

ADMINISTRATIVE PANEL DECISION

Artemis Marketing Corp. v. Domain Admin, TotalDomain Privacy Ltd
Case No. D2022-4575

1. The Parties

The Complainant is Artemis Marketing Corp., United States of America (“United States”), represented by Bryan Cave Leighton Paisner, United States.

The Respondent is Domain Admin, TotalDomain Privacy Ltd, Panama.

2. The Domain Names and Registrar

The disputed domain names <romstogo.com>, <roomsstogo.com>, <roomstogo.net>, and <toomstogo.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 6, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 4, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on January 26, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company founded in 1991 in the United States, which licensees operate retail furniture stores under the Complainant's trademark, with an operation of approximately 150 showrooms which generates approximately USD 2 billion in sales.

The Complainant is the owner of several trademark registrations around the world, among others, the following:

Trademark	No. Registration	Jurisdiction	Date of Registration	International Class
ROOMS TO GO	1756239	United States	March 2, 1993	042
ROOMS TO GO	2396055	United States	October 17, 2000	20

The Complainant owns the domain name <roomstogo.com>, which resolves to the Complainant's official website.

The Respondent registered the disputed domain names <romstogo.com>, <roomsstogo.com>, <roomstogo.net>, and <toomstogo.com> on June 25, 2004, January 8, 2005, June 5, 2005, and February 20, 2018, respectively. All the disputed domain names resolve to parked websites that include pay-per-click links.

5. Parties' Contentions

A. Complainant

I. Identical or Confusingly Similar

That, since its foundation, the Complainant has been developing its reputation and goodwill and enjoys tremendous success. That, as a result, it has been consistently ranked among the top-five furniture stores in the United States.

That the disputed domain names were registered well after the Complainant's trademarks were registered.

That the disputed domain name <roomstogo.net> is identical to the Complainant's trademark.

That the other three disputed domain names (<romstogo.com>, <roomsstogo.com>, and <toomstogo.com>) are identical and confusingly similar to the Complainant's trademark since the Respondent is intentionally misspelling the Complainant's trademark, which constitutes typosquatting.

II. Rights or Legitimate Interests

That the Complainant must only make a *prima facie* case showing that the Respondent lacks rights to or legitimate interests in the disputed domain names.

That the Respondent is not authorized by the Complainant to use the disputed domain names.

That there is no indication that the Respondent is known under the disputed domain names.

That the disputed domain names are identical or confusingly similar to the Complainant's trademarks, and are used to attract customers to the websites to which the disputed domain names resolve.

That the Respondent is not, in any way, associated with the Complainant, and is not licensed or otherwise authorized by the Complainant to use the Complainant's trademarks or the disputed domain names.

That the Complainant's trademarks are well known.

That the Respondent has no means to establish that it is or it has been commonly known as "Rooms To Go", or a variation thereof.

That the Respondent's identity remains concealed through the employment of a "Russian doll scheme"; that, therefore, the Respondent has no rights to or legitimate interests in the disputed domain names.

That the disputed domain names resolve to parked websites that include pay-per-click links advertising furniture.

That the Respondent is using the websites to which the disputed domain names resolve to redirect traffic to other websites diverting customers looking for the Complainant's goods and services.

That the Respondent is using the disputed domain names to capitalize on the goodwill, reputation, and fame of the trademarks of the Complainant.

That this scheme is not a legitimate business operation or a *bona fide* offering of goods, nor a legitimate noncommercial or fair use of the disputed domain names.

III. Registered and Used in Bad Faith

That the Respondent registered and is using the disputed domain names in bad faith in violation of Paragraphs 4(b)(i), (ii), and (iv) of the Policy.

That the Respondent's registration and use of the disputed domain names in bad faith are shown by its use of parked websites containing pay-per-click links to other websites that offer products and services that compete with those offered by the Complainant.

That the Respondent is explicitly offering to sell at least two of the disputed domain names.

That the registration and use of the disputed domain name <roomstogo.net> configure blatant and obvious acts of cybersquatting, while the registration and use of the <romstogo.com>, <roomsstogo.com>, and <toomstogo.com> disputed domain names clearly conform typosquatting conducts, which previous panels have found to constitute bad faith under the Policy.

That the Respondent knew the Complainant's trademarks at the time of registration of the disputed domain names, well after the Complainant began using the ROOMS TO GO trademark.

That the Respondent has no intellectual property in the disputed domain names, which are obviously connected to particular products and services, and that the Respondent is not related to such products and services. That, therefore, this constitutes opportunistic bad faith.

That the implementation of the "Russian doll scenario" amounts to bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant is required to prove that each of the three following elements is satisfied:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names were registered and are being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

The Complainant has provided enough evidence to prove that it is the owner of registrations for the ROOMS TO GO trademark, since as early as 1993.

