

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

***In the matter of the Domain <pa-cochav.co.il>***

between

**PA Cochav Aluminum Products**

Kibbutz Yagur  
Represented by legal counsel:  
Advocate Rami Shpan and others  
2 Bloch Street Tel Aviv 64L61, Israel

(The "Petitioner")

and

**Mr. Daniel Ovadia**

XXXXX  
XXXXXXXX, XXXXX

(The "Respondent" or "Holder")

**DECISION**

***I. Procedure***

1. ISOC-IL received a Petition on behalf of the Petitioner, requesting that the Domain Name "PA-Cochav.co.il" be reallocated to the Petitioner.  
A Panelist was appointed in accordance with the Procedures for Alternative Dispute Resolution under the .ILccTLD IL-DRP Rules, in order to address the Petitioner's above request ([http://www.isoc.org.il/domains/ildrp\\_rules.html](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 July 18<sup>th</sup>, 2016, 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 August 2<sup>nd</sup>, 2016, to submit a Statement of Response or any other relevant information to the Panel.

3. The Respondent did not submit any Response to this Petition.

## ***II. Factual Background***

1. The Petitioner is a company that engages in the production and marketing of aluminum products, in particular aluminum windows. The company was founded in 1989, and has maintained the name PA-Cochav since.
2. Over the last decade, PA-Cochav claims to have acquired a leading reputation in Israel in its field.
3. The Respondent is a private individual, without any known connection to the Petitioner.
4. The Respondent registered the Disputed Domain on March 28, 2016.
5. At time of submission of this Claim, the website on the Disputed Domain contained information about various aluminum products. By the time the Decision in the case was issued, public access to the Domain has been blocked.

## ***III. The Parties' Claims***

### **A. The Petitioner**

1. The Petitioner claims to be a leading company in the field of aluminum products.
2. The Petitioner has been making use of its brand name for over 27 years, has acquired a widespread reputation, and has thousands of satisfied customers. A recent advertising campaign, involving significant expenses, has also contributed to the promotion of the Petitioner's Brand.
3. On August 2<sup>nd</sup>, 2015, the Petitioner filed a request to register the Trademark "Cochav".
4. Petitioner claims that in accordance with the requirements of the Rules, the Complaint contains all the required elements indicating that the Domain should be transferred to the Petitioner, as follows:
  - a. Disputed Domain is identical with Petitioner's well known trade-name and registered company name, PA-COCHAV;
  - b. Petitioner has rights in the name;
  - c. Holder has no rights in the name; and
  - d. Registration and use of the Domain are in bad faith.

### **6. 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 evidence that certain grounds exist.
3. Let it be noted that without Response on behalf of the Respondent, the Panel will accept all reasonable facts as presented 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 well established by Petitioner. In the following discussion we will address each claim, based 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 "PA-Cochav" 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 "PA-Cochav" of the domain name is identical to the name of the company which was registered by the Petitioner in 1989 under the same name, and has been active in the field of aluminum products since establishment.

Further, the Petitioner filed in August 2015 for registration of the Trademark "Cochav", which is identical to the main component of the company name and the domain, and thus confusingly similar.

Therefore, the Panel finds that the Domain is the same as a registered company name and well-known name held by the Petitioner, and hence the first requirement under the rules, is fulfilled.

**b. Complainant has Rights in Name**

1. The Petitioner established and registered the Company "PA-Cochav" in 1989 under said name.
2. The Petitioner has been marketing its aluminum products under its Company Name for many years, and has thousands of satisfied customers, who identify PA-Cochav with high quality, reliable products.
3. The Petitioner had originally registered the Domain and has used it for several years for promoting its business and products. Date of original Registration has not been presented, but a search on the Internet Archive Website ([www.archive.org](http://www.archive.org)) indicates that as early as September 2004, and as late as January, 2016 – the web site under the Domain was used by the Petitioner for presenting, promoting and advertising its services and products. Due to human error, registration of the Domain was not renewed.
4. Further, the Petitioner filed for registration of an identical Trademark in August 2015 (prior to registration of the Domain by the Respondent).

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. Daniel Ovadia, is an individual with no apparent connection to the Domain.

At the time of submission of the Petition, the web site on the Domain included information pertaining to aluminum products. By the time of writing of this decision, public access to the Domain has been blocked. No other connection between the Holder and Aluminum products has been demonstrated.

The Petitioner approached the Holder in writing on May 19, 2016, requesting that he immediately cease any use of the Domain, in which the Petitioner owns all rights. The Respondent neither responded nor consented, and retained registration of the Domain. Petitioner was unsuccessful in trying to contact Holder by phone as well.

The Holder failed to provide a Statement of Response to this Petition. None of the above claims have been refuted by the Holder.

Therefore, in light of all the above, the Panel finds sufficient grounds to establish that the Holder 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".

The Rule requires that either the registration or the use be in bad faith. The case at hand shows clear indications of Bad Faith pertaining to both.

##### Bad Faith in Registration of the Domain

- Under the circumstances at hand, only partial information is provided as to the circumstances under which the Domain was registered. It is evident, as stated above, that the Domain was originally registered by the Petitioner and used by it for many years.
- The Petitioner claims that due to human error, Registration was not renewed on time, and the Respondent took advantage of this error to register the Domain in his name.
- Section 4.1(b) of the Rules provides that the following shall be considered evidence for Registration in Bad faith:  
"the Holder has requested allocation of the domain name primarily for the purpose of disrupting the business of a competitor";

In the Case at hand, the Respondent used the Domain to provide information about aluminum products, which is the field in which the Petitioner holds its reputation. Such conduct may be meant to disrupt the business of the Petitioner and mislead its potential customers.

- In addition, Section 4.1(d) states as follows:  
"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; "

As stated, the Holder is a private individual, whose field of business is unknown. The Petitioner claims that the Respondent is the owner of "hundreds of domains". The Panel notes that the website at "domainbigdata.com" also indicates that the Respondent holds numerous, unrelated domains, which may indicate a pattern of conduct of holding domains in order to keep them from their rightful owners.

Such argument has not been contended by the Holder.

### Bad Faith in Use of the Domain

- Section 4.1 (e) of the II-DRP Rules details circumstances which may be considered evidence of Use in Bad Faith, as follows:

" by using the domain name, the Holder has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant's Name as to the source, sponsorship, affiliation, or endorsement of its web site or location or of a product or service on its web site or location."

As mentioned above, the Holder, at least for a certain period of time, used the Domain to advertise various Aluminum products. Aluminum products are the field of business of the Petitioner, and potential customers may be misled to confuse the products on the website with the Petitioner and its products. There is no evidence of any bona fide use of the Domain on behalf of the Holder.

- The term "PA-COCHAV" is not a generic or commonly used term, has no inherent meaning of its own and has no direct relevance to the Respondent himself. Therefore the Holder has no apparent reason for using the Domain, other than in relation to the Petitioner's rights and reputation.
- By holding the Domain, the Respondent is preventing the Petitioner from making use of a local website bearing its tradename and mark.

The combination of all of the above is a sufficient indication of bad faith, and has not been refuted.. Therefore 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 the same and identical to the registered company name and well-known name of the Petitioner, the Petitioner has established substantial circumstances supporting 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: October 26<sup>th</sup>, 2016