

Greece - Dr Helen G Papaconstantinou - John V Filias & Associates

The Hellenic Telecommunications and Post Commission has ordered the cancellation of the domain name 'groogle.gr' (Decision 570/86).

Maria Anagnostopoulou, a Greek individual, obtained the registration of the domain name 'groogle.gr' in August 2006. The website attached to the domain name, presented as a 'Greek search engine', was remarkably similar to the well-known Google search engine, with the word 'groogle' being written in a similar manner as the word 'google'.

Google Inc filed a petition for the cancellation of 'groogle.gr', arguing that:

- it owned a series of earlier Community trademark registrations for the word 'google';
- its search engine and other online services enjoyed a worldwide reputation; and
- the company name Google was protected by virtue of the Paris Convention for the Protection of Industrial Property.

Google claimed that 'groogle.gr' had been registered in bad faith since, in 2006, the average internet user must have been aware of the existence of Google's search engine. The fact that the website at 'groogle.gr' was similar to the Google search engine demonstrated that the registrant intended to mislead internet users into thinking that there was an association or affiliation between Groogle and Google.

Google presented evidence that this was a typosquatting case, which is a form of cybersquatting that relies on common misspellings or typographical errors committed by internet users when inputting an address into a web browser. The mistyped address then leads internet users to the website of the typosquatter. Google also brought to the commission's attention the US Anticybersquatting Consumer Protection Act and related US case law, which state that, in order to prove that typosquatting has taken place, the petitioner must demonstrate that

the domain name at issue relies on a common misspelling or typographical error and that the website attached to the domain name is being used in bad faith.

The commission first held that it was not competent to judge whether the parties' websites were similar. The commission then considered whether the domain name at issue was similar to Google's prior trademark registrations, as well as its company name. In doing so, it took into consideration decisions of the World Intellectual Property Organisation Arbitration and Mediation Centre in similar cases (Cases D2010-0300 and 2010-0268), according to which "domain names incorporating a slightly misspelled version of a trademark may be held to be confusingly similar to such trademark". In these cases, it was held that the respondent:

"[used] the domain names to create a likelihood of confusion with the complainant's trademark as to source, sponsorship, affiliation or endorsement of the respondent's website, and [used] this confusion to entice internet users to third-party websites linked to the respondent's website, thereby achieving commercial gain for the respondent through revenue from pay-per-click advertising."

In light of all the above, the commission held that 'groogle' was a misspelling which infringed Google's trademark rights and created confusion among internet users. Consequently, it ordered that the domain name be cancelled.

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