

ADMINISTRATIVE PANEL DECISION

Hi-Tec Sports International Holdings B.V. v. Domain Administrator,
PrivacyGuardian.org / Frank Jaeger
Case No. D2022-2956

1. The Parties

The Complainant is Hi-Tec Sports International Holdings B.V., Netherlands, represented by Chiever B.V., Netherlands.

The Respondent is Domain Administrator, PrivacyGuardian.org, United States of America / Frank Jaeger, Germany.

2. The Domain Name and Registrar

The disputed domain name <hitecaustralia.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 10, 2022. On August 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 11, 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 12, 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 5, 2022.

The Center appointed Andrea Mondini as the sole panelist in this matter on September 9, 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 an international provider and manufacturer of protective footwear, sports and outdoor footwear, bags and clothing and has used its trademark HI-TEC since its founding in 1974.

The Complainant owns numerous registrations of its HI-TEC trademark for sports clothing, footwear and headgear, *inter alia*, the Australian trademark no. 503250 (registered on January 18, 1989) and the European Union Trademark no. 000209304 (figurative, registered on May 10, 2001).

The Complainant also holds several domain names, including the domain names <hi-tec.com> which is redirected to <hi-tec.co.uk>.

The disputed domain name was registered on August 2, 2021.

The disputed domain name resolves to a website prominently featuring the Complainant's HI-TEC figurative trademark and offering footwear products under this trademark.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The Complainant uses the domain name <hi-tec.com> - which is redirected to <hi-tec.co.uk> - as its global domain name. Since the Complainant is globally active it works per country or continent with local suppliers and distributors. These local parties use domain names like <hi-tec[country].com> to reach the public in the territory where they are authorized by the Complainant to act as the Complainant's authorized distributor or supplier. For example in Australia the Complainant's authorized distributor uses the domain name <hi-tecaustralia.com>.

The disputed domain name is confusingly similar to the HI-TEC trademark in which the Complainant has rights (and to its domain name <hi-tecaustralia.com>), because it incorporates this trademark in its entirety, whereby the omission of the hyphen and the addition of the word "Australia" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The trademark HI-TEC has been extensively used to identify the Complainant and its products. The Respondent has not been authorized by the Complainant to use this trademarks and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The content on the website to which the disputed domain name resolves is an illegitimate copy of the Complainant's website (previous version), illegally showing the Complainant's products under the trademark HI-TEC, thus making Internet users believe that it is an official /authorized website of the Complainant while it is not. This shows that disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 in bad faith.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its HI-TEC trademark.

The Panel notes that the disputed domain name incorporates the HI-TEC trademark in its entirety. The omission of the hyphen and the addition of the term "australia" do not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark HI-TEC.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark HI-TEC and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark and the term "australia", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its HI-TEC trademark has been extensively used on an international scale over decades.

In the view of the Panel, the disputed domain name has been registered in bad faith because it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark, particularly considering that the disputed domain name resolves to a website featuring the HI-TEC logo and offering products featuring the HI-TEC trademark.

The Complainant contends that the website to which the disputed domain name resolves is an illegitimate copy of a previous version of the Complainant's website. The Respondent did not contest this allegation. The Panel further notes that in Australia the Complainant's authorized distributor uses the domain name <hi-tecaustralia.com>. The Panel therefore finds that the disputed domain name has been used to post a fake and/or misleading website prominently featuring the HI-TEC logo to offer the Complainant's products under the trademark HI-TEC, thus making Internet users believe that it is an official /authorized website of the Complainant while it is not. In the circumstances of this case, this is evidence of use in bad faith.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 <hitecaustralia.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: September 23, 2022