

ADMINISTRATIVE PANEL DECISION

T3 Micro, Inc. v. Wenxi Lin
Case No. D2023-1254

1. The Parties

The Complainant is T3 Micro, Inc., United States of America (“United States”), represented by Troutman Pepper, United States.

The Respondent is Wenxi Lin, China.

2. The Domain Name and Registrar

The disputed domain name <t3microinc.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 22, 2023. On March 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 24, 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 amended Complaint on March 28, 2023.

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 April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. A part from the email received from the Respondent on March 28, 2023, no formal Response was filed with the Center.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on May 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.

In light of the email received from the Respondent on March 28, 2023, the Center sent out its "Possible Settlement" email on May 3, 2023. No settlement was reached. The Complaint requested the Center to proceed to a decision.

4. Factual Background

The Complainant is a United States company that began as part of a tech start-up and beauty venture in 2003. Since then, the Complainant operates in the beauty industry, designing, producing and commercializing various heat hair styling devices and other hair tools (such as hair dryers, flat irons, curling irons, brushes, rollers, and various accessories), under the trademarks T3 and T3 MICRO, as well as other trademarks (including T3 TOURMALINE, WET OR DRY, DUALITY IRON, and TWIRL). The Complainant commercializes its products both in United States and internationally through a net of authorized retailers and over its official website and online store at "www.t3micro.com". The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has consulted the Complainant's official website.

The Complainant owns various trademark registrations for its brand T3, including:

- United States Trademark Registration No. 3,185,684, T3, word, registered on December 19, 2006, in classes 9, 11, and 21;
- United States Trademark Registration No. 5,280,559, T3, word, registered on September 5, 2017, in classes 8, 11, 21, and 26;
- United States Trademark Registration No. 5,280,560, T3, figurative, registered on September 5, 2017, in classes 8, 11, 21, and 26; and
- International Trademark Registration No. 867603, T3, word, registered on September 23, 2005, in classes 9, 11, and 21, (collectively referred as the "T3 mark").

The Complainant further owns various domain names corresponding to its trademarks, including <t3micro.com> (registered on March 9, 2005) that resolves to its official website and online store, and several country code Top-Level Domains ("ccTLD"), which are linked to its official sites and online stores for the respective countries, including <t3micro.at>, <t3micro.be>, <t3micro.fr>, <t3micro.dk>, <t3micro.de>, <t3micro.it>, <t3micro.nl>, <t3micro.pl>, <t3micro.pt>, <t3micro.es>, <t3micro.se>, and <t3micro.co.uk>.

The disputed domain name was registered on August 17, 2022, and it is currently apparently inactive resolving to an Internet browser error message. According to the evidence provided by the Complainant, the disputed domain name was previously linked to a website in English language that reproduced the Complainant's official website and allegedly commercialized the same products. This website did not contain any information about the owner of the site or that of the disputed domain name, and it did not inform the users about its lack of relationship with the Complainant and its trademarks.

On March 28, 2023, after the Notification of the Complaint, the Respondent sent an email communication to the Center indicating, "I have modified this domain name, and I dont know what's wrong with it. I have now changed the website".

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain name is confusingly similar to the Complainant's trademarks. The disputed domain name incorporates the Complainant's trademarks T3 and T3 MICRO adding the term "inc", which altogether constitutes the Complainant's company name.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known as "T3" or "T3 Micro", and owns no trademark rights over these terms or any variants of the disputed domain name. The Respondent is not a licensee of the Complainant and is not authorized to use its trademarks. The disputed domain name resolves to an active website that is a verbatim copy of the Complainant's website. The provided evidence of impersonation, deception and fraud nullifies any possible basis for the acquisition of rights or legitimate interests by Respondent.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademarks are unique, so it is unlikely that the Respondent chose the disputed domain name without targeting the Complainant and its trademarks. The use of a confusingly similar and deceptive domain name to impersonate a complainant is sufficient to establish bad faith registration and use of a domain name. These circumstances combined with the Respondent's lack of interests or rights in the disputed domain name corroborates his bad faith.

The Complainant has cited previous decisions under the Policy and various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

Apart from the above-mentioned email communication dated March 28, 2023, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant has rights in the T3 mark by virtue of its trademark registrations and its continuous use of this trademark in the market, and it has rights in the T3 MICRO mark by virtue of its continuous use of this trademark in the market. The term "trademark or service mark" as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered trademarks. See section 1.1, [WIPO Overview 3.0](#).

