

## **ADMINISTRATIVE PANEL DECISION**

Daniel Tobok v. lubing ta  
Case No. D2023-2946

### **1. The Parties**

The Complainant is Daniel Tobok, Canada, represented by Lipkus Law LLP, Canada.

The Respondent is lubing ta, China.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 10, 2023. On July 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 2023, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 14, 2023 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 July 14, 2023.

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 July 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on August 9, 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 an individual, resident in Canada. He submits evidence that he is a leading, internationally recognized cybersecurity and digital forensics expert whose name is widely known within that sphere of commercial activity. He is currently the Chief Executor Officer of a global cybersecurity company named Cypfer.

The Complainant submits that he registered the disputed domain name in 2010, but inadvertently allowed the registration to lapse.

The Respondent registered the disputed domain name on September 11, 2022. The Complainant provides evidence that the disputed domain name has since resolved to a Chinese-language website offering or promoting gambling services.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant submits that he has enjoyed a 20-year career in cybersecurity and is widely recognized, in his personal capacity, as an expert in cybersecurity and digital forensics matters. He exhibits trade publications which refer to him as a "cybersecurity thought leader and guru" and as a "cybersecurity pioneer, innovator and entrepreneur". He provides evidence of personal appointments, including as cybersecurity advisor to a Hollywood studio and as the head of cybersecurity for a prominent member of the British royal family – each of which were the subject of media articles bearing his name and mark. He states that he is also a frequent speaker at security conferences, law schools, and bar associations across the United States of America and Canada. He states that he has also created and divested several successful cyber security companies, which has promoted his mark in the cyber security community. Additionally, the Complainant has authored a cybersecurity-focused chapter in a Law Society of Canada book. As a result of his promotional work, the Complainant frequently appears on notable news providers including Fox News, BNN, Bloomberg, The Financial Post, The Globe and Mail, CTV, and CBC. The Complainant contends that, as a result of these matters spanning many years, which implicate his personal name as a source identifier, he has obtained common law rights in that name, which has become a distinctive identifier of the cybersecurity services which he provides.

The Complainant contends that the disputed domain name is identical to his common law trademark DANIEL TOBOK.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. He states that he has no relationship with the Respondent and has never authorized it to use his DANIEL TOBOK trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. He contends that the Respondent is taking advantage of the reputation of his common law trademark DANIEL TOBOK by diverting Internet users who are looking for information about the Complainant to a gambling website from which it obtains commercial benefits. Alternatively, the Complainant submits that the Respondent registered the disputed domain name to prevent him from registering it and/or to sell it to him for valuable consideration in excess of its out-of-pocket expenses.

The Complainant requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

### **A. Identical or Confusingly Similar**

In this case, the Complainant claims common law rights, in the nature of unregistered trademark rights, in his personal name DANIEL TOBOK. Guidance on this topic can be found in section 1.5.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), which states:

"The UDRP does not explicitly provide standing for personal names which are not registered or otherwise protected as trademarks. In situations however where a personal name is being used as a trademark-like identifier in trade or commerce, the complainant may be able to establish unregistered or common law rights in that name for purposes of standing to file a UDRP case where the name in question is used in commerce as a distinctive identifier of the complainant's goods or services.

Merely having a famous name (such as a businessperson or cultural leader who has not demonstrated use of their personal name in a trademark/source-identifying sense), or making broad unsupported assertions regarding the use of such name in trade or commerce, would not likely demonstrate unregistered or common law rights for purposes of standing to file a UDRP complaint."

In this case, the Panel is satisfied on the evidence provided by the Complainant as summarized above that he has become established, over many years, as a leading expert on cybersecurity matters such that his personal name has become a distinctive identifier of the services that he provides on a commercial basis. The Panel moreover notes that for over a decade the Complainant held the disputed domain name – bearing his unadorned name – which may also be seen to serve as a form of source identifier, and therefore finds that the Complainant has common law rights in the trademark DANIEL TOBOK for the purposes of the Policy.

The Panel finds further that the disputed domain name is identical to the Complainant's trademark DANIEL TOBOK.

### **B. Rights or Legitimate Interests**

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the burden of production of evidence shifts to the Respondent. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel finds, on the contrary, that the Respondent has used the inherently misleading disputed domain name to divert Internet users to a website offering gambling services, which cannot amount to legitimate use of the disputed domain name.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### **C. Registered and Used in Bad Faith**

The Panel finds the Complainant's name and trademark DANIEL TOBOK to be distinctive and to have no conceivable purpose in commerce other than to identify the Complainant and the cybersecurity and related services which he provides. Noting also that the Complainant was the original registrant of the disputed domain name, which he inadvertently allowed to lapse, the Panel has no hesitation in finding that the Respondent registered the disputed domain name in the knowledge of the Complainant's trademark rights and with the intention of taking unfair commercial advantage of that trademark.

The Panel finds the disputed domain name to be inherently misleading, as directly incorporating the Complainant's personal name and trademark without adornment. In the view of the Panel, the disputed domain name therefore inevitably misrepresents to Internet users that it is owned or operated by, or otherwise legitimately associated with, the Complainant.

Further, the Panel accepts the Complainant's (undisputed) evidence that the Respondent has used the disputed domain name to resolve to a website offering or promoting gambling services, from which the Respondent must be assumed to derive remuneration. The Panel concludes in the circumstances that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

### **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, <danielatobok.com>, be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: August 21, 2023