

ADMINISTRATIVE PANEL DECISION

Solar Hero GmbH v. SINCRONIELEVADA UNIPessoal
Case No. D2024-4861

1. The Parties

The Complainant is Solar Hero GmbH, Germany, represented by Boehmert & Boehmert, Germany.

The Respondent is SINCRONIELEVADA UNIPessoal, Portugal.

2. The Domain Name and Registrar

The disputed domain name <hive-pt.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 November 25, 2024. On November 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 26, 2024, 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 sent an email communication to the Complainant on November 27, 2024, requesting the Complainant amend the Complaint regarding the wrongly-identified Registrar. The Complainant filed an amended Complaint on November 27, 2024.

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 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 22, 2024 and was automatically extended to December 26, 2024 as per the Respondent’s request in accordance with the Rules, paragraph 5(b). The Response was filed with the Center on December 26, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on January 3, 2025. 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

Little is known regarding the Complainant other than that it appears to be a limited liability company (Gesellschaft mit beschränkter Haftung) based in Germany. Crucially, although the Complainant states that the Respondent seeks to profit from the Complainant's reputation, no information as to such alleged reputation has been made available to the Panel.

The Complainant is the owner of European Union Registered Trademark Number 18879410 for the word mark TRADINGHIVE, registered on September 9, 2023 in Classes 36 and 42. Broadly speaking, the Complainant's mark covers financial services, banking solutions and technology-driven finance. The Complainant asserts, but does not evidence, that such mark is well-known.

On November 11, 2024, the Complainant's representative wrote a cease and desist letter to the Respondent notifying the Respondent of the Complainant's trademark stating that the Respondent is offering trading and financial services-related services under the sign "Hive PT" to customers across Europe in violation of said mark.

The disputed domain name was registered on February 11, 2024. The Respondent states that it is an active proprietary or "prop" trading company incepted at the end of 2022, and operating under the disputed domain name since the first quarter of 2024, providing an online platform for traders at various skill levels with challenges designed to serve as a comprehensive training and screening pathway, which identifies talented traders while minimizing financial risks. The Respondent uses the strapline "BUZZ UP YOUR TRADING". The Respondent claims that its participants' trading abilities, risk management skills and consistency are assessed under real market conditions in a simulated trading environment, and those who succeed are rewarded with the opportunity to trade significant company capital and participate in profit-sharing arrangements.

The Respondent provides evidence demonstrating its activities under the disputed domain name by way of screenshots of its website and blog, including a press release dated July 25, 2023, its YouTube, Instagram, LinkedIn, Tiktok, and Facebook accounts, a Forbes Georgia article entitled "HIVE PT Surpasses Competitors with Customizable Trading Experiences and Ethical Practices" dated August 21, 2024, and TrustPilot reviews dating from July 2024. The Respondent states that the "pt" element of its name stands for "proprietary or "prop" trading". The Respondent also shows that there are multiple owners of registered trademarks containing the word "hive" in Class 36, including several European Union registered trademarks.

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 letters "pt" in the disputed domain name represent the Portuguese country code and should be disregarded as being merely descriptive, and that the word "trading" in the Complainant's trademark should be disregarded for the same reason, "according to the Panel's usual practice", leaving a comparison between the word "hive" in the Second-Level Domain of the disputed domain name and the remaining word "HIVE" in the Complainant's trademark.

The Complainant submits that the Respondent does not have any rights or legitimate interests in the disputed domain name because it does not own any corresponding trademark rights, has never been known

by or acted under the disputed domain name prior to the date of its registration, is not associated with or authorized by the Complainant to use the designation "hive-pt", does not identify itself as independent of the Complainant, cannot be considered as making a bona fide offering of goods or services because of the partial incorporation of the Complainant's trademark, and creates the impression of a connection to the Complainant or is impersonating the Complainant to profit from the Complainant's reputation.

The Complainant contends that the Respondent knew or should have known of the Complainant's "well-known and globally present trademark" when it registered the disputed domain name, that it must be assumed that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, and that there is a high likelihood that Internet users may be confused given the identical services offered under an identical domain name. The Complainant notes that the registration of a domain name incorporating a known trademark can constitute bad faith, since it is unlikely that the registrant would have been unaware of the established rights in said mark at the material time. The Complainant submits that the Respondent has attempted to disrupt the business of a competitor, and that the Complainant need not prove that the Parties are active in the same industry, or are on the same economic level, or are engaged in direct competition.