The disputed domain name incorporates the T3 and the T3 MICRO marks in their entirety, adding the term "inc", and the generic Top-Level-Domain ("gTLD") ".com". The Complainant's trademarks and its company name are recognizable in the disputed domain name, and the gTLD ".com" is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, and 1.11.1, [WIPO Overview 3.0](#).

Accordingly, the Panel finds the disputed domain name is confusingly similar to the Complainant's trademarks, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

The Complainant's assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name (providing the circumstances of paragraph 4(c) of the Policy, without limitation), to rebut the Complainant's *prima facie* case. See section 2.1, [WIPO Overview 3.0](#).

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name. On the contrary, the Respondent's reaction to the Complaint was to send an email communication to the Center informing about the change of the website that was linked to the disputed domain name, which may be interpreted as a self-admission of the Respondent's lack of rights or legitimate interests.

The Panel considers that the Complainant has constructed a strong *prima facie* case evidencing that the Respondent has not been authorized to use the Complainant's name and its trademarks, there is no relationship between the Parties, and the disputed domain name has not been used in connection to a *bona fide* offering of goods or services.

The Panel notes that the Respondent's name revealed by the Registrar verification shares no similarity with the disputed domain name.

The Panel further notes that the disputed domain name generates an affiliation with the Complainant's company name and its trademarks. The fact that the disputed domain name is identical to the Complainant's company name and incorporates its trademarks T3 and T3 MICRO, generates an implied affiliation that suggests that the disputed domain name is owned or sponsored by the Complainant.

Additionally, the Panel notes that other circumstances of this case enhance this implied affiliation impeding to consider that the disputed domain name has been used for a *bona fide* offering of goods or services. In this respect, the evidence provided by the Complainant corroborates that the disputed domain name has been used in connection to an online store that reproduced (identically or almost identically) the Complainant's official website and online store at "www.t3micro.com". The Respondent's website further omitted any information about the owner of the site or that of the disputed domain name, and its lack of relationship with the Complainant and its trademarks. These circumstances generate a false affiliation and risk of confusion with the Complainant, his trademarks and his official website and online store, and impede to consider that the disputed domain name has been used in connection with a *bona fide* offering of goods or services under the Policy. On the contrary, these circumstances evidence an attempt of impersonation of the Complainant, and of deception and fraud to the Internet users, which cannot confer rights or legitimate interests on the Respondent. See section 2.13, [WIPO Overview 3.0](#).

It is further remarkable that the Respondent has chosen not to reply to the Complaint, not providing any evidence of any rights or legitimate interests in the disputed domain name, and has changed the content related to the disputed domain name apparently taking down the website that was linked to it. This reveals, in the Panel's view, the Respondent's lack of rights and legitimate interests.

Therefore, the circumstances of this case lead the Panel to conclude that nothing in the case file gives any reason to believe that the Respondent has any rights or legitimate interests in respect of the disputed domain name, and the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establishes that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the disputed domain name incorporates the Complainant’s company name and its trademarks T3 and T3 MICRO identically, denoting a risk of confusion or implied association, and creating the impression that the disputed domain name is owned or sponsored by the Complainant;
- (ii) the disputed domain name is further similar to the Complainant’s domain name <t3micro.com>, which is used by the Complainant for its official website and online store;
- (iii) the disputed domain name has been linked to a website that reproduced the Complainant’s official website and online store, and did not inform about its owner or that of the disputed domain name, and its lack of relationship with the Complainant and its trademarks;
- (iv) the Respondent’s reaction to the Notification of the Complaint was to modify the content of the website that was linked to the disputed domain name, apparently taking down this website; and
- (v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name, and has not come forward to deny the Complainant’s assertions of bad faith, choosing not to reply to the Complaint.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered and has been used targeting the Complainant’s company name and its trademarks in bad faith, in an effort to create a false affiliation to the Complainant and its brands, for a commercial gain, which constitutes bad faith under the Policy.

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and is being used in bad faith.

The current apparent non-use of the disputed domain name does not affect this finding. See section 3.3, [WIPO Overview 3.0](#).

Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under the third element 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, <t3microinc.com> be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: May 30, 2023