THE PROCEEDINGS AND THE PARTIES

This administrative proceeding arises under and is governed by the Uniform Domain Name Dispute Resolution Policy (hereinafter “UDRP”) and the Rules for Uniform Domain Name Dispute Resolution Policy (hereinafter “Rules”), both promulgated by Internet Corporation for Assigned Names and Numbers (hereinafter “ICANN”) August 26, 1999 and CPR Supplemental Rules to ICANN’s Rules for UDRP, promulgated by CPR Institute for Dispute Resolution (hereinafter “CPR”). CPR is a duly constituted dispute resolution provider under the Rules.

On June 18, 2002 Complainant Grolier Incorporated, a Connecticut corporation with its principal place of business in Danbury, Connecticut, (hereinafter “Complainant”) filed with CPR a complaint alleging infringement of its Trademark, GROLIER, and similar domain names, and seeking transfer of the registered Domain Name, GOGROLIER.COM.

Respondent Seocho of Seoul, Korea, (hereinafter “Respondent”) is the registrant of the Domain Name, GOGROLIER.COM, which was initially registered by Vladimir Snezko of Moscow, Russia in April 2000 and subsequently transferred to Respondent.
On June 20, 2002, CPR sent written notice to Respondent of the commencement of this proceeding together with a copy of the Complaint in accordance with Paragraph 2(a) of the Rules. The Respondent did not file a Response.

In accordance with Complainant’s request to have a three-member panel of arbitrators determine this matter, on July 23, 2002, CPR appointed the Panel, whose names appear above. Contemporaneously, CPR gave written notice to Respondent of its failure to conform with Paragraph 5(a) of the Rules, which require Respondent to file a response within 20 days of the date of commencement of the administrative proceeding.

DISCUSSION AND FINDINGS

In registering the name, the registrant of the Domain Name, GOGROLIER.COM, agreed to submit to this forum to resolve any dispute concerning the Domain Name, pursuant to the UDRP and the Rules. By accepting transfer of the Domain Name, Respondent became bound by that agreement. In accordance with Paragraph 4.a. of the UDRP, Complainant bears the burden of establishing (1) that Respondent’s use of its registered domain name is confusingly similar to Complainant’s previously used and registered domain name, (2) that Respondent has no legitimate interests with respect to the challenged domain name and (3) that the challenged domain name has been registered and used in bad faith. We now consider those requirements individually to determine whether or not Complainant has sustained its burden and is entitled to any relief. We rely primarily on the undisputed allegations of fact documented by the duly verified complaint.

1. Identity/Confusing Similarity.

According to the unrefuted allegations of the complaint, Complainant is engaged in the worldwide publication and distribution of children’s books, reference and encyclopedia volumes and multimedia products; Complainant now uses, and has used for over a century, the Trademark GROLIER in connection with the promotion and sale of its products in the United States and other countries. Complainant has submitted evidence that commencing in 1993, Complainant and its affiliates have registered at least 12 trademarks with the United States Patent and Trademark Office for the GROLIER Trademark in numerous classes, including Class 9 (computer software and related merchandise) and Class 16 (periodicals and printed materials); that in 1995 Complainant registered the Domain Name, GROLIER.COM with Network Solutions, Inc., and that thereafter Complainant has used the registered Domain Name and GROLIER Trademark in connection with its internet web sites. Complainant alleges that it has created several sub-domain names, including go.Groller.com, which Complainant has used since the summer of 2000 as a link to Grolier’s site called Grolier Online – a subscription-based library reference service.

The complaint alleges that on or about April, 2000, one Negev Nosatzki, Moscow, Russia, and later Rishon Lezion, Israel, registered the Domain Name, GOGROLIER.COM with Bulk Register.Com and that the Domain Name was transferred to Respondent in August, 2000. On its face, the Domain Name, GOGROLIER.COM, confusingly similar, if not identical, to
Complainant’s Trademark, GROLIER, and to Complainant’s previously registered Domain Name, GROLIER.COM inasmuch as it incorporates the entire GROLIER trademark and Complainant’s entire Domain Name, and merely adds the word “GO” as a prefix. Although Complainant has provided no evidence of actual confusion, we find that the public users of the Internet seeking Complainant’s web sites are likely to be confused by Respondent’s advertising and use of the name, GOGROLIER.COM, as a link to its web sites.

We conclude, therefore, that the Domain Name is confusingly similar to Complainant’s Domain Name, GROLIER.COM and that there is a considerable risk that the average internet user would at least (wrongly) assume that there exists some kind of business relationship or other affiliation between the disputed Domain Name, the Domain Name registrant (Respondent) and the Complainant.

