

Dispute Resolution Panel

For the Internet Society of Israel

Ellen B. Shankman, Adv., Panelist

In the matter between

**Yohanan Glam, Bel Botz and Salt Ltd. and Yuval Yarin Yam Hamelach Ltd.
(The “Petitioners”)**

Represented by Soroker-Agmon, Advocates & Patent Attorneys

And

**Izaak Had
(The “Respondent”)**

Regarding the domain name

**SEAOFSPA.co.il
(The “Domain Name”)**

DECISION

Procedural Background:

Yohanan Glam, Bel Botz and Salt Ltd. and Yuval Yarin Yam Hamelach Ltd.

(hereinafter "Petitioners") submitted a request for re-allocation of the domain name "seaofspa.co.il " ("disputed domain"), in accordance with the Procedures for Alternative Dispute Resolution under the .IL ccTLD by Dispute Resolution Panels ("IL-DRP Procedures").

The panel was established on 8 July 2012, in accordance with the Procedures for Alternative Dispute Resolution under the .IL ccTLD by Dispute Resolution Panels ("IL-DRP Procedures"), (http://www.isoc.org.il/domains/ildrp_rules.html)_ (in English) and http://www.isoc.org.il/domain_heb/ildrp_rules.html_ (in Hebrew), in order to address the Petitioner's request to cancel the allocation of the Domain Name (seaofspa.co.il) to Respondent and to reallocate the Domain Name to the Petitioners. The deadline for filing a response was 23 July 2012.

Respondent was notified that a petition had been filed and both parties notified of the appointment of me as the Panelist. I specifically strongly encouraged Respondent to file a response, since even if no response to this petition is filed, I would make a decision on the information presented *ex parte*. I sent a second e-mail on 19 July 2012 reiterating that recommendation.

Per Section 8.2 of the IL-DRP Procedures, either party may request that the dispute be reviewed by an extended panel within 7 days of the notification. Further, per Section 8.4 of the IL-DRP Procedures, either party may request exclusion of the appointed Panelist on the grounds of any potential conflict of interests. No such requests were made.

Further, per Section H of the IL-DRP Procedures, either party may request Court Review.

"Section H. Right To Seek Court Review

20. Petition to the IL-DRP in no way precludes access or petition to an Israel Court of Law.

21. Notwithstanding, should a party, in parallel, institute Court proceedings regarding a Domain Name during the proceedings of the IL-DRP, such petition to the Court shall not affect or stay the IL-DRP proceedings under these Rules, unless a court order regarding such be served on ISOC-IL. ”

No such review was made that would affect or stay these IL-DPR proceedings.

I confirmed that the Petition and all correspondence thereto was posted by ISOC and e-mail sent to the address of the Holder in the records.

No response was filed by Respondent by the deadline.

Petitioners' Arguments:

The Petitioners supplied ample evidence of the use of and their rights in the mark SEA OF SPA. In light of the non-contested nature of those rights, I believe it is not necessary to detail the evidence and reiterate all arguments provided herein.

Grounds for Decision:

The IL-DRP Rules state:

“B. Grounds for IL-DRP

3. Disputes regarding allocation of a Domain Name by a Holder may be brought by a third party ("Petitioner") on the following grounds:

3.1. the Domain Name is the same or confusingly similar to a trademark, trade name, registered company name or legal entity registration ("Name") of the Complainant; and

3.2 the Complainant has rights in the Name; and

3.3. the Holder has no rights in the Name; and

3.4. the application for allocation of the Domain Name was made or the Domain Name was used in bad faith. “

Thus, even if the matter is not disputed by Respondent, in order to prevail, the Petitioners must establish all four elements: confusing similarity to the Name, rights in the Name, that the Holder has no rights in the Name, and an element of bad faith.

Confusingly Similar

The first question is: Is the Domain Name the same or confusingly similar to a trademark, trade name, registered company name or legal entity registration ("Name") of the Petitioners?

I find the answer to this “yes”. The Domain Name seaofspa.co.il is confusingly similar to the registered trademark and key element of the commercial name of Petitioners.

Petitioner's Rights in the Name

The second question is: Have the Petitioners established that they have rights in the name?

I find the answer to this “yes”. Petitioners have provided ample evidence of rights in the name. I do not opine on the “fame” of the mark.

Respondent's Rights in the Name

The third question is: Does the Respondent have rights in the Name?

I find the answer to this “no”. Respondent has demonstrated no “rights” in the Name.

Bad Faith

The fourth question is whether there appears to be any evidence of bad faith in the allocation or use of the Domain Name. Upon review of the circumstances, I find that there is evidence of bad faith. Since I find that the four factors of the IL-DRP have been met in this case, it is not necessary to provide a more detailed legal analysis of the additional arguments raised. I note that my concerns about requested re-allocation of a domain name initially allocated in 2005 were adequately addressed by the evidence of use in bad faith submitted.

Decision:

In light of the above, and upon detailed review of the evidence provided, I hold that the Domain Name shall be reallocated to the Petitioners within 45 days of the date of this decision.


Ellen B. Shankman, Adv.

Date: 25 July 2012