The Complainant asserts that it is a common indicator of bad faith where a respondent's website corresponds to a complainant's area of activity under a very similar trademark, whereby a likelihood of confusion arises as to the affiliation of the services on the Respondent's website, and as to whether they are the Complainant's official services or are in some way associated with it.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name, and requests that the Complaint be denied.

The Respondent contends that the disputed domain name is not identical to the Complainant's mark, adding that weight must be given both to the term "pt" in the disputed domain name and "trading" in the Complainant's mark, adding that there is nothing in the Respondent's website that stands for Portugal, and that the term is an acronym for "prop training" which refers to the Respondent's activity. The Respondent asserts that the Complainant's mark combines the descriptive term "trading" with the dictionary word "hive" and is a "combined, weak mark", adding that the Respondent has not used the term "trading" in the disputed domain name. The Respondent notes that the first portion of the disputed domain name and the Complainant's mark are different, noting that this portion is that which will be first identified by consumers, adding that the Complainant's claim to broad rights in the word "hive" alone should be dismissed. The Respondent notes that "hive" is a dictionary word commonly used in various industries to represent communities, social bonding, and connections, and adding that there are numerous parties using the terms "hive" and "financial services". The Respondent submits that the Complainant is not a unique user of the terms "Hive" and "Trading" in Class 36, financial services, and that numerous third parties use these terms in a crowded market, suggesting the scope of protection for the Complainant's mark is limited. The Respondent provides several examples of others using variants of these terms.

The Respondent contends that the threshold test involves a comparison between the disputed domain name and the trademark whereby the mark would generally be recognizable therein, adding that here, the mark is not included in its entirety as the word "trading" is excluded, and the suffix "hive" is a word commonly used in the industry, while the term "pt" is also absent from the trademark. The Respondent argues that the low threshold test is not met in the present case.

The Respondent asserts that it has been making use of the disputed domain name in connection with a bona fide offering of services well before any notice was received of the dispute, adding that the Complainant has failed to provide evidence of use of its mark, including the date of first use, let alone notoriety thereof, and asserting that at the time of registration of the disputed domain name, the Respondent had no knowledge of the Complainant's alleged rights. The Respondent submits that it conducted an Internet screening before registering the disputed domain name and did not identify the Complainant due to its minimal web presence,

adding that the Respondent's stylized and distinctive mark using the term "Hive PT" was carefully chosen and designed, and was not copied from or related to the Complainant's mark.

The Respondent notes that the Complainant's mark was registered just over a year before the Complaint was filed, and that the Complaint does not reveal any evidence of use, or linking the Complainant to the word "hive" or the mark TRADING HIVE, adding that in the absence of such evidence, the Complainant's arguments of alleged notoriety and global presence must be rejected. The Respondent asserts that a review of the Complainant's website shows minimal business activity, if any, adding that it lacks fundamental operative functions, such as a secure client area, live chat support (present but not operative), phone support (no number provided) or an option to join the Complainant's services, adding that the only option is to join a waiting list. The Respondent states that it attempted to join the Complainant's website as a potential trader but received no feedback or email confirmation, and notes that it found no marketing/promotional activities of the Complainant or reviews of its services on social media. The Respondent contends that without proof of use or reputation there can be no basis for the Complainant's claims.

The Respondent contends that the Complainant has failed to set forth a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent has such rights and legitimate interests, and has met its burden of proving that it is commonly known under its name and has been using the disputed domain name in connection with a bona fide offering (and marketing/promotion) of its goods and services.

The Respondent asserts that it has registered and is using the disputed domain name in good faith to promote its services, adding that the Complainant has provided no evidence to the contrary, and that where a respondent has rights and legitimate interests in a domain name, its registration and use thereof cannot be in bad faith. The Respondent asserts that none of the provisions of paragraph 4(b) of the Policy are relevant to the case, submitting that it had no knowledge of the Complainant when it registered and used the disputed domain name, and adding that in the absence of evidence of use of the Complainant's trademark, let alone evidence that it is well-known, such knowledge cannot be assumed. The Respondent contends that the Complainant did not provide evidence that the Respondent has ever been held to be a cybersquatter because no such evidence exists.

The Respondent asserts that the case raises a suspicion that the Complaint has been brought in bad faith and constitutes an abuse of the administrative proceeding.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Complainant's mark is TRADINGHIVE. This falls to be compared to the Second-Level Domain of the disputed domain name, "hive-pt", as the suffix ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. The test proceeds on the basis of a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. The mark will typically be held to be recognizable where the domain name concerned incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable therein. [WIPO Overview 3.0](#), section 1.7.