2. **Respondent’s Rights and Legitimate Interests.**

Complainant alleges that Respondent has no rights or legitimate interest with respect to the Domain Name at issue. In support of this allegation, Complainant states that it has not licensed or otherwise permitted Respondent to use or to register the Domain Name, that there is no evidence that Respondent has been commonly known by the Domain Name, that Respondent has used, or prepared to use the Domain Name in connection with a bona fide offering of goods or services, or that Respondent is making legitimate non-commercial or fair use of the Domain Name. Rather, according to Complainant’s unrequited allegations, it appears that the Domain Name, GOGROLIER.COM, instead of resolving to an active web site related to that name, serves only to link internet users to casino web sites and at least one pornography website.

Paragraph 4.c. of the UDRP provides that Respondent’s rights or legitimate interests in a domain name may be demonstrated, for example, by any of the following circumstances: (a) before notice to Respondent of the dispute, Respondent is using or has made demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (b) Respondent has been commonly known by the domain name; or (c) Respondent is making legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

By not submitting a response, the Respondent has not contested the allegations of the Complaint and has failed to invoke any circumstances that could demonstrate, pursuant to Paragraph 4.c. of the UDRP, any rights or legitimate interests in the Domain Name. We conclude, therefore. That Respondent does not have rights or any legitimate interest with respect to the Domain Name at issue.

3. **Bad Faith**

In support of its allegation of Respondent’s bad faith registration and use of the Domain Name, Complainant asserts (a) that the Domain Name was registered for the primary purpose of luring Complainant’s customers to Respondent’s gambling web sites, (b) that Respondent’s use of its Domain Name as a link to gambling and pornography web sites is evidence of bad faith in
the light of the confusing similarity of Respondent’s Domain Name to Complainant’s Domain Name and Trademark strongly associated with children’s books and (c) that Respondent’s failure to provide accurate and complete name and contact information to its registrar is further evidence of bad faith.

Paragraph 4.b. of the UDRP provides that indications of bad faith include, without limitation, (a) registration for the purposes of selling, renting or transferring the domain name to the Complainant for value in excess of Respondent’s cost; (b) a pattern of registration in order to prevent Complainant from reflecting the mark in a corresponding domain name; (c) registration for the primary purpose of disrupting the business of a competitor; or (d) an intentional attempt to attract, for commercial gain, Internet users to Respondent’s web site by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation or endorsement of Respondent’s web site or location, or of a product or service on Respondent’s web site or location.

In the absence of any response by Respondent or its predecessor in interest either to any of Complainant’s letters or to the complaint, we find, on the basis of Complainant’s allegations, that given the previous notoriety of the long-established GROLIER mark and the obvious confusing similarity of the two names, the inference arises that the Domain Name GOGROLIER.COM was registered in bad faith for the purpose of attempting to attract, for commercial gain, Internet users to Respondent’s web site by creating a likelihood of confusion with Complainant’s GROLIER mark and GROLIER.COM Domain Name as to the source, sponsorship, affiliation or endorsement of Respondent’s web site with the intention to profit there from. Further, we find as additional evidence of bad faith, Respondent’s continued use of the GOGROLIER name in connection with online gambling and pornography in the light of actual or constructive notice that such use disparages, dilutes and tarnishes Complainant’s GROLIER Trademarks and domain names, which are uniquely associated with children.

We conclude, therefore, that Respondent’s use of the GOGROLIER.COM name to draw customers to its web sites gives rise to the inference that Respondent is acting in bad faith for the purpose of profiting from the use of the GROLIER Trademark and associated Domain Name with knowledge of the resultant likelihood of confusion, dilution and disparagement from its continued use.

CONCLUSION

Based on the forgoing, we conclude:

1. The Panel has jurisdiction in accordance with the UDRP and Rules promulgated by ICANN and the duly authorized appointment by CPR.

2. The Domain Name GOGROLIER.COM is confusingly similar to the long-established and previously registered trademarks and Domain Names of Complainant.

3. Respondent has no rights or legitimate interests in respect of the Domain Name, GOGROLIER.COM, or any similar names or appellations.
4. Respondent’s Domain Name, GOGROLIER.COM, has been registered and being used in bad faith.

REMEDY

Respondent’s Domain Name, GO.GROLIER.COM, is hereby canceled.

Dated: August 2, 2002

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THOMAS L. CREEL

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LOUSE E. DEMBECK

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JOHN E. SPARKS