

ADMINISTRATIVE PANEL DECISION

Rachio, Inc., v. Host Master, 1337 Services LLC
Case No. D2022-2751

1. The Parties

The Complainant is Rachio, Inc., United States of America, represented by Dorsey & Whitney, LLP, United States of America.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <rachiocanada.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 27, 2022. On July 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 27, 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 August 8, 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 August 11, 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 August 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 13, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on September 16, 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 Colorado-based company founded on November 12, 2015. The Complainant runs a successful software and hardware company, primarily making and selling a best-selling smart sprinkler controller and accompanying software, which it offers in all 50 states in the United States, as well as internationally. The Complainant's goods can be found for purchase online and also in retail stores and through authorized retailers and distributors.

The Complainant owns the RACHIO trademark, which enjoys thorough protection through registrations in the United States, Australia, Canada, the European Union, the United Kingdom, and China.

The Complainant is, *inter alia*, the owner of:

United States of America trademark RACHIO registration No. 4845889 registered on November 3, 2015;
United States of America trademark RACHIO registration No. 5063691 registered on October 18, 2016;
Canadian trademark RACHIO registration No. TMA987553 registered on December 28, 2017;
European Union trademark RACHIO registration No. 015205594 registered on July 19, 2016;
United Kingdom trademark RACHIO registration No. UK00915205594 registered on July 19, 2016;
Australian trademark RACHIO registration No. 1758380 registered on October 12, 2016;
Chinese trademark RACHIO (device) registration No. 38802963 registered on February 7, 2020;
Chinese trademark RACHIO (device) registration No. 38802962 registered on January 28, 2021; and
Chinese trademark RACHIO (device) registration No. 47952739 registered on June 7, 2021.

The Complainant also actively promotes and advertises its business and goods on the website "www.rachio.com".

The disputed domain name was registered on May 12, 2022.

The disputed domain name directs to the website hosted at "www.rachiocanada.com". According to the copyright notice at the website, the entity "Canada Smart Irrigation" claims copyright on the contents displayed on "www.rachiocanada.com". No further information related to the Respondent or the operator of the website is available on the website.

On the website "www.rachiocanada.com", sprinkler controllers under the name RACHIO are promoted and offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademark;
- (b) the Respondent lacks any rights or legitimate interests in the disputed domain name; and
- (c) 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

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

(i) the disputed domain name is identical or confusingly similar to a trade mark 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 and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the RACHIO trademark.

The disputed domain name consists of the RACHIO trademark combined with the geographical term "Canada". This Panel agrees with the Complainant's assertion that the addition of the geographical term "Canada" in the disputed domain name does not prevent a finding of confusing similarity 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 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element". Furthermore, the applicable generic Top-Level Domain ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name "rachio" or by any similar name. The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, the disputed domain name resolves to the Respondent's website, which apparently trades on the Complainant's goodwill by advertising goods for sale using the RACHIO trademark. In addition, the Respondent has not replied to the Complainant's contentions claiming any rights to or legitimate interests in the disputed domain name

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain name was registered and has been used in bad faith.

Indeed, the Complainant gives several bases for its contention that the disputed domain name was registered and is being used in bad faith.

As discussed above, the website to which the disputed domain name resolves advertises and sells products identical to the Complainant's under the RACHIO trademark.

As shown by the Complainant, on the Respondent's website copies of the Complainant's product photos and descriptions, as well as the Complainant's trademark-protected logo, are displayed.

The website gives the appearance that it is affiliated with, sponsored, endorsed or run by the Complainant, when this is not the case.

This Panel finds that the reproduction of the Complainant's copyrighted materials without authorization is an inference of bad faith.

Further inference of bad faith is given by the fact that the Respondent's website, by providing links to various social media websites, each of which redirect the Internet user to the Complainant's social media pages, further increases confusion and misleads Internet users into believing that there is a connection between the Respondent and the Complainant.

Owing to the above, it is inconceivable that the Respondent was not aware of the Complainant's prior rights to the RACHIO trademark when registering the disputed domain name.

It therefore appears that the Respondent registered the disputed domain name with the intent to trade on the goodwill of the Complainant's RACHIO trademark. This is a bad faith attempt to capitalize on the Complainant's trademark, with the goal of attracting Internet users for commercial gain.

The Respondent's bad faith is further evidenced by the fact that Respondent appears to be a repeat cyber-squatter with a history of registering domain names that are confusingly similar to many well-known brands. Since 2017, the Respondent has been involved in 37 domain name disputes, all of which resulted in a decision to transfer or cancel the domain name concerned.

Accordingly, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied 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 name <rachiocanada.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: September 30, 2022