

WIPO



SCT/S2/INF/3
ORIGINAL: English
DATE: April 25, 2002

WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

STANDING COMMITTEE ON THE LAW OF TRADE MARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS

Second Special Session on the Report of the Second WIPO Internet Domain Name Process

Geneva, May 21 to 24, 2002

CYBER-MISUSE OF THE PROTECTED NAMES AND EMBLEMS OF THE
INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT:
A CASE FOR SPECIAL PROTECTION

*Report prepared by
the International Federation of Red Cross and Red Crescent Societies
and the International Committee of the Red Cross
and submitted by the Secretariat*

1. On April 17, 2002, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross presented the Secretariat with a Report entitled "Cyber-misuse of the Protected Names and Emblems of the International Red Cross and Red Crescent Movement: A Case for Special Protection," which details their experience with regard to the abusive registration, as domain names, of the protected names and acronyms of the constituent parts of the International Red Cross and Red Crescent Movement. As the members of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) had requested, at the first Special Session of the SCT, further evidence of the extent of the problem of the abusive registration, as domain names, of the names and acronyms of international organizations, the Report provided by the Red Cross and Red Crescent Movement is submitted by the Secretariat for the information of the second Special Session of the SCT.

2. The Red Cross and Red Crescent Movement Report is reproduced in the Annex.

[Annex follows]

ANNEX

The names and emblems of the International Red Cross and Red Crescent Movement - The need for protection and the provisions of international law that provide it

1. The Red Cross and Red Crescent names and emblems are internationally recognised symbols of protection used by the components of the Red Cross and Red Crescent Movement. During armed conflict, the security of the Movement's personnel and of those it seeks to assist and protect requires that the names, acronyms and symbols of the Movement be associated exclusively with its work, and with the concept: "Don't shoot at me." In recognition of this fact, the Geneva Conventions and their Additional Protocols - some of the most widely ratified of international treaties - contain explicit prohibitions against the use of the emblems and names and require States parties to take adequate measures to prevent and repress abuses.¹ In times of conflict, such abuses can cost lives and therefore, may constitute war crimes.² At all times, they cause erosion of the respect that combatants and civilians have for the Movement, thus compromising the Movement's ability to fulfil its humanitarian mission.

2. In addition to their protective function during armed conflict, the emblems and names have a secondary purpose - to identify the components of the International Red Cross and Red Crescent Movement.³

The components, functions and legal status of the International Red Cross and Red Crescent Movement

3. The Movement is composed of the National Red Cross and Red Crescent Societies, the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (IFRC or International Federation). The Movement's mission is to prevent and alleviate human suffering.

4. The National Red Cross and Red Crescent Societies are formed in each country in consequence of the country's ratification of, or accession to, the 1949 Geneva Conventions. They join the Movement on condition that they are first recognised by their own government and that they use names and emblems in conformity with the Geneva Conventions. They carry out humanitarian activities in their respective countries in accordance with national law and with the Statutes of the Movement.

5. National Societies have a special role in co-operating with their governments to protect these emblems and names so that they do not lose their special value. The ICRC and the International Federation have the right to use the emblems at all times⁴ and they assist National Societies and share with them the responsibility to protect the emblems and the names of the Movement.

¹ Arts. 53, 54, Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field of 12 August 1949, (GCI); Arts. 38(1), 85(3)(f), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Conflicts of 8 June 1977 (API).

² *Id.* Art. 85(3)(f), API. See, also, Rome Statute of the International Criminal Court, Art. 8(2)(b)(vii).

³ Art. 44, GCI.

⁴ *Id.*

6. The ICRC directs and coordinates the international relief activities conducted by the Movement in situations of armed conflict and thereby strives to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It also works to promote and strengthen humanitarian law and universal humanitarian principles. Its international legal personality is explicitly recognised by the States with which it has concluded agreements acknowledging its status, privileges and immunities. The ICRC enjoys observer status in the United Nations General Assembly.

