

ADMINISTRATIVE PANEL DECISION

dōTERRA Holdings, LLC v. Kuangfu Chou
Case No. D2022-1000

1. The Parties

The Complainant is dōTERRA Holdings, LLC, United States of America (“United States”), represented by TraskBritt, P.C., United States.

The Respondent is Kuangfu Chou, Taiwan Province of China.

2. The Domain Name and Registrar

The disputed domain name <i-doterra.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 2022. On March 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 24, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 29, 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 31, 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 April 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2022.

The Center appointed David Stone as the sole panelist in this matter on May 2, 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 owns the following trade marks (the "Marks"):

- DOTERRA: United States registration number 3641123, registered on June 16, 2009 in international classes 3, 5, 9, 16, 25, and 29;
- DOTERRA: United States registration number 5686350, registered on February 26, 2019 in international classes 3, 5, and 30;
- DOTERRA: Australian registration number 1458216, registered on November 9, 2011 in international classes 3, 5, 16, 21, 25, and 35;
- DOTERRA: Australian registration number 1935635, registered on June 21, 2018 in international classes 3, 5, 9, 11, 29, 30, and 32;
- DOTERRA: Canadian registration number TMA917916, registered on October 22, 2015 in international classes 3, 5, 16, and 35;
- DOTERRA: Chinese registration number 8786161, registered on November 14, 2011 in international class 3;
- DOTERRA: European Union registration number 017984243, registered on July 30, 2019 in international classes 3, 5, 11, 29, 30, 32, and 35;
- DOTERRA: Indian registration number 2688861, registered on February 28, 2014 in international class 3;
- DOTERRA: Japanese registration number 5874712, registered on August 19, 2016 in international class 5;
- DOTERRA: Mexican registration number 1321225, registered on October 18, 2012 in international class 3;
- DOTERRA: United Kingdom registration number UK00917984243, registered on July 30, 2019 in international classes 3, 5, 11, 29, 30, 32, and 35;
- DOTERRA: Republic of Korea registration number 4015063130000, registered on August 5, 2019 in international classes 3, 5, 11, 29, 30, and 32; and
- DOTERRA: Taiwan Province of China registration number 01406771, registered on April 16, 2010 in international classes 3, 5, 9, 16, 25, and 29.

In addition, the Complainant owns and operates the following domain names, which include the text of the Marks:

- <doterra.com>;
- <mydoterra.com>; and
- <doterrahealinghands.org>.

The disputed domain name was registered on September 5, 2019.

The disputed domain name resolved to a website which reproduced an outdated version of Complainant's website. On March 4, 2022, the Complainant submitted a takedown request to the company hosting the website associated with the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to trade marks in which the Complainant has rights. The registrations listed above show that the Complainant has rights in the Marks. The disputed domain name is highly similar to the text of the Marks. It contains the text of the Marks in its entirety, and differs from it by only the addition of the letter "i" and the inclusion of a hyphen. These differences do not distinguish the disputed domain name from the Marks. Rather, the addition of "i-" to the text of the Marks creates the false impression that the Respondent is an authorized seller of products bearing the DOTERRA mark on the Internet. Because the dominant portion of the disputed domain name is identical to the text of the Marks, Internet users are likely to be diverted to the Respondent's website and confused as to its source, sponsorship, affiliation or endorsement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not licensed or otherwise permitted the Respondent to use the Marks or to register or use any domain name incorporating the text of the Marks. The Respondent has never been known by the disputed domain name, nor does it appear to have intellectual property rights in the disputed domain name. Before being taken down, the Respondent's website was used, without authorisation, to reproduce an outdated version of the Complainant's website, incorporating the Complainant's copyrighted material and trade marks (including the Marks). The Respondent has therefore not been making legitimate noncommercial use of fair use of the disputed domain name, and nor has it been using the disputed domain name in connection with a *bona fide* offering of goods and services.

The Respondent contends that the disputed domain name was registered and is being used in bad faith. Registration of a domain name incorporating a fanciful mark, such as DOTERRA, is sufficient to demonstrate bad faith when the registrant is unlikely to have devised the domain name independently. In light of the fact that the Respondent's website was used to reproduce a version of one of the Complainant's websites, it is very unlikely that the Respondent devised the disputed domain name independently. Furthermore, the Respondent's unauthorised reproduction of the Complainant's website is itself indicative of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to succeed:

- (i) that the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

On the evidence provided by the Complainant, the Panel is satisfied that the Complainant has rights in the Marks. In assessing the similarity between the disputed domain name and the Marks it is permissible to ignore the Top-Level Domain. The disputed domain name then contains the text of the Marks in its entirety and differs from it only by the addition of a prefix "i-": "i-doterra" versus "DOTERRA". This does not prevent the Marks from being recognisable within the disputed domain name (see section 1.8 of WIPO Overview of

WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel therefore finds that the disputed domain name is confusingly similar to the Marks, and concludes that the condition in paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the criteria that determine whether a domain name registrant has rights or legitimate interests in a domain name:

(i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business or other organisation) has been commonly known by the disputed domain name, even if the respondent has acquired no trade mark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain misleadingly to divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant makes out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent has provided no evidence to contradict it.

On the facts and contentions before the Panel, the Respondent is not commonly known by the disputed domain name, is not authorised to use the Marks and cannot claim any right or interest in them by virtue of prior registration.

The only use to which the disputed domain name seems to have been put is the unauthorised reproduction of one of the Complainant's websites, in its entirety. Impersonation of the Complainant in this way does not provide rights or legitimate interests (see *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

The condition in paragraph 4(a)(ii) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out the non-exhaustive criteria for bad faith. Generally, for the purposes of the Policy, bad faith constitutes registration and use of a domain name in order to:

(i) sell, rent or transfer the domain name to the trade mark owner (or a competitor thereof) for a profit;

(ii) prevent the trade mark owner from registering its trade mark in a domain name, provided that the respondent is engaged in a pattern of such conduct;

(iii) disrupt the business of a competitor; or

(iv) divert Internet traffic for commercial gain.

The use of the disputed domain name to reproduce one of the Complainant's websites is clear evidence that the Respondent was aware of the Complainant and its business. When registering the disputed domain name, it likely follows that the Respondent did not devise the fanciful term “doterra” independently, but knew that it was one of the Complainant's trade marks. Deliberate adoption of a well-known trade mark in which a registrant has no rights or legitimate interests raises a *prima facie* presumption of bad-faith registration (see *Six Continents Hotels, Inc. v. Telmex Management Services*, WIPO Case No. [D2001-0996](#)). This

presumption is all the stronger here, given that the Marks must have actually been known to the Respondent. The Panel concludes that the Respondent registered the disputed domain name in bad faith.

The disputed domain name has been used to impersonate the Complainant. Unauthorised impersonation of the Complainant amounts to disruption of the Complainant's business and diversion of Internet traffic away from the Complainant's genuine websites. It is not clear whether the Respondent is a competitor of the Complainant's or was making money from the copycat website, but previous panels have held that impersonation of the complainant in this way is alone sufficient to demonstrate bad-faith use (see *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)). In the absence of any explanation from the Respondent, the Panel concludes that the Respondent's impersonation of the Complainant by means of a copycat website, whether for monetary gain or to disrupt the business of a competitor, was bad-faith use of the disputed domain name. The fact that the website appears to have been taken down does not prevent a finding of bad faith.

The condition in paragraph 4(a)(iii) of the Policy is therefore satisfied.

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, <i-doterra.com>, be transferred to the Complainant.

/David Stone/

David Stone

Sole Panelist

Date: May 16, 2022