A.1. <roomstogo.net>

The disputed domain name <roomstogo.net> is identical to the Complainant's trademark ROOMS TO GO, as it includes it entirely (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

A.2. <romstogo.com>

The disputed domain name <romstogo.com> is confusingly similar to the ROOMS TO GO trademark since this disputed domain name suppresses a letter "o" from the word "room", which makes this a typical case of typosquatting, considering that it is an intentional misspelling of the Complainant's trademark (see section 1.9 of the [WIPO Overview 3.0](#); see also *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, WIPO Case No. [D2015-2333](#); *Rolls-Royce plc v. John Holt.*, WIPO Case No. [D2017-1842](#); *Mastercard Prepaid Management Services Limited v. Cash SDS.*, WIPO Case No. [D2020-1938](#); and *ZB, N.A., a national banking association, dba Zions First National Bank v. Sharon White*, WIPO Case No. [D2017-1769](#)).

A.3. <roomsstogo.com>

The disputed domain name <roomsstogo.com> is confusingly similar to the ROOMS TO GO trademark since the disputed domain name includes the ROOMS TO GO trademark entirely, with the addition of the letter "s" between the word "rooms" and the word "to", which makes this a typical case of typosquatting, considering that it is an intentional misspelling of the Complainant's trademark, taking into account that, when typing a domain name, it is not uncommon for the user to double type one of its letters (see section 1.9 of the [WIPO Overview 3.0](#); see also *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, *supra*; *Rolls-Royce plc v. John Holt.*, *supra*; *Mastercard Prepaid Management Services Limited v. Cash SDS.*, *supra*; and *ZB, N.A., a national banking association, dba Zions First National Bank v. Sharon White*, *supra*).

A.4. <toomstogo.com>

The disputed domain name <toomstogo.com> is confusingly similar to the ROOMS TO GO trademark since the disputed domain name switches the letter "r" for a "t" in the word "room", which makes this a typical case of typosquatting, considering that it is an intentional misspelling of the Complainant's trademark, especially

taking into account that the letter “t” is adjacent to the letter “r” in the QWERTY keyboard (see section 1.9 of the [WIPO Overview 3.0](#); see also *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, *supra*; *Rolls-Royce plc v. John Holt.*, *supra*; *Mastercard Prepaid Management Services Limited v. Cash SDS.*, *supra*; and *ZB, N.A., a national banking association, dba Zions First National Bank v. Sharon White*, *supra*).

The addition of the generic Top-Level Domains (“gTLDs”) “.net” and “.com” to the disputed domain names constitutes a technical requirement of the Domain Name System (“DNS”). Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

In light of the above, the first element of the Policy has been met.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services;
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial 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.

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any license or authorization to the Respondent to use its trademark, and that the said Respondent has not been commonly known by the disputed domain names (see *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#); and *Six Continents Hotels, Inc. v. IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

The case file contains no evidence that demonstrates that the Respondent has used or has made demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services (see *Valentino S.p.A. v. Qiu Yufeng, Li Lianye*, WIPO Case No. [D2016-1747](#); and *Associated Newspapers Limited v. Manjeet Singh*, WIPO Case No. [D2019-2914](#)).

The Respondent’s election of the disputed domain names, one of which fully comprises the Complainant’s trademark (<roomstogo.net>), while the others being typosquatted versions of the Complainant’s trademark (<romstogo.com>, <roomsstogo.com>, and <toomstogo.com>), shows that the Respondent has targeted the Complainant and its trademark.

The Complainant has argued that the disputed domain names resolve to parked websites comprising pay-per-click links, which are related to competing products and services. The Respondent did not challenge these allegations. This type of conduct cannot be considered as a legitimate noncommercial or fair use of the disputed domain names (see *Wachovia Corporation v. Peter Carrington*, WIPO Case No. [D2002-0775](#); *Edmunds.com, Inc. v. Digi Real Estate Foundation*, WIPO Case No. [D2006-1043](#); *McKenzie Global Holdings Limited v. Paul Strube* WIPO Case No. [D2017-1857](#), and *Government Employees Insurance*

Company (“GEICO”) v. *Registration Private, Domains By Proxy, LLC / Kanetria Kitchens* WIPO Case No. [D2022-2284](#)).

Paragraph 4(c) of the Policy establishes that the aforementioned conduct cannot constitute a *bona fide* offer, because said pay-per-click links capitalize on the reputation and goodwill of the Complainant’s name and the trademark ROOMS TO GO (see section 2.9 of the [WIPO Overview 3.0](#); see also *ABSA Bank Limited v. Domain Administrator*, See *PrivacyGuardian.org / Sidoti Parmer*, WIPO Case No. [D2020-2992](#); *Archer-Daniels-Midland Company v. Wang De Bing*, WIPO Case No. [D2017-0363](#); *Fontem Holdings 4, B.V. v. J- B- , Limestar Inc.*, WIPO Case No. [D2016-0344](#); *Barceló Corporación Empresarial, S.A. v. Hello Domain*, WIPO Case No. [D2007-1380](#); and *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#) “The disputed domain name is currently linked to a website containing pay-per-click links, some relating to vaccines, cancer, and HPV. The Respondent is not authorized to use the Complainant’s GARDASIL mark in any way, and using a domain name incorporating the Complainant’s mark to host sponsored links associated with the Complainant’s area of business cannot be a *bona fide* offering of goods or services.”).