7. The International Federation is the federation of currently 178 National Red Cross and Red Crescent Societies. Its international legal personality is recognised by a large number of States through status agreements, granting it similar privileges and immunities enjoyed by the UN family and other International Organisations. It was also confirmed as an international organisation by the UN system, when UN General Assembly Resolution 492 of 27 October 1994 granted the International Federation observer status within the General Assembly. The International Federation's mandate is to coordinate, inspire, encourage, facilitate and promote the establishment and development of National Societies, and their humanitarian activities, especially on behalf of victims of natural disaster and in fields of public health.

Examples of misuse

8. Misuses have occurred and continue to occur in all forms in the non-cyber-world. National Societies use the normal procedures available to attack such misuses, including action taken by their governments, in some cases through criminal prosecution. Civil legal proceedings have also been undertaken, either to prevent or to obtain damages for misuse. As might be expected, misuse also occurs in the cyber-world, where traditional remedies are difficult or impossible to apply. Misuse of protected designations of the Movement includes domain names that integrate the words "redcross" or "redcrescent", e.g., www.redcrossfashions.com. Other forms of misuse include cybersquatting and the diversion of domain names of components of the Movement to pornographic sites.⁵ Three cases shall be briefly mentioned here:

(i) The regional delegation of the International Federation in Guatemala registered the domain names "cruzrojahumanidad.org" and "caribredcross.org" on behalf of the National Societies in the region. Both sites were redesigned to create links between the regional delegation's web-page and the websites of the region's National Societies, for instance www.nicaragua.cruzrojahumanidad.org or www.guatemala.cruzrojahumanidad.org.

At the end of December 2001, the regional delegation received a letter from the registrar, asking it to decide within one month if it wanted to renew the reservation for one more year. The delegation sent a timely, positive answer, but the domain name had already been committed to another person.

Following this, all the sites using the domain name cruzrojahumanidad.org were redirected to a pornographic site with the address "www.tinawebcam.com", including directories of major search engines. For unknown reasons, the address www.cruzrojahumanidad.org was subsequently redirected to the site of a private company, DomainStrategy.com, showing a neutral page with the comment "Website coming soon". In this case the registrar was in Canada, and the Canadian Red

5 See, Appendix A, attached: International Red Cross and Red Crescent Movement - Examples of Domain Name Violations.

Cross was able to convince the owner to transfer the name back to the International Federation. This was accomplished by negotiation led by the Canadian Red Cross and it was not necessary to seek government intervention. In April 2002, DomainStrategy.com agreed to transfer the domain name back to the International Federation.

(ii) Similar difficulties occurred with the domain name “caribredcross.org”. This name was linked to a site called “adultcity” where pornography was available together with an advertisement offering the site for sale. Inquiries through domain name search sites showed that the domain name was owned through NicGOD Domain Services in Russia. The Administrative Contact was in Armenia and the Technical Contact was based in the US. With the assistance of the Armenian Red Cross, it was verified that the address in Armenia was false. The International Federation contacted the American Red Cross, requesting it to contact the Technical Contact and through it, to locate the cybersquatter. The domain name “caribredcross.org” is no longer in use, but it has not been transferred back to the International Federation.⁶

(iii) The third case involves the malicious misrepresentation of a National Society through the registration of a copy of the site with a domain name using the same basic name as that of the National Society, but with a different suffix (“.net” in place of “.org”). The misrepresentation involved the substitution of some sections of the site with text and pictures which defamed the Society and its humanitarian principles.

This case was ultimately closed, but not before several interventions. During the process the site was moved about to business addresses in several different countries. This case does not, however, involve the same name protection issues as the first two, as the National Society had not used the protected name “redcrescent” in its own domain name. The ICRC and the International Federation will be warning all National Societies to ensure that their domain names include the protected words so as to more clearly invoke the protection of the Geneva Conventions, including the obligation of States to prohibit misuse.

9. These examples show that in cyberspace, neither governments nor components of the Red Cross and Red Crescent Movement presently possess the tools necessary to fulfil their obligation to protect the emblems and the names “Red Cross” and “Red Crescent”. Although some misuses seem to have been stopped through painstaking effort, the majority persist. These can range from the very damaging misuses by pornographic sites, to the especially egregious abuse of cybersquatting, examples of which are highlighted in *Appendix A*, attached. In addition, it should be noted that ending an abuse does nothing to redress the damage caused. To that end, readily available and efficient remedial procedures are required.

