

ADMINISTRATIVE PANEL DECISION

Pi Community Company v. Nguyen Van Vuong
Case No. D2022-3538

1. The Parties

The Complainant is Pi Community Company, United Kingdom, represented by Coblenz, Patch, Duffy & Bass, LLP, United States of America.

The Respondent is Nguyen Van Vuong, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <babypinetwork.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 26, 2022. On September 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 September 30, 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 October 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 31, 2022.

The Center appointed John Swinson as the sole panelist in this matter on November 3, 2022. 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 launched a cryptocurrency project on March 14, 2019 under the name PI NETWORK. The Complainant's digital currency is called "PI" and "Pi Network" is the community of members that engage with the PI cryptocurrency. Consumers can mine the PI cryptocurrency on their mobile phones.

The Complainant uses the domain name <minepi.com> for website where the Complainant offers its cryptocurrency services.

The Complainant uses a logo which includes the Greek letter pi (Π) designed to look like two people waving.

The disputed domain name was registered on July 12, 2022.

The Respondent did not file a Response, so little is known of the Respondent. The Registrar's records give an address for the Respondent in Viet Nam.

The disputed domain name currently resolves to a website titled "Baby Pi Network". This website includes the Complainant's PI logo in several places, with the words "Baby Pi POW Network" located near this logo. The website includes the following text: "Baby Pi POW Network is a token built by blockchain technology and created in the vast ecosystem of Binance Smart Chain Network. Baby Pi POW Network is a meme token that only rewards investors for holding, the number of rewards received will increase over time if investors hold them longer. We are the safest place for long and short term investors in the meme category. Safemoon x10000 shiba x10000 babydoge x10000 so the next x10000 memecoin will be Baby Pi POW Network."

The website at the disputed domain name does not include any postal address or contact details. The website displays a "Contract Address", and a button "buy token". It has links to a Twitter account that does not exist and to a YouTube channel that includes the Complainant's PI logo and that has four videos (each with less than 50 views) and five subscribers.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

The Complainant's trademark and trade name is PI NETWORK, and the Complainant's digital currency trademark is PI.

Based on the Complainant's substantial and widespread use of the PI NETWORK, the Complainant has established trademark rights in this trademark in connection with cryptocurrency services. For the purposes of the Policy, common law rights are sufficient and a complainant thus need not hold a registered trademark to establish rights in a trademark.

The disputed domain name wholly incorporates the Complainant's distinctive trademarks. UDRP panels routinely find such direct incorporation of a trademark as confusingly similar.

The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or

services and is not making any legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the PI NETWORK trademark. It is well established that rights and legitimate interests cannot be created where the user of the domain name at issue would not choose such a name unless he was seeking to create an impression of association with the Complainant. There can be no dispute – the Respondent is attempting to create just such an impression here. The disputed domain name and the corresponding website is custom-made to prey on confusion by using all of the Complainant’s PI Network trademarks, including the identical PI logo. The Respondent can have no rights or legitimate interests in the disputed domain name because it is using it to falsely and fraudulently suggest an association with PI NETWORK.

Bad faith is established because the disputed domain name was registered with the goal of intentionally attracting users for commercial gain by creating a likelihood of confusion with the Complainant. Panel decisions have found bad faith when a respondent misdirects traffic to “mousetrap” consumers to websites that advertise services that are not sponsored or endorsed by, or affiliated with, the Complainant.

The Respondent’s willful misconduct is apparent from its use of the PI NETWORK trademark, wholly incorporating the Pi Network name and adding “Baby” to suggest an affiliation with the Complainant that does not exist, together with its use of an identical logo to the PI NETWORK logo. Furthermore, the Respondent uses the disputed domain name to promote a cryptocurrency, services that are identical to the Complainant’s cryptocurrency services.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The *onus* of proving these elements is on the Complainant even though the Respondent failed to submit a Response.

Paragraph 15(a) of the Rules directs the Panel to decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy provides that the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant does not own any registered trademarks. The Complainant relies upon common law trademark rights and the Complainant is entitled to so under the Policy. The Complainant has provided evidence that the Complainant has been using PI NETWORK as a trademark since at least 2019 and that this trademark is well known in the cryptocurrency community. For example, according to the Complainant, the Complainant’s App has been downloaded over 50 million times, and the Complainant has over one million Twitter and Facebook followers. The Panel finds that the Complainant established common law trademark rights for purposes of the UDRP.

The disputed domain name includes the Complainant's PI NETWORK trademark in its entirety.

The Panel accordingly concludes that the disputed domain name is confusingly similar to the Complainant's PI NETWORKS trademark, disregarding the Top-Level Domain ".com".

The fact that the Respondent is targeting the Complainant's trademark (as discussed below) supports the Complainant's position, in that this assists in demonstrating that its trademark has achieved significance as a source identifier.

The Complainant succeeds on the first element of the Policy in relation to the disputed domain name.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

The *onus* of proving this requirement, like each element, falls on the Complainant. Previous UDRP panels have recognized the difficulties inherent in proving a negative, however, especially in circumstances where much of the relevant information is in, or likely to be in, the possession of the respondent. Accordingly, it is sufficient for a complainant to raise a *prima facie* case against the respondent under this head and an evidential burden of production will shift to the respondent to rebut that *prima facie* case.

The Complainant asserts that the Complainant does not know the Respondent, has no legal or business relationship with the Respondent, and has not given any license, permission or authorization to the Respondent to use the PI NETWORK trademark or the disputed domain name.

The Complainant also asserts, for the reasons discussed below in relation to bad faith, that the Respondent's use of the disputed domain name is not *bona fide* or a legitimate use, and that the Respondent is using the disputed domain name to create a false impression that the Respondent is associated with the Complainant.

The Complainant has established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the disputed domain name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the disputed domain name.

The Respondent has failed to produce any evidence to establish his rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that none of the circumstances listed in paragraph 4(c) of the Policy apply in the present circumstances, and that the Respondent has no rights or any legitimate interests in the disputed domain name.

The Complainant succeeds on the second element of the Policy in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered and subsequently used the disputed domain name in bad faith.

The Respondent's conduct demonstrates the Respondent's knowledge of the Complainant and its trademark. The Respondent is using the Complainant's PI logo and PI NETWORK trademark to promote a cryptocurrency in competition with the Complainant's PI cryptocurrency. The Respondent's proposed cryptocurrency network appears to be called "Baby PI POW Network", in a probable attempt to create a likelihood of confusion with the Complainant.

The Panel concludes that the Respondent specifically knew of and targeted the Complainant and that the Respondent is attempting to trick the public into believing that the Respondent is associated with the Complainant. In short, the Panel concludes that the Respondent registered and is using the disputed domain name to take advantage of the Complainant's PI NETWORK trademark. *Block.one v. See PrivacyGuardian.org / Burstein-Applebee, Jerry K. Chasteen*, WIPO Case No. [D2021-1516](#).

Accordingly, the Panel finds that paragraph 4(b)(iv) of the Policy applies in the present case.

The Complainant succeeds on the third element of the Policy in relation to the disputed domain name.

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 name <babypinetwork.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: November 16, 2022