

ADMINISTRATIVE PANEL DECISION

The Chemours Company FC, LLC v. shubham chauhan, Sangam Electronics Industry

Case No. D2022-3376

1. The Parties

The Complainant is The Chemours Company FC, LLC, United States of America (“United States”), represented by Bates & Bates LLC, United States.

The Respondent is shubham chauhan, Sangam Electronics Industry, India.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 (Registration Private, Domains By Proxy, LLC, United States) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 14, 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 amendment to the Complaint on September 19, 2022.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on September 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2022. On September 29, 2022, the Center received email communications from the Respondent disclosing its wish to settle the dispute. Accordingly, the Center sent to the Parties a possible settlement email on September 29, 2022. The Complainant did not

submit a request for suspension of the proceedings. Accordingly, the Center notified the Parties of commencement of Panel Appointment process on October 12, 2022. On the same day, the Respondent sent another email communication expressing its wish to settle the dispute. The Center sent the possible settlement email again to the Parties on October 13, 2022. The Complainant confirmed that it would like to continue with the proceedings on October 24, 2022.

The Center appointed Zoltán Takács as the sole panelist in this matter on October 24, 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

In 1938, E.I. du Pont de Nemours and Company (“DuPont”) discovered the chemical compound polytetrafluoroethylene (“PTFE”). In 1945, DuPont coined the TEFLON trademark to refer to its PTFE products.

The Complainant is a 2015 spin-off of DuPont, and is a global chemical company that offers TEFLON branded products such as cookware, apparel, automotive, home and garden, eyeglass lenses, wire and cables throughout the world.

The Complainant owns trademarks consisting of or comprising the term “Teflon” in a large number of jurisdictions around the world, including:

- United States Trademark Registration No. 0418698 for the word mark TEFLON, registered since January 8, 1946, for goods of class 17 of the Nice Agreement Concerning the International Classification of Good and Services for the Purpose of the Registration of Marks (the “Nice Classification”); and
- Indian Trademark Registration No. 237465 for the word mark TEFLON, registered since September 8, 1966, for goods of class 17 of the Nice Classification.

Since June 13, 1997, the Complainant owns the domain name <teflon.com>, which links to its corporate website.

The disputed domain name was registered on May 11, 2022, and is parked with the Registrar with the corresponding website comprising of pay-per-click (PPC) links.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its TEFLON trademark because it reproduces the trademark in its entirety with the addition of the term “creators”.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. Given the well-known status of its TEFLON trademark, the Respondent certainly had knowledge of it at the time of registration, and obtained the disputed domain name to unlawfully benefit from the goodwill built up by the Complainant in its TEFLON trademark.

The Complainant requests that the disputed domain name <tefloncreators.com> be transferred from the Respondent to the Complainant.

B. Respondent

The Respondent has not formally contested the allegations in the Complaint.

Instead, in its emails sent to the Center, the Respondent stated: “I would like to settle the ongoing disputed of uniform domain name and dispute resolution policy. The domain name <tefloncreators.com> was purchased by me with no acquaintance of this domain’s existence. As of now the domain has not been used for any purpose. Please assist me through further process as I wish to not continue with this domain and get the settlement done on earliest basis”.

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel’s decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

- (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 in bad faith.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a trademark registration, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced proper evidence of having registered rights in the TEFLON trademark and for the purpose of this proceeding, the Panel establishes that the United States Trademark Registration No. 0418698 and the Indian Trademark Registration No. 237465 satisfy the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant’s trademark rights, the Panel next assessed whether the disputed domain name is identical or confusingly similar to the Complainant’s trademark.

The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. If so, the disputed domain name is normally considered confusing similar to that mark for the purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

The disputed domain name fully incorporates the Complainant's TEFLON trademark. The addition of the term "creators" to the trademark does not avoid a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case "com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established rights in the TEFLON trademark.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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 the 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.

Except for suggesting intent to settle the case, the Respondent chose not to formally respond to the Complaint, to the facts and circumstances brought forward by the Complainant. By doing so, the Respondent failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter the Complainant's *prima facie* case.

The Complainant asserts that the Respondent is not a licensee or distributor of the Complainant. The Respondent is not affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to make use of its TEFLON trademark, in a domain name or otherwise.

The disputed domain name is parked with the Registrar, and the corresponding website comprises PPC links. UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links either compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see section 2.9 of the [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

The TEFLON trademark of the Complainant, which the disputed domain name incorporates in its entirety, has no dictionary meaning. It is a term invented by the Complainant who holds trademark rights in the TEFLON mark in many jurisdictions, including for over 70 years in the United States and for over 55 years in India, the Respondent's country of residence.

The Panel is of the view that based on decades-long registration and use, the Complainant's TEFLON trademark has become widely recognized around the world.

According to section 3.1.4 of the [WIPO Overview 3.0](#), panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can itself create a presumption of bad faith.

Because of the global recognition of the Complainant's TEFLON trademark, it is implausible to presume that the Respondent chose to fully incorporate it in the disputed domain name for any other reason than to create a false impression of an association with the Complainant and trade off of the goodwill the Complainant has established in its TEFLON trademark. This qualifies as bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

For the reasons set out above, the Panel finds that paragraph 4(a)(iii) 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 <tefloncreators.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: November 7, 2022