

**IL-DRP PANEL
FOR THE INTERNET SOCIETY OF ISRAEL**

In the matter of the Domain <Noam-kuris.co.il>

between

Mr. Noam Kuris, Adv.
P.o.box 6210 Tel aviv
noamkuris@gmail.com

(The "Petitioner")

and

Mr. Arie Sheffer
5 Hashahaf St. Yaffo
Arie@hayam.co.il

(The "Respondent" or "Holder")

DECISION

I. Procedure

1. ISOC-IL received a Petition on behalf of the Petitioner, requesting that the Domain Name "noam-kuris.co.il" be reallocated to the petitioner.
A Panelist was appointed in accordance with the Procedures for Alternative Dispute Resolution under the IL-DRP Rules, in order to address the Petitioner's above request (http://www.isoc.org.il/domains/ildrp_rules.html) (hereinafter – "the Rules").
2. Notification of the pending Petition, including copies of all submitted material, and notification of appointment of the Panel under the Rules, was sent on June 21st, 2017, to the Respondent's email address as recorded in the ISOC Domain Name Registry. In accordance with section 9.3 of the Rules, the Respondent was allotted 15 days, concluding on July 6th, 2017, to submit a Statement of Response or any other relevant information to the Panel.
3. The Respondent failed to submit any Response to this Petition.

II. Factual Background

1. The Petitioner is an Attorney, with registered Trademark of his name, and since 2004 is the owner of the law firm Noam Kuris in Israel.
2. The Respondent registered the Disputed Domain on Jan. 10th, 2016.

III. The Parties' Claims

A. The Petitioner

1. The Petitioner is an Attorney by the name of Noam Kuris.
2. The petitioner owns a Trademark under the same name, and claims to be known under this name and to operate several businesses under it.
3. The Petitioner states that between himself and the Respondent, several mutual anti-defamation cases have ensued in court, but none pertained to the Disputed Domain herein.
4. The Petitioner claims that there have been several other occasions under which the Holder has wrongly used the Petitioner's Name, in attempt to abuse and defame the Petitioner, and the Petitioner had these publications removed by third parties.
5. The Petitioner claims that the Respondent holds the Disputed Domain only to disrupt and interfere with the Petitioner's business and to defame his name, and in accordance with section 4.1.b of the rules, these are sufficient grounds for transferring the Domain to the Petitioner.

B. The Respondent

The Respondent failed to submit any Response to the Petition.

IV. Discussion

1. The IL-DRP is an alternative dispute resolution procedure intended to provide expedited resolution to disputes regarding the allocation of Domain Names, in accordance with the Rules for Allocation of Domain Names under the .IL country code. By registering a Domain, any Holder agrees to abide by these Rules.
2. In order for a case to be brought before an IL-DRP Panel, the Petitioner must show prima facie indications that certain grounds exist.
3. Let it be noted that without Response on behalf of the Respondent, the Panel will accept the claims stated by the Petitioner, and will proceed to review whether the information present is in itself sufficient to establish grounds for re-allocation of the Disputed Domain, based on the aforementioned Rules.
4. Therefore we will proceed to review existence of the grounds for the request, as follows:

According to section 3 of the IL-DRP Rules, Disputes regarding allocation of a Domain Name by a Holder may be brought by a third party 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.
4. Each of the claims above needs to be established by Petitioner. In the following discussion we will address each claim, based mostly on the materials of the Petition and any other material available to the Panel.

a. Name is Same or Confusingly Similar

The requirement in the Rules is that "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".

The Disputed Domain consists of the term "noam-kuris" and of the suffix "co.il".

It has been previously ruled that the suffix "co.il" is to be disregarded for the purpose of determining similarity of a Domain to a Registered Mark, since it is a common suffix indicating that the domain is registered as a commercial Israeli website (see for example ISOC II-DRP case in the matter of <Crayola.co.il>).

The term "noam-kuris" consists exactly of the First and Last names of the Petitioner.