Here, the entirety of the mark is not included in the disputed domain name, but merely the HIVE element, together with a hyphen and the letters “pt”. The Complainant attempts to argue that the TRADING element of its mark should be disregarded in the comparison exercise on the grounds of descriptiveness but this represents a misunderstanding of how the comparison exercise proceeds. The Panel is looking for whether the Complainant’s mark is recognizable in the disputed domain name, at least to the extent of the presence of a dominant feature. Here, the Panel does not see the mark as recognizable in the disputed domain name. The only repeated element, “hive”, is not a dominant or distinctive feature of the mark as a whole. Indeed, to the Panel’s eyes, neither of the mark’s elements are more dominant than the other, or would be a dominant feature of the entire mark when considered on their own.

The Panel notes in passing that the Complainant’s citation of various cases involving the term “trading” in support of its claim that the term should be disregarded in its trademark is misconceived. These cases considered the relevance of the inclusion of a word such as “trading” in the domain name concerned alongside a complainant’s mark or recognizable element thereof, illustrating the proposition that where the relevant trademark is recognizable within the domain name concerned, the addition of other terms within that domain name (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8. That proposition would lead in the present case to the conclusion that the letters “pt” in the disputed domain name would not prevent a finding of confusing similarity provided however that the Complainant’s mark or a dominant feature were nevertheless recognizable in the disputed domain name, which is not the situation here.

The above analysis indicates that the Complaint would most likely fail on the first element assessment. Nevertheless, in light of its finding on the third element assessment below, the Panel need not reach a definitive conclusion on this question.

B. Rights or Legitimate Interests

The requirements of paragraph 4(a) of the Policy are conjunctive. A consequence of this is that failure on the part of a complainant to demonstrate one element of the Policy will result in failure of the complaint in its entirety. Accordingly, in light of the Panel’s findings in connection with the third element under the Policy, no good purpose would be served by addressing the issue of the Respondent’s rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take unfair advantage of a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#). The key aspect of the Complainant’s case which is lacking here is any evidence of use of its trademark, including evidence of said mark’s extent or reach, which would allow an inference of prior knowledge on the Respondent’s part to be drawn. The Respondent asserts that it had no such knowledge or intent to target the Complainant’s trademark, and demonstrates by reference to multiple registered trademarks and screenshots of websites that the term “hive” (the only aspect of the Complainant’s mark that is repeated in the disputed domain name) is in widespread use in connection with financial services.

Such use of the word “hive” does not surprise the Panel, given that it is a dictionary term that can denote a place, such as a hub, where busy people gather to perform work, as in the phrase “a hive of activity”. In these circumstances, the Complainant’s submissions that the disputed domain name was chosen by the Respondent in order to impersonate the Complainant or to suggest an affiliation between the Parties where none exists, or to disrupt the business of a competitor, are not made out on the balance of probabilities.

Crucially, the Complainant fails to offer any evidence to support its contention that its mark is “well-known and globally present”.

The evidence in the case file as presented does not indicate that the Respondent’s aim in registering the disputed domain name was to profit from or exploit the Complainant’s trademark.

The Panel finds the third element of the Policy has not been established.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

The Panel finds that the Complaint in this case should never have been made in the form in which it was filed. The Complainant, represented by counsel, makes repeated key assertions regarding the alleged well-known status and globally present nature of its trademark, of which it asserts the Respondent must have been “well aware”, without providing a scintilla of supporting evidence beyond the existence of the mark itself. Indeed, the Complaint does not even include details of the Complainant’s own business activities (with the exception of a brief reference to the Complainant’s websites in the annexed cease and desist letter) and does not set out when the Complainant’s business commenced or the extent of its trading, relying exclusively upon the existence of the Complainant’s registered trademark. The Complainant placed nothing before the Panel from which any reasonable inference could be drawn that the Respondent had any prior knowledge of and was targeting the Complainant or its mark by way of the disputed domain name, and the Complainant’s counsel would or ought to have been aware of this.

In the circumstances of this particular case, the Complainant was or should have been aware that the Complaint as filed would not satisfy the burden of proof under paragraph 4 of the Policy. Furthermore, the Complainant based the Complaint “on only the barest of allegations without any supporting evidence”. [WIPO Overview 3.0](#), section 4.16, paragraph (viii). The citation of multiple previous cases under the Policy, in which the Complainant freely engaged, is not a substitute for the requirement to support key allegations with evidence.

7. Decision

For the foregoing reasons, the Complaint is denied. Moreover, the Panel finds that the Complaint has been brought in bad faith and constitutes an attempt at Reverse Domain Name Hijacking.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: January 17, 2025