

## **ADMINISTRATIVE PANEL DECISION**

The Chemours Company FC, LLC v. shubham chauhan,  
Sangam Electronics Industry  
Case No. D2022-3414

### **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 <teflonwiresandcables.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 14, 2022. On September 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 Respondent sent informal communications the Center on September 29, 2022. The Center sent a possible settlement email to the parties to explore settlement options on November 2, 2022. The Complainant requested suspension of proceeding on November 2, 2022. The Center suspended the proceedings on November 3, 2022. The Respondent sent an informal communication to the Center on December 6, 2022. The Complainant requested an extension of the suspension of proceedings on December 7, 2022. The Center granted the requested extension to suspension on December 8, 2022. On January 3, 2023, the Complainant requested the reinstatement of proceedings, the Center reinstated the proceeding on January 6, 2023.

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 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2022. The Respondent did not submit any response. Accordingly, the Center proceeded to panel appointment on January 6, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on January 16, 2023. 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**

It results from the Complainant’s undisputed allegations that the Complainant is a global chemical company based in the United States who offers TEFLON branded products throughout the world. The Complainant undisputedly submits, that TEFLON trademark has become a familiar household name, recognized worldwide for the superior nonstick properties associated with its use as a coating on cookware and as a soil and stain repellant for fabrics and textile products. Consequently, TEFLON coatings are used on products ranging from cookware, apparel, automotive, home and garden, eyeglass lenses to wires and cables.

The Complaint is based amongst others on the following word trademarks, applied before the date of registration of the disputed domain name and consisting of the term TEFLON, e.g. European Union Trade Mark No. 000432120 (registered on April 7, 1999, for goods in classes 1, 2, 3, 4, 10, 11, 12, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 27).

According to the Registrar’s verification response, the Respondent registered the disputed domain name on May 22, 2022. The language of the registration agreement at the time of registration was English.

It results from the undisputed evidence provided by the Complainant that the disputed domain name resolves to a parking website showing pay-per-click (PPC) links.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Firstly, the Complainant asserts that the disputed domain name is confusingly similar to its TEFLON trademarks, since it entirely captures said mark. The addition of common words does not distinguish a domain name from a complainant’s mark or preclude a finding of confusing similarity.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant has not authorized the Respondent to register and use a confusingly similar domain name that tarnishes and dilutes the TEFLON trademark. Finally, the Respondent created the disputed domain name, which is confusingly similar to the TEFLON trademarks, over twenty years after the Complainant created its own domain names “teflon.com” and “teflon.net”.

Thirdly, the Respondent’s registration and use of the disputed domain name constitutes – in the Complainant’s view – bad faith under several aspects: (1) it is using the Complainant well-known TEFLON trademark in its entirety, (2) it has hidden its true identity, and (3) it is attempting to trade off the goodwill the Complainant has established in the TEFLON trademark.

## B. Respondent

The Respondent did not reply to the Complainant's contentions. However, the Respondent sent informal emails to the Center seeking to settle the dispute and to transfer the disputed domain name to the Complainant. The Respondent stopped answering the Complainant.

## 6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint 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”.

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

- (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 and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first of all establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

According to the Complainant's contentions supported by undisputed evidence, it is the owner of a large portfolio of trademark registrations consisting of the verbal element TELFON, e.g. European Union Trade Mark No. 000432120 registered on April 7, 1999.

Many UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark for purposes of the first element where the relevant trademark is recognizable within the disputed domain name. Under such circumstances, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (*cf.* section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). This Panel shares the same view and notes that the disputed domain name contains the Complainant's registered trademark TEFLON, which is placed at the beginning of the disputed domain name. In particular, the Panel considers the addition of the terms “wires” and “cables” to the Complainant's trademark in the disputed domain name would not prevent a finding of confusing similarity under the first element of the UDRP. The Panel has no doubts that in a side-by-side comparison of the disputed domain name and the relevant trademark TEFLON, the Complainant's mark remains clearly recognizable within the disputed domain name.

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see section 1.11.1 of the [WIPO Overview 3.0](#)).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to a disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

It results from the records that the disputed domain name resolves to a website featuring PPC advertisement links. Such use cannot be qualified a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. In fact, this Panel shares the view of previous panels holding that the use of a domain name to host a parking page comprising PPC links does not represent a *bona fide* offering where such links 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](#)). In addition, the Respondent did not submit any evidence of *bona fide* preparations to use the disputed domain name. In particular, the Complainant's uncontested allegations demonstrate that it has not authorized the Respondent's use of the TEFLON trademarks for registering the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Finally, there is no evidence in the records showing that the Respondent might be making a 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 pursuant to paragraph 4(c)(iii) of the Policy. In fact, as underlined here above, the disputed domain name is used for a parking page with commercial links. Such use is commercial. Therefore, the Panel holds that such commercial use cannot – from the outset – be considered 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. In addition, the Panel is satisfied that the registered trademark TEFLON is distinctive so that it is unlikely that the Respondent wanted to fairly use the disputed domain name consisting of this term.

It is acknowledged that once the Panel finds a *prima facie* case has been established, the burden of production under the second element shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, in particular, but without limitation, be evidence of the disputed domain name's registration and use in bad faith.

One of those circumstances are those specified in paragraph 4(b)(iv), *i.e.*, where the domain name is used to intentionally attempt 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.

In the Panel's view, the Respondent has intentionally registered the disputed domain name which contains the Complainant's distinctive trademark TEFLON plus terms which are applicable to the Complainant's activity. By the time the disputed domain name was registered, it is therefore unlikely that the Respondent did not have knowledge of the Complainant and its mark TEFLON and its business activity.

The Complainant also provided evidence that the Respondent is using the disputed domain name to lead to a website featuring PPC-advertisement links. This is indicative of bad faith, even if the webpage is configured automatically by the registrar or any other party. Indeed, particularly with respect to "automatically" generated PPC-links, previous UDRP panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links *ipso facto* vest the respondent with rights or legitimate interests). Neither the fact that such links are generated by a third party such as a registrar or auction platform (or their affiliate), nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith (see section 3.5 of [WIPO Overview 3.0](#)).

These facts confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- i. the distinctiveness of the trademark TEFLON which has existed since decades;
- ii. the trademark TEFLON is fully and identically incorporated in the disputed domain name;
- iii. the Respondent not replying to the Complainant's contentions with conceivable explanation of its behavior so that no legitimate use of the disputed domain name by the Respondent is actually conceivable for the Panel; and
- iv. the Respondent using a privacy service to hide its identity.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to 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 <teflonwiresandcables.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: January 30, 2023