Conclusion: relief sought by the International Red Cross and Red Crescent Movement

10. The domestic laws and remedial procedures of States are at best, cumbersome, and at worst, insufficient to prevent and redress abuse of the emblems and designations of the Red Cross and Red Crescent Movement. In some States, they are simply unavailable. In others, they are theoretically available but may be unreliable, excessively expensive for public interest organisations, or excessively time-consuming. A remedy in one case, in one State, does not create a precedent for like cases in other States. State-by-State enforcement is simply impractical for misuses that arise from technology spanning the global community. The legal obligation of States

⁶ The new owner is Pearson Education, Edinburgh Gate, Harlow, Essex CM20 2JE, GB.

to “take measures for the prevention and repression, at all times” of abuse of the emblems and designations of the Red Cross and Red Crescent Movement has already been noted. A step toward fulfilment of that obligation would be the establishment of a simple, efficient administrative procedure to remedy misuses of its names, which are protected under international law.⁷

[Appendix A follows]

7 Uniform Domain Name Dispute Resolution Policy (UDRP) procedures of the Internet Corporation for Assigned Names and Numbers (ICANN) to remedy misuses not involving trademarks and service marks are presently unavailable. As the names and emblems of the Red Cross and Red Crescent have always enjoyed protection under international law, there was no prior need for trademark registration, a requirement under UDRP.

APPENDIX A

INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

EXAMPLES OF DOMAIN NAME VIOLATIONS

DOMAIN NAME	REGISTRANT	SITE DESCRIPTION	REMARKS
Pornography			
caribredcross.org	Pearson Education, Great Britain	Pornography site in 2000. Does not exist anymore.	
cruzrojahumanidad.org	Since 14.1.2002, reserved by the Federation of the RC societies	In 2001, led to a pornography site (www.tinawebcam.com). Now goes to a neutral page: "DomainStrategy.com. Website coming soon"	
Forsale			
redcrescent.org	wwwsolution,(sic)United States	Site displaying a replica of the Federation site (www.ifrc.org) with an advert for "Islamic SuperStore" at the top (sales of "halals" meats online). Comment within the advert: "redcrescent.orgforsale"	
redcrescent.net	wwwsolution, United States		
britishredcross.org&.net	Graphite Marketing Ltd, Great Britain		
deutschesroteskreuz.com	Holger Nagel Enterprises FOR SALE, United States		
buscocruzroja.com	Namezero.com, United States		
cruzrojaextremadura.com	Extremadura Digital Editorial.com, Spain		
Commercial sites			
redcrossoothache.com	TheMentholatum Company, United States	Redirect to the site www.mentholatum.com: online resource for health info and products	
redcrossdrug.com	Robert A. Briggs, United States	Site of Red Cross Drug (RCD): online sale of veterinary products	E-mail: products@redcrossdrug.com pharmacist@redcrossdrug.com
redcrossloto.com&.org	Carl Pretorius, Zambia	Redirect to the site www.wildlifewins.com/: lotto	
redcrescentlottery.com	The Int. Lottery in Liechtenstein	Site with games and lotto.	Link to the site of the Federation with this comment: "nous soutenons le CICR".
redcrossfashions.com	Ramaniyam technologies, India	Site of the trademark "Trentz": fashion photos.	E-mail: tiby@redcrossfashions.com

DOMAINNAME	REGISTRANT	SITEDESCRIPTION	REMARKS
Diverse			
redcross-relief.com	DisasterReliefInc.,United States	Accessibleonlywitha password.	
croixrouge.com	IAConsulting	Portalsite(likeYahoo)	
Reserved,notused			
americanredcrescent.com .org.net	HolyLandFoundationforRelief andDevelopment,UnitedStates		
redcrossnarcotic.net	PahleviReza,Indone sia		
redcrosstravel.com	WmsEnterprisesCo,Wilfred Sherman,UnitedStates		
usredcrescent.org	IslamicSupremeCouncilof America,UnitedStates		

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