

ADMINISTRATIVE PANEL DECISION

The Chemours Company FC, LLC. v. Nouredine LOUAHEDJ, IMKAN SPACE

Case No. D2023-0333

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 Nouredine LOUAHEDJ, IMKAN SPACE, Algeria.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2023. On January 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 25, 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 (Privacy Protection) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 26, 2023, 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 January 31, 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 February 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 23, 2023.

The Center appointed Antony Gold as the sole panelist in this matter on March 1, 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 company within the E.I. du Pont de Nemours and Company Group of companies, collectively referred to as “DuPont”. In 1938, DuPont discovered a chemical compound, Polytetrafluoroethylene, generally known by its acronym “PTFE”, which is extensively used for its very low friction properties on a wide variety of applications, including on cookware, apparel, and automotive products. The brand name for DuPont’s PTFE compound is TEFLON and the Complainant is the owner of many trade marks for TEFLON in multiple jurisdictions. These include, by way, of example only, United States trade mark, registration number 0418698, registered on January 8, 1946, in class 17. The Complainant also owns many domain names, which comprise or include its TEFLON mark, including <teflon.com> and <teflon.net>.

The disputed domain name was registered on July 1, 2022. It resolves to a website branded as “Teflon Max”, which offers for sale a range of tape products described as “Professional [sic] P.T.F.E Tape”. The “About Us” section of the Respondent’s website includes the claim; “Teflon Max Company is one of the subsidiaries of Top Silicon Company specialized in the manufacture of Teflon tapes. It was established in 2012. It has extensive experience in the field of producing Teflon tapes”.

5. Parties’ Contentions

A. Complainant

The Complainant says that the disputed domain name is confusingly similar to a trade mark or service mark in which it has rights. The disputed domain name incorporates the Complainant’s mark in its entirety and the inclusion within it of the term “max” does nothing to alleviate any confusing similarity.

The Complainant says also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Previous UDRP panels have found that a respondent has no legitimate interests when its use of a domain name falsely suggests affiliation with the trade mark owner. The Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, nor is it making a legitimate, noncommercial, or fair use of it, as it is using the Complainant’s mark in connection with the advertising and sale of TEFLON-branded PTFE tape without permission or license from the Complainant. Moreover, the Complainant has not authorized the Respondent to use its mark within a confusingly similar domain name, albeit the Complainant itself does not manufacture or sell TEFLON-branded tape.

Lastly, the Complainant says that the disputed domain name was registered and is being used in bad faith. The Respondent has sought to hide its true identity and is attempting to trade off the goodwill the Complainant has established in its mark. As at the date of registration of the disputed domain name, the Respondent was aware, or should have known, of the Complainant’s rights in its TEFLON mark as it had been registered for 76 years and has enjoyed widespread use. The Respondent deliberately included the Complainant’s mark in the disputed domain name in order unfairly to exploit the value of that mark.

B. Respondent

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

6. Discussion and Findings

Dealing, first, with the Respondent’s failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy provides that the Complainant proves each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain name is identical or confusingly similar to a trade mark 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.

A. Identical or Confusingly Similar

The Complainant has produced evidence of its registered trade and service marks for TEFLON, as well as TEFLON-formative marks, full details of which have been set out above, which thereby establish its rights in this term. When considering whether the disputed domain name is identical or confusingly similar to the Complainant's mark, the generic Top-Level Domain ".com" is disregarded as a technical requirement of registration. The disputed domain name accordingly comprises the Complainant's trade mark, in full and without alteration, followed by the term "max". The addition of this term does not prevent the disputed domain name from being found confusingly similar to the Complainant's mark. As explained at section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"); "Where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

The Complainant's TEFLON mark is clearly recognizable within the disputed domain name and the Panel therefore finds that it is confusingly similar to a trade mark in which the Complainant has rights.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides, in summary, that a respondent may demonstrate that it may have rights or legitimate interests in a domain name by demonstrating either that, before any notice to it of the dispute, it has been using or has made demonstrable preparations to use, the domain name in connection with a *bona fide* offering of goods or services, or that it has been commonly known by the domain name or that it has been making a legitimate noncommercial or fair use of the domain name.

The use of the Respondent's websites in order to sell, or purport to sell, a range of tape products described as "P.T.F.E. Tape" and branded as TEFLON is plainly intended to mislead Internet users into believing that the Respondent's products are associated in some way with the Complainant. This is the case, irrespective of the fact that the Complainant does not itself sell a range of TEFLON-branded PTFE tapes, and notwithstanding the narrative on the "About Us" section of the Respondent's website, because the repute of the Complainant's mark is such that Internet users will be apt to assume that TEFLON-branded products which claim to be made using PTFE will be manufactured by, or with the authorization of, the Complainant. This perception will be reinforced because of the confusing similarity between the disputed domain name and the Complainant's TEFLON mark. Accordingly, use of the disputed domain name for these purposes does not amount to use in connection with a *bona fide* offering of goods and services. In this respect, see section 2.5 of the [WIPO Overview 3.0](#), which explains that "Fundamentally, a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner". See also, by way of example, *Dun & Bradstreet International, Ltd. v. Duns Vietnam Company Limited / Nguyễn Huy Duy*, WIPO Case No. [D2022-3339](#).

There is no evidence to indicate that the Respondent has been commonly known by the disputed domain name and the second circumstance set out at paragraph 4(c) of the Policy is therefore inapplicable. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

Once a complainant has made out a *prima facie* case that a respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it does have such rights or legitimate interests. In the absence of any response from the Respondent to the Complaint, it has failed to satisfy that burden. The Panel accordingly finds that the Respondent has no rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The fact that, following registration of the disputed domain name, the Respondent has used it in order to the advertise for sale a range of products which Internet users will assume or made with the authorization of the Complainant establishes, that the Respondent was aware of the Complainant's TEFLON mark as at the date of its registration and that it was registered in order to target the Complainant and take advantage of its repute in its mark. Moreover, as explained at section 3.1.4 of the [WIPO Overview 3.0](#): “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trade mark by an unaffiliated entity (particularly domain names comprising typos or incorporating the mark plus a descriptive term) can by itself create a presumption of bad faith”. The Panel therefore finds the registration of the disputed domain name to have been in bad faith.

Turning to bad faith use, paragraph 4(b) of the Policy sets out, without limitation, circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The circumstance set out in paragraph 4(b)(iv) of the Policy, in summary, is if a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website. The use the Respondent is making of the disputed domain name, as described above, is plainly intended to confuse Internet users into believing that its products are manufactured with the authorization or approval of the Complainant and therefore comprises bad faith use within the meaning of paragraph 4(b)(iv) of the Policy; see, for example *Clarins v. Privacy Service Provided by Withheld for Privacy ehf / Do Thanh Luan, Lilla Group*, WIPO Case No. [D2022-1178](#).

The Panel accordingly finds that the disputed domain name has been registered and is being used in bad faith.

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, <teflonmax.com>, be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: March 15, 2023