

ADMINISTRATIVE PANEL DECISION

dōTERRA Holdings, LLC v. Whois Agent (391174183), Whois Privacy Protection Service, Inc. / George Washere
Case No. D2022-2502

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 Whois Agent (391174183), Whois Privacy Protection Service, Inc., United States / George Washere, Panama.

2. The Domain Name and Registrar

The disputed domain name <sharedoterra.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 July 8, 2022. On July 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 14, 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 July 21, 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 July 26, 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 July 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on August 25, 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 based in Utah, United States and exploits the essential oils business. According to its website, it “sources, tests, manufactures, and distributes pure essential oils and natural wellness products to over nine million Wellness Advocates and customers”, shipping its products to 86 countries.

The Complainant is the owner, amongst others, of the United States trademark registration No. 3,641,123 for DOTERRA, registered on June 16, 2009, in classes 5, 9, 16, 25, and 29.

The disputed domain name <sharedoterra.com> was registered on March 28, 2022, and is presently used in connection with a website that offers to download “Adblock Max extension”. In the past, the disputed domain name has been used at times in connection with a webpage purporting to offer it for sale and at other times in connection with “pay-per-click” (PPC) websites.

5. Parties’ Contentions

A. Complainant

The Complainant asserts to be the owner of the registered DOTERRA trademark, a fanciful and inherently distinctive mark coined by it and used exclusively to identify the Complainant’s products, in at least the United States, Australia, Canada, China, European Union, Hong Kong, China, India, Japan, Mexico, Russian Federation, United Kingdom, South Korea, and Taiwan Province of China (see Annexes 6-19 to the Amended Complaint), among many other jurisdictions. In addition to that, the Complainant also owns the domain names <doterra.com>, <mydoterra.com>, and <doterrahealinghands.org>.

The Complainant further asserts that by virtue of the widespread advertising and longstanding exclusive use of its fanciful, coined trademark, the DOTERRA trademark has become well-recognized, and represents goodwill of extraordinary value.

Under the Complainant’s view, the disputed domain name is confusingly similar to the Complainant’s trademark, not being the addition of the “share” term capable of adding any distinctness thereto.

As to the absence of rights or legitimate interests in the disputed domain name, the Complainant argues that:

- (a) the Complainant has not licensed or otherwise permitted the Respondent to use its trademark or to apply for or use any domain name incorporating its trademark;
- (b) the Respondent has never been known by the disputed domain name and appears to have no intellectual property rights in it;
- (c) the disputed domain has never been used in connection with a *bona fide* offering of goods and services; and
- (d) the Respondent is not personally offering or selling any goods utilizing the disputed domain name and does not disclose the absence of any relationship between the Complainant and the Respondent.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that:

- (a) the DOTERRA trademark is a fanciful, coined term used exclusively for the Complainant's products being it highly unlikely that the Respondent devised the disputed domain name independent of knowledge of the Complainant's trademark;
- (b) the disputed domain name has been offered for sale, having its price been listed in excess of the out-of-pocket costs directly related to the disputed domain name;
- (c) the later use of the disputed domain name in connection with PPC links characterizes the Respondent's intent to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark; and
- (d) the Respondent's choice to retain a privacy protection service is a further indicative of the Respondent's 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 forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 or is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established rights in the DOTERRA trademark.

The Panel finds that the Complainant's trademark is entirely reproduced in the disputed domain name. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. The addition of the term "share" does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. The first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice 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 organization) has been commonly known by the disputed domain name, in spite of not having acquired 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.

The Respondent, in not formally responding the Complaint, has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that it has not licensed or otherwise permitted the Respondent to use its trademark or to apply for or use any domain name incorporating it.

Also, the absence of any trademarks or trade names registered by the Respondent corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name, that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate with a finding as to the absence of a right or legitimate interest.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name. The second element of the Policy has also been met.

C. Registered and Used in Bad Faith

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

a) the Complainant is a rather well-established and reputed company that holds registered trademarks in the DOTERRA and dōTERRA trademark which is infringed in the disputed domain name;

b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name;

c) the use of the disputed domain name at times in connection with a webpage purporting to offer it for sale and at other times in connection with PPC websites, in the present circumstances, does not prevent a finding of bad faith;

d) the Respondent's choice to retain a privacy protection service; and

e) the indication of what appears to be false contact details not having the Center been able to deliver the Written Notice to it.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name.

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 <sharedoterra.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: September 7, 2022