

## **ADMINISTRATIVE PANEL DECISION**

Cloudflare, Inc. v. Juan SrSt0n3, Stonezada  
Case No. D2023-0279

### **1. The Parties**

The Complainant is Cloudflare, Inc., United States of America (“United States”), represented by Blue Water Law, P.C., United States.

The Respondent is Juan SrSt0n3, Stonezada, Brazil.

### **2. The Domain Name and Registrar**

The disputed domain name <cloudflare.ovh> is registered with OVH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 21, 2023. On January 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 24, 2023, 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 Registrar also informed that the language of registration agreement is Portuguese. The Center sent an email communication in Portuguese and English to the Parties on January 27, 2023 regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain name is Portuguese. The Center sent an email communication to the Complainant 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 January 30, 2023 with a request for English to be the language of proceeding. The Respondent did not submit any communication regarding the language of the proceeding.

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 February 7, 2023. In accordance with the Rules, paragraph

5, the due date for Response was February 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 2, 2023.

The Center appointed Gonçalo M. C. Da Cunha Ferreira as the sole panelist in this matter on March 8, 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**

The complainant is a public company with 20 offices in 13 countries around the globe.

The Complainant is a United States company based in San Francisco, California. The Complainant has operated a business under the name "Cloudflare" continuously since 2010 for goods and services related to Internet services and computer software, namely, computer software to monitor and control online traffic to computer servers and computer anti-virus software, and related services.

The Complainant first expanded its Internet security, performance, and reliability network into Paris, France, in 2011 – just eight months after launching the company, becoming its second European data center.

The Complainant already had data centers in more than 250 cities across over 100 countries around the world, including 47 cities across 30 countries in Europe.

In 2020, the Complainant solidified its presence in Europe by opening its fourth European office in Paris, France, at which time its network of more than 3.2 million customers included 78 cities in the EMEA region, including three cities in France.

The Complainant owns the registered trademarks for the word CLOUDFLARE number 009919275 in Class 9 and Class 42 issued by the European Union Intellectual Property Office (previously known as Office for Harmonization in the Internal Market) on October 13, 2011; the registered trademarks 3,976,055 in Class 42 and 4,061,249 in Class 9 issued by the United States Patent and Trademark Office, on the Principal Register, on June 7, 2011, and November 22, 2011, respectively; a registered trademark UK00909919275 in Class 9 and Class 42 issued by the Intellectual Property Office of the United Kingdom on October 13, 2011; and a registered trademark TMA896980 in Class 9 and Class 42 issued by the Canadian Intellectual Property Office on February 20, 2015.

The Respondent registered the disputed domain name <cloudflare.ovh> on June 9, 2021. The disputed domain names lead nowhere and result in a message "This site can't be reached" error page.

#### **5. Parties' Contentions**

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

The Complainant claims that:

- a) the disputed domain name <cloudflare.ovh> is identical to the Complainant's registered trademark CLOUDFLARE in its entirety with no additional terms.
- b) there is no indication of any right or legitimate interest by the Respondent in the disputed domain name.

- c) the Respondent registered the disputed domain name in 2021, more than a decade after the Complainant began offering products under its CLOUDFLARE trademarks, at least as early as 2010, and which have been registered since as early as June 7, 2011.
- d) the Respondent is not connected to the Complainant in any way, and the Complainant has not granted any license, permission or authorization of any kind to the Respondent to use the Complainant's trademark, or any of them.
- e) the Respondent holds no registered or unregistered trademark rights in any country in the world.
- f) the disputed domain name does not reflect the Respondent's common name or organization name, which is provided in Whois as "Stonezada".
- g) the disputed domain name <cloudflare.ovh> is not used in connection with any *bona fide* sale of goods or services.
- h) the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name.
- i) the Respondent is using the disputed domain name with the insidious intent of misleading or diverting consumers.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Substantive Matters**

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four non-exhaustive illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith. Paragraph 4(c) of the Policy sets out three non-exhaustive illustrative circumstances any one of which, if prove by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **6.2. Language**

The language of the registration agreement for the disputed domain name was in Portuguese language and the Complainant requests to conduct the proceedings in English.

The Panel has authority to determine the language of proceedings. As it is reminded in section 4.5.1. of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "panels have found that certain scenarios may warrant proceeding in a language other than that of the

registration agreement". Facing the arguments of the Complainant and the circumstances of this case including the absence of a reply from the Respondent both to the Complainant's language request and to the Complaint, the Panel determines that English is the language of proceedings.

#### **A. Identical or Confusingly Similar**

The disputed domain name <cloudflare.ovh> is identical to the Complainant's registered trademark CLOUDFLARE in its entirety with no additional terms. Where, as here, a domain name incorporates the entirety of a trademark there is no doubt that the domain name should be considered identical or confusingly similar to the incorporated mark.

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

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

The Complainant has not licensed or otherwise permitted the Respondent to use or to register a domain name incorporating his CLOUDFLARE trademark.

The Complainant also has made a *prima facie* case that the Respondent lacks any right or legitimate interest in the disputed domain name.

As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (see [WIPO Overview 3.0](#), section 2.1).

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy

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

Bad faith registration can be found where a respondent "knew or should have known" of complainant's trademark rights and nevertheless registered a domain name in which he had no right or legitimate interest. See *Accor v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#).

The disputed domain name is exactly the same as the Complainant's trademark. While "cloud" and "flare" are two dictionary terms, its use as a combined term "Cloudflare" results in an arbitrary and fanciful trademark, and it is highly unlikely that the Respondent came up with the term independently.

Accordingly, the Panel finds, based on the evidence presented, 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 <cloudflare.ovh> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: March 22, 2023