

**Israel Internet Society  
Advisory Committee Panel**

Jonathan Agmon (Chairman)  
Moshe Bar-Niv  
Yoram Ha-Cohen

**In the matter between**

**Amdocs (Israel) Ltd.**

v.

**Ofir Sharon**

**In respect of the domain Name: AMDOCS.CO.IL**

**Decision**

Jonathan AGMON (Chairman):

In accordance with sections 16, 19.4 and 21 to the Rules for Allocation of Domain Names under the .il (Israel) Top Level Domain dated December 1998 (hereafter: "**the Rules**") this panel decides as follows:

Background

On 15 July 2001 Amdocs (Israel) Ltd. (hereafter: "**Amdocs**") filed notice pursuant to Rule 19.3 of the Rules requesting the Advisory Committee Panel to reconsider the allocation of the domain name AMDOCS.CO.IL to Ofir Sharon (hereafter: "**the Domain Name**" and "**Sharon**" respectively).

Procedure

This Panel was established on 22 October 2001. Pursuant to establishment of the Panel, a copy of the notice was delivered to Sharon on October 25, 2001. On 9 December 2001 Sharon filed his Statement of Response.

Nature of the Dispute

Pursuant to rule 19.3 of the Rules any person or organization that disputes the allocation of a Domain Name to a Holder may request reconsideration of the allocation, including transfer of the allocation to the challenger upon application to the Advisory Committee. Set below are the arguments brought by the parties, legal arguments presented to us and our decision in the matter.

## Arguments by Amdocs

1. Amdocs was incorporated in Israel on 11.12.1987. Amdocs supply customer and business operations management software, services and information solutions to the leaders of the communications industry worldwide, offering customer care, billing and order management systems for communications and Internet services providers, and business support systems for directory publishing companies. Amdocs claimed that for 19 years Amdocs sold thousands of information systems to more than 150 leading communications providers worldwide. Amdocs Limited, the parent company of Amdocs is a public company, traded in the New York Stock Exchange under the sign "DOX".
2. Amdocs's stated that it currently employs approximately 9,700 employees in 22 countries worldwide. Amdocs's total revenues in the year 2000 (through October 1, 1999 to September 30, 2000) were US\$1.118 billion.
3. Amdocs has been conducting business in Israel and around the world since 1982 and has earned an outstanding reputation, local and worldwide recognition and goodwill for the quality of its products and services, and such products and services are well recognized with its name and trademarks.
4. Throughout the years, Amdocs has invested vast resources in promoting its reputation and advertising Amdocs's products and services, enhancing their quality and establishing it as a brand name.
5. Amdocs has been using the trademark "Amdocs" since 1984, and as detailed below, the trademark "Amdocs" has been registered in Israel. Amdocs is currently operating an Internet site under the domain amdocs.com, which was registered on 30.4.1995. Such site is comprised of more than 100 Internet pages, and boasts an average of 2,000 entries per month.
6. Mr. Ofir Sharon registered the domain amdocs.co.il on 14.6.1999 with ISOC-IL.
7. Amdocs has not provided any authorization to Sharon to make use of the "Amdocs" trademark. Therefore, Amdocs requests that the Advisory Committee Panel revoke the allocation of the Domain Name to Mr. Ophir Sharon.
8. Sharon has been holding and making no use of the Israeli commercial Domain Name amdocs.co.il for over one year. Sharon has no business in the name of "Amdocs". The said Domain Name uses Amdocs Group's widely known trademark and business name "Amdocs".
9. Sharon knew, or should have known of Amdocs' trademark in the name "Amdocs" at the time of allocation, as Amdocs is not a generic or a descriptive name, which is associated with Amdocs only. Sharon also knew that Amdocs carries on a successful business in Israel and around the world.

