

## **ADMINISTRATIVE PANEL DECISION**

Tronox LLC v. PrivacyDotLink Customer 4613466 / Domain to be deleted  
Case No. D2022-1929

### **1. The Parties**

The Complainant is Tronox LLC, United States of America, represented by SafeNames Ltd., United Kingdom.

The Respondent is PrivacyDotLink Customer 4613466, Cayman Islands, United Kingdom / Domain to be deleted, Cyprus.

### **2. The Domain Name and Registrar**

The disputed domain name <tronoxtrust.com> (“Disputed Domain Name”) is registered with GoDaddy Online Services Cayman Islands Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 31, 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 June 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 June 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 June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on July 5, 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 subsidiary of Tronox Inc, which is a vertically integrated mining and inorganic manufacturing business that processes various materials and supplies titanium chemicals. The Complainant owns and operates the website to which the domain <tronox.com> resolves (the "Complainant's Website"). The Complainant's Website provides a platform for offering its products and services on the Internet to its customers around the world.

The Complainant owns a number of trademark registrations for the TRONOX mark, including, *inter alia*; U.S. Trademark Registration Number 0769354 for TRONOX registered on May 12, 1964; European Union Trademark Registration Number 000256677 for TRONOX registered on March 2, 1999; Australian Trademark Registration Number 894021 for TRONOX registered on November 2, 2001; Canadian Trademark Registration Number TMA595603 for TRONOX registered on November 24, 2003; and E.U. Trademark Registration Number 018086500 for TRONOX registered on January 9, 2020. (the "Complainant's Trademark").

The Disputed Domain Name was registered by the Respondent on January 16, 2021. The Disputed Domain Name resolves to a pay-per-click advertising page, which redirects users to unrelated third-party websites.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant's primary contentions can be summarised as follows:

(a) The Disputed Domain Name is identical or confusingly similar to the Complainant's Trademark. The Complainant's Trademark is reproduced in its entirety in the Disputed Domain Name. The only elements which differentiate the Disputed Domain Name from the Complainant's Trademark are the addition of the word of the word "trust" at the end to read <tronoxtrust.com>.

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. To the best of the Complainant's knowledge, the Respondent has not registered any marks for the term "TRONOX" and there is no evidence that the Respondent holds any unregistered rights for "TRONOX". The Complainant has never authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. There is also no evidence of 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, nor a legitimate noncommercial or fair use of the Disputed Domain Name.

(c) The Respondent's registration of the Disputed Domain Name which is confusingly similar to the Complainant's Trademark is in itself an act of bad faith by someone with no legal connection to the Complainant's business. The Disputed Domain Name also resolves to a pay-per-click advertising page, which redirects users to unconnected third-party websites, so as to generate revenue in respect of "click-through" traffic. Such online traffic has been generated by creating an impression of an association between the Disputed Domain Name and the Complainant's Trademark. Therefore, given these factors, the Respondent has registered and is using the Disputed Domain Name in bad faith.

## B. Respondent

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

### A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the descriptive word "trust". UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not alter the fact that the Disputed Domain Name is confusingly similar to the mark in question. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the term "trust" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorised the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The Respondent did not submit a response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may

also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (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 was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark 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 to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use as the Respondent appears to have registered the Disputed Domain Name solely for the purpose of misleadingly diverting consumers into thinking that the Respondent is, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its business, or that the Respondent's activities are approved or endorsed by the Complainant. Moreover, as stated in section 2.9 of the [WIPO Overview 3.0](#), the pay-per-click links at issue do not represent a *bona fide* offering since such links compete with or capitalize on the reputation and goodwill of the Complainant's Trademark or otherwise mislead Internet users.

In addition, no evidence has been provided to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has been commonly known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

After reviewing the supporting evidence submitted by the Complainant, the Panel agrees with the Complainant that the Complainant's Trademark appears to be fairly well known. A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "tronox" are the Complainant's Website and third party websites providing information relating to the Complainant's Website. Therefore, taking this into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "trust" and that the website to which the Disputed Domain Name resolves includes pay-per-click links capitalizing on the Complainant's Trademark, the Respondent must have been aware of the Complainant and the Complainant's Trademark rights when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions, as well as a cease and desist letter sent by the Complainant's representatives to the Respondent on September 15, 2021 prior to the commencement of the current proceedings, and the Respondent has provided no evidence of any actual or contemplated good faith use of the Disputed Domain Name;

(ii) The Respondent has listed the Disputed Domain Name for sale on a domain aftermarket website to improperly exploit the value of the Complainant's Trademark;

(iii) The Disputed Domain Name has been set up with mail exchanger records, which indicates the Disputed Domain Name may be actively used for email purposes that may potentially facilitate fraudulent activities such as phishing, impersonating or passing off as the Complainant; and

(iv) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of the term "trust"). The Respondent is using the Disputed Domain Name to earn click-through revenue from the misdirection of Internet users to its website caused by the confusing similarity of the Disputed Domain Name to the Complainant's Trademark. As discussed in section 6B above, the Respondent lacks rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been 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 <tronoxtrust.com> be transferred to the Complainant.

*/Gabriela Kennedy/*

**Gabriela Kennedy**

Sole Panelist

Date: July 19, 2022