

ADMINISTRATIVE PANEL DECISION

Würth Elektronik GmbH & Co. KG v. Reuben Townsend, Nano Components
Case No. D2023-3264

1. The Parties

The Complainant is Würth Elektronik GmbH & Co. KG, Germany, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Reuben Townsend, Nano Components, Australia.

2. The Domain Name and Registrar

The disputed domain name <we-online.asia> (the “Disputed Domain Name”) is registered with Dreamscape Networks International Pte Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2023. On July 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 4, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on September 11, 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.

On October 4, 2023 the Panel issued a Procedural Order (the “Procedural Order”) in the following terms:

“Background

According to the email sent by the Complainant to the Respondent dated October 18, 2022 (Annex 10 to the Complaint), the Disputed Domain Name was registered by the Respondent as an employee of Würth Australia Pty Ltd, the email in question stating ‘I have received a request to reintegrate the domain we-online.asia, which you registered in 2015 as an employee of Würth Australia Pty Ltd, [...]’. It is not at present clear to the Panel why the Complainant alleges that at the time of registration this was a registration in bad faith if, as appears, the registration was effected by the Respondent as part of his duties as an employee of an affiliate of the Complainant.

Procedural Order

The Panel directs the Complainant to provide a further filing on or before October 9, 2023, which explains why it is alleged the Disputed Domain Name was registered in bad faith. Such a filing should make clear (i) whether or not at the time of registration, the Complainant agreed to or was aware that the Disputed Domain Name had been registered in the Respondent’s name; and (ii) whether the Complainant alleges that there were any applicable circumstances which meant that the Respondent should in fact have registered the Disputed Domain Name in the name of Würth Australia Pty Ltd and if so identify the circumstances concerned.

The Respondent shall if he wishes be entitled to file a statement in response to the Complainant’s filing, such statement to be provided within seven days of the date of the Complainant’s filing.

The Panel will then render its decision on or before October 17, 2023”

On October 9, 2023, the Complainant lodged a filing with the Center in response to the Procedural Order. The contents of that filing are discussed below. No filing was made by the Respondent.

4. Factual Background

The Complainant is a German company which manufactures and supplies electronic components. It has 23 production sites worldwide and employs around 8,200 people. In 2022 it generated sales of EUR 1.33 billion.

The Complainant owns a number of registered trademarks which comprise or include the letters “WE” in stylised form – see for example EU registration 018125004 registered on January 9, 2020. These are referred to as the “WE trademark” in this decision.

The Complainant owns the domain name <we-online.com> which resolves to its principal website.

The Disputed Domain Name was registered on June 6, 2015. It does not presently resolve to an active webpage. The filed evidence shows it has in the past resolved to a parking page indicating it was for sale.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that the Disputed Domain Name is identical to the Complainant's principal domain name <we-online.com> which is clearly not coincidental, and is confusingly similar to the WE trademark. The Complainant says that the Respondent was registered by "Nano Components", whose founder and director, Mr. Reuben Townsend, is a former employee of Würth Australia Pty Ltd (an affiliate of the Complainant). It was registered at the time Mr. Townsend was an employee of Würth Australia Pty Ltd but he was not authorised to do so (see discussion below).

The Complainant says that the Respondent has no rights or legitimate interests in the term "we" or "we-online"

In consequence the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. It says that in correspondence with Mr. Townsend he indicated that he would sell the Disputed Domain Name for EUR 65,000 which is indicative of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant is the owner of the WE trademarks. Each of the trademarks in question is a device mark but each features prominently as part of the registered device the letters "WE" (which also corresponds to the initials of the Complainant's business name) and in these circumstances the Panel concludes the Disputed Domain Name is confusingly similar to the WE trademark. Similarity between a domain name and a device mark which includes words or letters is a readily accepted principle where the words or letters comprise a prominent part of the trademark in question – see for example *EFG Bank European Financial Group SA v Jacob Foundation* WIPO Case No. [D2000-0036](#) and *Sweeps Vacuum & Repair Centre, Inc. v Nett Corp* WIPO Case No. [D2001-0031](#). (The Panel also notes that as a former agent of the Complainant, there is no question the Respondent was aware of the trademark rights of the Complainant.)

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy, where a mark is recognizable within the disputed domain name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) at section 1.7).

It is also established that the addition of a term (such as here “online”) to a disputed domain name would not prevent a finding of confusing similarity between the domain name and the mark ([WIPO Overview 3.0](#) at section 1.8).

It is also well established that the Top-Level Domain (“TLD”), in this case “.asia”, is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#) at section 1.11.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Panel also incorporates here the discussion below on the third element. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

In the absence of a Response the Panel accepts as accurate the Complainant’s account of the circumstances that applied when the Disputed Domain Name was registered. Mr. Townsend was an employee of an affiliate of the Complainant at that date. The evidence filed by the Complainant in response to the Procedural Order indicates that he was not authorised to do so and should not have done so, all domain name registrations within the Complainant’s group of companies being effected centrally. What the Respondent’s motives were are unclear but it would appear to have been an opportunistic registration which the Respondent presumably thought would be advantageous, but must have known corresponded to the domain name and trademarks the Complainant used.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances the Panel cannot clearly determine which, if any, of these factors may apply. It seems likely that factor (i) applies given that the evidence shows that the Respondent subsequently asked for EUR 65,000 to sell the Disputed Domain Name to the Complainant when approached by the Complainant. It is difficult to think of any legitimate reason the Respondent would have for registering in its own name a domain name which was in substance identical to that used by Mr. Townsend's employer's parent company. However, the Panel notes that in any event the paragraph 4(b) list is non exhaustive and takes the view that the registration of the Disputed Domain Name with knowledge of the Complainant's trademark in the circumstances of this case is itself evidence of bad faith – see *The Channel Tunnel Group Ltd. v. John Powell*, WIPO Case No. [D2000-0038](#). This is particularly so given that the Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <we-online.asia> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: October 17, 2023