

ADMINISTRATIVE PANEL DECISION

SOFTATHOME v. Contact Privacy Inc. Customer 12411119143 / Mont Youell, CP Inc., Contact Privacy Inc. Customer 12411868982 / EJ Phils, EJP CARS, Contact Privacy Inc. Customer 1249746798 / Griffin Azra, GA Inc., Contact Privacy Inc. Customer 12410524592 / El terrick, EITECK ORG
Case No. D2022-0671

1. The Parties

The Complainant is SOFTATHOME, France, represented by Bilalian Avocats, France.

The Respondent is Contact Privacy Inc. Customer 12411119143, Canada/ Mont Youell, CP Inc, United States of America (“United States”); Contact Privacy Inc. Customer 12411868982, Canada/ EJ Phils, EJP CARS, United States; Contact Privacy Inc. Customer 1249746798, Canada/ Griffin Azra, GA Inc, United States; Contact Privacy Inc. Customer 12410524592, Canada/ El terrick, EITECK ORG, United States.

2. The Domain Names and Registrar

The disputed domain names <softathomme.com>, <softathonme.com>, <softathorme.com>, and <softathornme.com> are registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 25, 2022. On February 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 2, 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 March 7, 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 March 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on April 6, 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 is a 300-employee software product company based in France and specializing in digital home customer experience for home connectivity (access, wi-fi, security), home applications (video, iot) and data (monitoring, artificial intelligence). The Complainant is an affiliate of Orange Group, a world-renowned telecommunication, Internet, television and mobile services provider, with over 130 million customers throughout the world to be found on the five continents (in 220 countries or territories).

The Complainant is the owner of several trademarks, including for instance European Union Trademark Registration No. 007264161, registered on June 8, 2009 for word mark SOFTATHOME.

The Complainant is also the owner of several domain names, such as <softathome.com> and <softathome.fr>. The domain name <softathome.com> is used as the Complainant's website to present and promotes its activities.

The disputed domain name <softathomme.com> was registered on March 17, 2021. The disputed domain name <softathonme.com> was registered on January 4, 2022. The disputed domain name <softathorme.com> was registered on September 20, 2021. The disputed domain name <softathornme.com> was registered on June 29, 2021. The disputed domain names do not resolve to any active website.

The disputed domain names <softathomme.com>, <softathonme.com> and <softathorme.com> were used for emails pretending to be sent by one the Complainant's employees and on the Complainant's behalf. The emails were sent to the Complainant's customers requesting for payments to be made to different bank account, which was not related to the Complainant.

5. Parties' Contentions

A. Complainant

The disputed domain names are identical or confusingly similar to the Complainant's trademark. The disputed domain names are obvious typographical misspellings of the Complainant's trademark, in particular they are reproducing it with a trivial typo, or a slight spelling mistake obviously made voluntary to confuse Internet users.

The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has never authorized the Respondent to make use of its trademark in any way. The Respondent has neither registered the word "SOFTATHOME" as a trademark in any jurisdiction and is not entitled to any right over this word. The disputed domain names were registered in 2021 and 2022, while the Complainant owns domain names <softathome.com> and <softathome.fr> since at least 2008.

The disputed domain names were registered and are being used in bad faith. The Respondent registered the disputed domain names incorporating an intentionally misspelled version of the Complainant's trademark to confuse Internet users and capitalize on the Complainant's trademark. Further use of the disputed domain

names <softathomme.com>, <softathonme.com> and <softathorme.com> for fraudulent emails confirms its use in bad faith. The disputed domain name <softathornme.com> was used as a contact email for another disputed domain name <softathorne.com>, confirming the pattern of conduct of the Respondent to target the Complainant and its trademarks for illegitimate purposes. Taking into account the seriousness of the Respondent's actions regarding the disputed domain names (which were used for merely fraudulent purposes), the fact that the disputed domain names were registered under a false identity, and the implausibility of any good faith use of the disputed domain names, these were registered and used in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Preliminary Issues – Consolidation

The Complainant requested the Panel to hear the present dispute brought against four respondents as a consolidated Complaint.

Paragraph 10(e) of the Rules states that a “[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules.” Paragraph 10(c) of the Rules provides, in relevant part, that “the [p]anel shall ensure that the administrative proceeding takes place with due expedition”.

Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) summarizes the consensus view of UDRP panels on the consolidation of multiple respondents, in part, as follows: “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

The Complainant asserts, among other things, that the Respondents should be treated as one respondent in this proceeding, as the disputed domain names are under common control, since (i) they were registered with the same Registrar, (ii) they were registered within the same period from March 2021 to January 2022, (iii) contact information for the disputed domain names is false, (iv) the disputed domain names <softathorme.com>, <softathonme.com>, and <softathomme.com> were used for the same fraud scheme, (v) the disputed domain name <softathornme.com> is used for a contact email address for another disputed domain name <softathorme.com>. The Panel accepts these arguments in favor of consolidation and grants the request to consolidate the Respondents into one proceeding. Hereafter, the Panel will refer to the Respondents as “the “Respondent”.

B. Identical or Confusingly Similar

According to section 1.11.1 of the [WIPO Overview 3.0](#) the applicable gTLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD “.com” for the purposes of the confusing similarity test.

According to section 1.9 of the [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers the disputed domain names to consist of intentional misspellings of the Complainant's trademark.

Considering the above the Panel finds the disputed domain names are confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain names.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain names.

Based on the available evidence, the Respondent is not commonly known by the disputed domain names, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademark by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain names could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent has intentionally and fraudulently attempted to pass itself off as the Complainant by using an email address associated to the disputed domain names <softathorme.com>, <softathonme.com>, and <softathomme.com> in an effort to obtain significant amounts of money from the Complainant's customers. Past UDRP panels confirmed that such actions prove registrant has no rights or legitimate interests in a disputed domain name (see *Allianz SE v. Whois Privacy Protection Service, Inc. / Allianz Survey*, WIPO Case No. [D2016-1658](#)).

The Respondent also has no rights or legitimate interests in the disputed domain names resolving to an inactive website (see, e.g., *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain names. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

According to section 3.2.2 of the [WIPO Overview 3.0](#), further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. In the present case, the Respondent used misspelled disputed domain names incorporating the Complainant's trademark for fraudulent emails addressed to the Complainant's customers. Thus, the Respondent knew and targeted the Complainant's prior trademark rights, which confirms the bad faith.

According to section 3.4 of the [WIPO Overview 3.0](#), Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending emails, phishing, identity theft, or malware distribution. The Panel finds that in the present case, use of the disputed domain names to send fraudulent emails constitutes bad faith.

Although at the time of this decision the disputed domain names resolve to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain names implausible. Thus, the current passive holding of the disputed domain names does not prevent a finding of bad faith (see, e.g., *Abbott Diabetes Care Inc. v. Privacy Protection, Hosting Ukraine LLC / Виталий Броцман (Vitalii Brocman)*, WIPO Case No. [DPW2017-0003](#)).

Considering the above, the Panel finds the disputed domain names were registered and are being used in bad faith. Therefore, the Complainant has established its case under 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 disputed domain names, <softathomme.com>, <softathonme.com>, <softathorme.com>, <softathornme.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: April 20, 2022