10. In addition, Sharon is unreasonably making it difficult for customers, employees or others to access Amdocs' business via the Internet through owning a Domain Name based on Amdocs' business name and trademark, and by doing so, he is in breach of the Commercial Tort Law.
11. Amdocs requests that this Panel revoke the allocation of the Domain Name to Sharon, and transfer the ownership rights in the Domain Name to Amdocs.
12. Additional several legal arguments were provided to this Panel by Amdocs. In short Amdocs claims that the allocation of the AMDOCS.CO.IL Domain Name to Sharon constitutes an illegal act according to the Commercial Tort Law, 5759 - 1999, and that Sharon has registered the Domain Name in order to unjustly demand payment from Amdocs as a condition for the transfer of the Domain Name to Amdocs.

#### Arguments by Sharon

13. The Domain Name was registered to Sharon on 14.6.1999 and purchased legally.
14. The Domain Name was purchased and was paid for. Sharon paid \$100 + VAT for the Domain Name.
15. Sharon was never informed that he was forbidden from registering the Domain Name.
16. Sharon never made any use of the Domain Name.
17. Sharon was not forbidden under law from purchasing the Domain Name.
18. Since Amdocs did not itself purchase the Domain Name it can only blame itself.
19. Sharon did not commit an offence against the Trademark Ordinance.
20. Sharon declared that the Domain Name was not purchased in order to re-sell it or to do profit from such a sale to a third person.
21. Sharon further declared that he did not and still has no intention to do any act which is prohibited by the laws of the State of Israel.
22. Sharon declared that he did not and will not have an intention of doing any activity under the disputed domain name without permission of Amdocs.
23. Sharon argued that Amdocs arguments presented before the Advisory Committee Panel do not establish a cause of action.
24. Having consulted with a lawyer Sharon agreed to restore the Domain Name to Amdocs.
25. Sharon requested that the panel instruct Amdocs to repay Sharon the cost of the registration of the Domain Name and the extension of the registration of the Domain Name in the last year.

## Decision

- A. We hold that the ISOC shall transfer the Domain Name AMDOCS.CO.IL to Amdocs (Israel) Ltd. for the following reasons.
- B. Having reviewed the arguments presented to us and the agreement by Sharon it is our finding that Sharon requested the assignment of the domain name AMDOCS.CO.IL when he, at least, should have known that this name is associated with Amdocs. Hence, Sharon acted in bad faith when he applied for the Domain Name and that such request was not made without Sharon's knowledge of the existence of Amdocs.<sup>1</sup>
- C. The fact that Sharon was not aware his actions were interfering with Amdoc's rights or that he was not told that his request for the Domain Name was in bad faith is immaterial and cannot be used as a defense for his actions.
- D. Likewise, the fact that Sharon did not make use of the Domain Name does not provide a defense because requesting and receiving the assignment of the Domain Name by Sharon was likely to lead to a situation in which Amdocs was unable to use its company name on the .IL domain. Such behavior is contrary to the Laws of the State of Israel because it constitutes an unreasonable interference according to section 3 of the Commercial Torts Law of 1999.
- E. According to section 3 of the Commercial Torts Law of 1999 it is unlawful to prevent or restrict access of customers, employees or agents into a business, asset or service in an unfair manner. In this respect we refer to the decision handed down by the ISOC Advisory Committee Panel in Disney.<sup>2</sup>
- F. In the recent case of M.S. Magnetics, Justice Zaft provided that this tort is concerned with the prohibition of a businessman from interfering with the business of another in an unfair manner.<sup>3</sup> In this case the defendants requested and were assigned with a domain name comprising the name of the plaintiffs. The defendants did not make use of the domain name. Justice Zaft held that access to the business also includes electronic access to a business and that for a business setting up a web site such means is an acceptable means for contacting clients.