In sum, the Complainant made a *prima facie* case asserting that the Respondent lacks rights to or legitimate interests in the disputed domain names. Therefore, the burden of production to demonstrate rights to or legitimate interests in the domain name falls on the Respondent, who in this case has failed to ascertain them (see sections 2.1 of the [WIPO Overview 3.0](#), see also *Harpo, Inc. and Oprah’s Farm, LLC v. Robert McDaniel*, WIPO Case No. [D2013-0585](#); *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

Therefore, the second element of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered 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 the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the respondent’s website or location or of a product or service on its website or location.

As stated previously, the Complainant has ascertained its rights over the ROOMS TO GO trademark. The dates of registration of the Complainant’s trademarks significantly precede the dates of registration of the disputed domain names.

Given the fact that the disputed domain name <roomstogo.net> entirely comprises the ROOMS TO GO trademark, and that the disputed domain names <romstogo.com>, <roomsstogo.com>, and <toomstogo.com> conform typosquatted versions of it, this Panel finds that the Respondent knew the Complainant when registering the disputed domain names, considering that the said Complainant has been in business since 1991, that its first trademark registration was granted in 1993, and that the Complainant and its trademark ROOMS TO GO have a widespread market presence in the United States and online with over 150 showrooms. Therefore, the registration of the disputed domain names constitutes bad faith registration under the Policy. (See section 3.2.2 of the [WIPO Overview 3.0](#), see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#) "The Panel infers, in the absence of any submissions, explanation or evidence to the contrary, that Respondent knew or must have known of Complainant's Trade Mark at the time it registered the Domain Name. The MONEYCORP trade mark has been in public use since approximately 1979 and Complainant has previously registered Complainant's Trade Mark in at least the United Kingdom and the United States of America. It is therefore reasonable to infer that Respondent knew or must have known of Complainant's Trade Mark.").

The fact that the Respondent registered the disputed domain names one of which entirely reproduces the Complainant's trademark ROOMS TO GO (<roomstogo.net>), and which others conform typosquatted versions of it (<romstogo.com>, <roomsstogo.com>, and <toomstogo.com>), shows that the Respondent has targeted the Complainant, which constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

Moreover, as stated in the discussion of the preceding factor of the Policy, the disputed domain names resolve to parked websites comprising pay-per-click links, some of which are related to products and services that compete with those of the Complainant. Therefore, this Panel considers that the Respondent is trying to capitalize on the reputation and goodwill of the Complainant by misleading Internet users, for commercial gain, to the websites to which the disputed domain names resolve by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of said websites, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#), see also *Ustream.TV, Inc. v. Vertical Axis, Inc.*, WIPO Case No. [D2008-0598](#). "The Respondent's use of the disputed domain name for a PPC parking page constitutes bad faith use because the Respondent is attracting Internet users to its website by causing confusion as to whether its website is, or is associated with, the Complainant or its services. This conduct disrupts the Complainant's business by diverting consumers away from the Complainant's website. The diversion is for the Respondent's commercial gain because the Respondent receives PPC revenue from those visitors to its website who click through to the advertising on the site. Thus, the Respondent's conduct constitutes classic bad faith registration and use under paragraph 4(b)(iv) of the Policy (*Mobile Communication Service Inc v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *Royal Bank of Canada v. Henry Chan*, WIPO Case No. [D2023-0031](#); *Fox News v. Reid*; *TT-Line Company Pty v. Vertical Axis, Inc.*, WIPO Case No. [D2007-1742](#)).")

Another indicator of bad faith is the fact that once the information of the registrant was "disclosed" by the Registrar, it was discovered that said registrant was in turn what appears to be another privacy service, which model is referred to as the "Russian doll scenario", which suggests that the Respondent has undergone extraordinary efforts to circumvent the Policy (see section 4.4.6 of the [WIPO Overview 3.0](#)) "as it suggests that the Respondent is making an attempt to shield its illegitimate conduct from a UDRP proceeding" (see also *K7 Computing Private Limited v. Domain Admin, Privacy Protect, LLC / Domain Admin, TotalDomain Privacy Ltd* WIPO Case No. [D2022-0733](#)).

In light of the above, the third element of the Policy has been proven.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <romstogo.com>, <roomsstogo.com>, <roomstogo.net>, and <toomstogo.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: February 9, 2023