

ADMINISTRATIVE PANEL DECISION

Vorwerk International AG v. S. A. V.

Case No. D2023-2991

1. The Parties

The Complainant is Vorwerk International AG, Switzerland, represented by Moeller IP, Argentina.

The Respondent is S. A. V., United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <thermomixgpt.com> (the “Domain Name”) is registered with Squarespace Domains II LLC (the “Registrar”)¹.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2023. On July 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 18, 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 August 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2023. The Respondent did not submit any formal response.

¹ The Complaint was filed identifying the Registrar as Google LLC. On September 28, 2023, Google LLC confirmed that the Domain Name is registered with Squarespace Domains II LLC following a purchase agreement. Google LLC has confirmed both Registrars’ compliance with the UDRP and the implementation of the Decision by either Registrar.

The Respondent did submit the informal communications on July 19, and 21 2023. Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process email on September 11, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on September 22, 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 produces and sells a multifunctional kitchen appliance under its THERMOMIX mark in 70 countries. In 2020, the Complainant generated EUR 1,584 million in sales under the THERMOMIX brand, with an average of 59,900 self-employed sales advisors and 5,900 employees. The Complainant's THERMOMIX mark has been recognised as well-known by prior UDRP panels. See *Vorwerk International AG v. Milen Radumilo*, WIPO Case No. [D2021-3194](#).

The Complainant owns trade mark registrations for its THERMOMIX mark in many jurisdictions, including International Trade Mark Registration No. 1188472 THERMOMIX in classes 07, 08, 09, 11, 16, 18, 21, 24, 25, 28, 29, 30, 32, 35, 37 and 41, designating the Respondent's country of the United States (amongst others), with a registration date of September 6, 2013 and European Union IPO Trade Mark Registration No. 006289607 THERMOMIX in classes 07, 28, 35, and 41, with registration date July 2, 2008.

The Domain Name was registered on May 27, 2023 and currently resolves to a page stating "404 Not Found". The Complainant's evidence establishes that the Domain Name was, at the time of filing of the Complaint, used for a website entitled "ThermomixGPT – Where questions meet culinary magic". The website featured a chatbot offering to answer questions about "Thermomix".

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its THERMOMIX mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith in order to take advantage of the Complainant's reputation for the Respondent's commercial gain.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. The Respondent did send informal correspondence to the Center on July 19, and 21, 2023, in which he indicated that he registered the Domain Name as an "experiment and personal project out of appreciation for Thermomix products... I registered this domain name to build a simple AI chatbot using the new OpenAI GPT technology. It was meant for my own educational purposes and I never promoted or shared it anywhere." The Respondent offered to apply disclaimers disassociating the Domain Name from the Complainant. The Respondent also stated that he would be prepared to consider transferring the Domain Name to the Complainant "in a manner that is fair and agreeable to both parties" and which "compensates me for my efforts...."

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant plainly has registered rights in a mark, THERMOMIX, that is wholly contained within the Domain Name, remaining recognisable within it. Where a domain name incorporates the entirety of a trade mark, the domain name will normally be considered confusingly similar to that mark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.7).

The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant’s evidence establishes that its mark was well-known and registered long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant’s mark and the Complainant has certified that the Domain Name is unauthorised by it. In terms of its composition, the Domain Name is on the one hand analogous to the types of domain names described in section 2.5.1 of the WIPO Overview as having an “inherent Internet connotation” and on the other hand akin to a term such as “info” or the like. In such scenario, a further examination by the panel of the broader facts and circumstances of the case tips the Panel to find in the Complainant’s favour here – notably the suggestion by the Respondent that it would be willing to let go of the Domain Name for compensation leads the Panel to believe that this (and not any good faith or fair use) was the Respondent’s ultimate motivation.

For the reasons discussed in relation to bad faith below, it is likely that the Domain Name was registered in order to take advantage of the Complainant’s reputation in its THERMOMIX mark. The Respondent’s registration and use of the Domain Name in these circumstances cannot represent a *bona fide* offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests (*Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#)). There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term, as in this case) to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

The Respondent expressly related the Domain Name to the Complainant’s industry by referring to “culinary magic” on the Domain Name’s website. The Respondent also used a shade of green that is very close to that employed by the Complainant for its own THERMOMIX logo, and the Respondent reproduced the mixer device widely used by the Complainant in its logo. In the Respondent’s response, he admitted being aware of the Complainant’s THERMOMIX products and acknowledged using the Domain Name for a chatbot relating to such products. The composition of the Domain Name also implies that it is the official chatbot of the Complainant, as “gpt” is a widely recognised reference to the well-known chatbot software “ChatGPT” (“gpt” being an acronym of “Generative Pre-trained Transformers” representing a large language model (sometimes referred to as a type of “artificial intelligence”)). The Respondent therefore unquestionably registered and used the Domain Name with the Complainant in mind, and the general impression of the Domain Name and related website was one of an official chatbot of the Complainant. A disputed domain name with such composition and use is not susceptible of falling within a fair use category noting the implied risk of affiliation, as Internet users may perceive it as being sponsored or affiliated with the Complainant.

The Respondent claimed to have intended to use the Domain Name for his own educational purposes; he does not however explain what this purpose entails. This could have been easily achieved without in effect posing, via the Domain Name, as an official presence of the Complainant – and if the educational purpose was to learn about GPT technology it seems that it could have been done without reference to any third party brand, and the Panel therefore views the Respondent’s claims in this respect with a degree of scepticism. The Panel ultimately finds that it was more likely than not the Respondent’s intention to impersonate the Complainant for his own commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy, noting in particular that the Respondent stated, in his communication, that he would be prepared to part with the Domain Name in a way that “compensates me for my efforts....”, which also suggests bad faith under paragraph 4(b)(i) of the Policy.

The Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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 Domain Name, <thermomixgpt.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: October 6, 2023