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<sup>1</sup> Motion 10909/99 Cellcom Israel Ltd. v. T.M. Aquanet Computers Communications Ltd., (Not Yet Published, 8 September 1999, Tel Aviv District Court)

<sup>2</sup> Disney Enterprises Inc v. Arick Gross (20 January 2000) <<http://www.isoc.org.il/docs/2000-01-disney.pdf>> at p. 14

<sup>3</sup> Civil Action 1627/01 M.S.Magnetics Ltd. v. Discopy (Israel) Ltd. et. al (Not Yet Published, 3 June 2001, Tel Aviv District Court)

- G. The court provided that three elements were a prerequisite prior to a finding of unreasonable interference: 1. the existence of business persons; 2. interference with access to a business and 3. that the actions of the defendants are unfair.
- H. We find that Sharon took the Domain Name to sell it eventually to another. Sharon did not make use of the Domain Name, but did not hand it over immediately to Amdocs. As such his actions were that of a businessman. Requesting the domain name of another business' name or trademark constitutes unreasonable interference because the owner would have to change or obtain a new domain name for use in that specific territory. We do appreciate that Amdocs is making use of the domain name amdocs.com, however, such use does not mean that access to Amdocs business through the IL domain is not interfered with. Many companies of size use local domain names for each territory. Such act by Sharon constitutes interference with Amdocs' business.
- I. Finally the actions of Sharon were unfair and in bad faith. Justice Zaft noted that one can identify unfair acts (bad faith acts) when one sees those. By saying that he has no intent of doing any disposition with the domain name AMDOCS.CO.IL without Amdocs's permission Sharon basically said that he should not even have requested the Domain Name without Amdocs's consent. By so requesting and maintaining the Domain Name we hold Sharon's actions in bad faith and unfair. Such is only strengthened by the fact that Amdocs is the owner of the Israeli trademark in the mark AMDOCS.
- J. It is therefore, our decision that ISOC-IL shall transfer the Domain Name AMDOCS.CO.IL to Amdocs.
- K. As to costs, Sharon has requested the payment of the fees he paid in respect of the Domain Name since he has obtained the allocation of the Domain Name. Amdocs has not made any request as to costs.
- L. The Advisory Committee Panel may only decide the disputes enumerated in Article 19. These include a dispute against refusal to allocate a domain name; a dispute brought by a domain name Holder against cancellation or allocation of a domain name; third party disputes. The Advisory Committee Panel may also render an advisory opinion to ISOC. A literal reading of Article 19 suggests that the Advisory Committee Panel is not authorized to decide other matters in dispute between the parties.
- M. In the decision issued in the matter of SNAPLE.CO.IL another Panel discussed the role of Rule 24 in the respect of costs:

*“The Rules provide that unless we determine otherwise, costs are to be equally borne by the parties. The link to the Table of Expenses leads us to the main domain name registration page. Elsewhere, in its web site when discussing ACP resolutions, ISOC-IL provides information on ACP fees as follows:*

*"The World Intellectual Property Organization (WIPO) has been running mediation and arbitration panels for a number of years. WIPO has also set up a mediation panel for Internet Domain Names. Their fee schedules can be found at:*

*...*

*ISOC-IL does not wish to create such a complex and highly-priced fee structure as WIPO has established. As an initial attempt, ISOC-IL has set the fee for requesting a decision of the Advisory Committee (see Section E of the Rules) at \$500. If during the course of processing petitions we feel that this amount is too high or too low, or needs to be set according to the amount of hours the ACP works on each petition we will issue a fee schedule modification."*

*ISOC-IL sees the \$500 fee as applying to the act of requesting dispute resolution by an ACP, as is the case with a WIPO mediation dispute resolution. However, the rules now adopted by WIPO were not specifically adopted by ISOC-IL. Until such time when the Rules are changed, the reference to the amount of cost ([www.isoc.org.il/domains](http://www.isoc.org.il/domains)) merely limits the sum to be awarded to \$500.”<sup>4</sup>*

- N. Because of the specific language of Rules 19 and 24 this Panel is not authorized to decide as to Sharon’s request in respect of the costs of allocation and maintenance of the Domain Name.
- O. As to expenses in accordance with Rule 24, we hold that Sharon shall pay ISOC-IL the sum of \$500.
- P. ISOC-IL shall transfer to Amdocs the domain name AMDOCS.CO.IL forthwith.

Jonathan Agmon, Chairman  
Moshe Bar-Niv, Member  
Yoram Ha-Cohen, Member

2<sup>nd</sup> of January 2002

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<sup>4</sup> Footnotes omitted.