainant’s case.

Considering all these circumstances, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established the second element, according to paragraph B11(d)(1)(ii) of the ADR Rules.

C. Registered or Used in Bad Faith

Under paragraph B11(d)(1)(iii) of the ADR Rules, the registration or use of the disputed domain name in bad faith are considered alternate bases for a successful complaint.

The Panel finds that the evidence supports a finding that the Respondent is holding the disputed domain name in bad faith. The evidence indicates that the Respondent has no rights in the disputed domain name.

There is no evidence to indicate that he has any trademark rights in the disputed domain name, nor that he is known by the disputed domain name or is making any preparations to use it in connection with a bona fide business.

The Respondent has not challenged the Complainant's contention that he had agreed to transfer the disputed domain name to the Complainant at the time of termination in 2021 and, in contravention with this agreement, has continued to hold the disputed domain name up to the time of the Complaint.

Furthermore, the Panel notes that the Respondent has chosen not to file a response to the Complaint and consequently has not rebutted the Complainant's assertions. (See, for example, *FNAC Darty Participations et Services and Etablissements Darty et Fils v. Paul Romain*, WIPO Case No. [DEU2018-0003](#)).

Under these circumstances and on this record, the Panel finds that the Respondent used the disputed domain name in bad faith, and that the Complainant has established the third element, according to paragraph B11(d)(1)(iii) of the ADR Rules.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <p5d.eu> be transferred to the Complainant¹.

/Ingrīda Kariņa-Bērziņa/
Ingrīda Kariņa-Bērziņa
Sole Panelist
Date: April 7, 2025

¹ (i) The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.

(ii) As the Complainant is located in Lithuania, a Member State of the European Union, it satisfies the general eligibility criteria for registration of the disputed domain name set out in Article 3 of the Regulation (EU) 2019/517. Therefore, the Complainant is entitled to request the transfer of the disputed domain name.