

ADMINISTRATIVE PANEL DECISION

Metia Ltd v. 林凡 (Lin Fan)

Case No. D2022-2863

1. The Parties

Complainant is Metia Ltd, United Kingdom, represented by Osborne Clarke LLP, United Kingdom (“UK”).

Respondent is 林凡 (Lin Fan), China.

2. The Domain Name and Registrar

The disputed domain name <metia-uk.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 3, 2022. On August 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 29, 2022.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on September 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

Complainant, Metia Ltd, is a company based in the United Kingdom that provides support services to technology enterprises, such as Dell Technologies, Intel, Microsoft, Finastra and Verizon.

Complainant owns, amongst others, the following registered trademarks in the UK jurisdiction:

Registration No.	Trademark	Jurisdictions	International Classes	Date of Registration
UK00003190360	METIA	UK	35	January 6, 2017
UK00905352737		UK	9, 35, 41 and 42	August 11, 2010
UK00905352811	METIA	UK	9, 41 and 42	December 1, 2010

Complainant has also registered the domain name <metia.com> on May 23, 2005.

The disputed domain name was registered on October 21, 2021 and redirects to a webpage stating “Hi! Welcome to metia. Sign in or Account Register. Sign up or log in now to drive data and earn!”

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to its registered trademark METIA and registered domain name <metia.com>, since it fully incorporates the referred trademark and imitates Complainant's domain name with the addition of the geographical term “uk”.

Complainant affirms that Respondent creates confusion, considering specially that the disputed domain name uses the trademark METIA in its entirety with the addition of the geographical term “uk” and the generic Top Level Domain (“gTLD”) (“.com”), which would not avoid a finding of confusing similarity between Complainant's trademark and the disputed domain name.

Therefore, according to Complainant, the disputed domain name is confusingly similar to Complainant's trademark.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark METIA as a domain name nor is Respondent associated with Complainant.

Complainant observes that the disputed domain name purports to a webpage where the trademark METIA is used without Complainant's authorization, where Respondent would try to impersonate Complainant and its services.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules has been fulfilled.

Moreover, Complainant states that the disputed domain name was registered and is being used in bad faith.

Complainant observes that Respondent claims, in the website under the disputed domain name, that Internet users can withdraw cash back to their accounts by creating an account on the website, which would indicate that Respondent operates a scam for profit.

Complainant states that their company has received letters from Internet users that have lost money with Respondent's scam, while believing they were dealing with Complainant's business, which would also corroborate Respondent's bad faith in using the disputed domain name with the METIA trademark in its entirety.

Finally, Complainant notes that the METIA mark is well known internationally and given the similarities between Complainant's trademark, its business and the disputed domain name, Respondent must have been aware of Complainant's trademark METIA. Thus, the registration of the disputed domain name with these elements would have happened in bad faith.

Thus, Complainant states that the disputed domain name was registered and is being used in bad faith, thus paragraph 4(a)(iii) of the Policy and paragraph 3(b)(ix)(3) of the Rules has been fulfilled.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

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

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior trademark rights for METIA and that the disputed domain name is constituted by the trademark METIA in its entirety with the addition of the geographical term "uk".

The addition of the letters "uk" does not prevent a finding of confusing similarity with Complainant's trademark METIA, since it is a mere geographical term, which does not prevent a finding of a confusing similarity (as according to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark METIA, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the [WIPO Overview 3.0](#) as follows: “[w]hile the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant’s contentions, the Panel has considered Complainant’s un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* that could demonstrate legitimate interests, since evidence shows that the disputed domain name redirects to a website where Respondent tries to impersonate Complainant and possibly operate a scam (as duly proven on Annexes 7-9 of the Complaint).

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant’s trademark METIA, plus the addition of the geographical term “uk” – which, according to [WIPO Overview 3.0](#), does not avoid a finding of confusing similarity. The Panel finds that it is duly demonstrated that Respondent was aware of Complainant’s rights to METIA at the time of the registration – as Complainant enjoys a worldwide reputation with the use of the referred trademark.

With that in sight, the Panel finds that Respondent registered the disputed domain name with the intention of attracting Internet users and consumers in search of Complainant’s products and services.

Further, it should be noted that there is enough proof to suggest that Respondent operates a fraudulent scam in the website that purports from the disputed domain name, since (i) the imagery from the disputed domain name shows that Respondent alleges that they offer money withdrawal services, suggesting that fraudulent activity is being operated at the website (Annex 7 of the Complaint); and (ii) Complainant has received letters and e-mails, in which Internet users of the website from the disputed domain name allege that they have suffered money loss from a scam, believing that they were dealing with Complainant’s services (Annexes 8 and 9 of the Complaint).

In this sense, a panel has previously concluded that, when there is a reasonable basis to believe that the disputed domain name is connected to a fraudulent scam, it should have been registered and being used in bad faith for commercial gain – see *The Coryn Group II, LLC, AMResorts, L.P. v. Registration Private, Domains By Proxy, LLC / Jose Arellano*, WIPO Case No. [D2020-0639](#):

“The Panel is persuaded that there is a reasonable basis to believe that the Domain Name was registered and is being used by the Respondent in connection with a fraudulent scam designed to lure consumers into believing that they are dealing with the Complainants to defraud consumers. The addition of the terms ‘club’ and ‘vacation’ to the trademark of the Complainant enhances that impression. The record supports the Panel’s finding that the Respondent registered and is using the Domain Name in bad faith for commercial gain by intentionally creating a likelihood of confusion with the Complainants’ AMRESORTS Marks, and there is no legitimate use by the Respondent, and that the Respondent used the Domain Name in connection with a fraudulent scam which appears to come from someone who claims to be employed or authorized by the Complainant.”

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering specially that (i) the disputed domain name incorporates Complainant’s trademark METIA, which is well-known internationally, with the addition of the geographical term “uk”; (ii) the disputed domain name redirects to a website which presents a fraudulent scam to third parties, as Respondent tries to impersonate Complainant to obtain commercial gain; and (iii) this unfair use of the disputed domain name would contribute for the disruption of Complainant’s business image, as third parties will most likely associate the disputed domain name to Complainant.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is 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 <metia-uk.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: September 20, 2022