In addition, the Petitioner has a Registered Trademark of the exact same name in Hebrew.

Thus, the Panel finds that the Domain is the same as the Personal Name and Trademark held by the Petitioner, and therefore the first requirement under the rules, is fulfilled.

b. Complainant has Rights in Name

1. The Petitioner's is a private person whose name is identical to the Disputed Domain.
2. His connections to the Disputed Name are as follows:
 - It is identical to his First and Last private name
 - He claims to be the only person in the world under this name
 - He runs a law firm by the name Noam Kuris.
 - He has a Registered Trademark registration in Hebrew of his Name, classified under Legal Services. The application for this Trademark was filed in 2014 prior to the Domain registration.

- He claims to be known by his Name for publishing academic articles and journals in Israel and internationally.
3. These are sufficient to establish the petitioner's rights in the name.
 4. From all of the above it is evident that the Petitioner has established a Prima Facie claim to rights in the Disputed Domain. The Respondent has not provided a Letter of Response, and therefore these claims remain uncontended.

c. Respondent has no Rights in Name

The Respondent, Mr. Arie Sheffer, has no prima facie connection to the Disputed Domain.

Based on the interchange of communication between the Parties, including emails and mutual public arguments, it is evident that there is an ongoing dispute between them. This is also supported by public information¹.

A question may arise as to whether the Holder has a right to the Name for the sole purpose of publishing criticism and complaints about the Petitioner.

As mentioned in the *Overview of WIPO Panel Views on Selected UDRP Questions*, panels tend to find that allowing Domain Registration in such circumstance may create an impermissible risk of user confusion through impersonation, and should not be accepted. (see WIPO Jurisprudential Overview 3.0)

Since no Response was submitted by the Respondent, no such claim was made, and there is no indication of any Rights to the name by the Respondent. Therefore, in light of all the above, the Panel finds sufficient grounds to establish that the Holder currently has no rights in the name.

d. Registration or Holding in Bad Faith

Section 3.4 requires that "the application for allocation of the Domain Name was made or the Domain Name was used in bad faith".

Section 4.1 provides several examples of circumstances which are a clear indication of bad faith.

Subsection 4.1d provides the following as an indication of Registration in Bad faith:

"The Holder has requested allocation of 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 there is evidence of having engaged in a pattern of such conduct; "

In the case at hand, the Petitioner provided evidence of several instances in which the Holder forged the Petitioner's name and opened various pages and accounts under his name, such as blogs and Facebook pages. In these cases, the false pages were deleted by the site operators based on complaints of

¹ For example <http://www.news1.co.il/Archive/001-D-392476-00.html>

forgery. This is in line with indication of a pattern of conduct which is disruptive to the Petitioner, and potentially confusing to anyone looking for the Petitioner's online presence.

At the time of writing this Decision, the Disputed Domain leads to an inactive web page. However, a scan of earlier versions of the website as displayed on the archive historic search engine at www.archive.org, shows that the site was used to display criticism of the Petitioner and his activity. Under such circumstances, anyone seeking the Petitioner might be deterred from using his services, based on such site. This may constitute Bad Faith in use of a Domain as indicated by Section 4.1b of the Rules, which states the following as indication of Bad Faith Registration:

"the Holder has requested allocation of the domain name primarily for the purpose of disrupting the business of a competitor; "

In light of the above, the Panel concludes that the Respondent has acted in bad faith both in application for registration of the Domain, and in use thereof.

V. Decision

In light of all of the above, Panel finds that the Disputed Domain is identical to the Name and Registered Mark of the Petitioner, the Petitioner has established its rights to the Disputed Domain, the Respondent presented no rights in the Domain, and the Respondent has acted in bad faith in registering and in holding the Domain.

Therefore, the Panel concludes, in accordance with the Rules, that the Disputed Domain shall be re-assigned to the Petitioner, within 30 days of the date of this decision.

Leehee Feldman, Adv.
Sole Panelist

Date: July 26th, 2017