

ADMINISTRATIVE PANEL DECISION

Future Motion, Inc. v. Will Hoper
Case No. D2023-1378

1. The Parties

The Complainant is Future Motion, Inc., United States of America (“United States”), represented by Kolitch Romano Dascenzo Gates, United States.

The Respondent is Will Hoper, United States.

2. The Domain Name and Registrar

The disputed domain name <onewheelstore.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2023. On March 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 April 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 27, 2023.

The Center appointed Evan D. Brown as the sole panelist in this matter on May 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 makes and sells electronically motorized skateboards. It owns the trademark ONEWHEEL, which it has registered in various jurisdictions, including the United States (e.g., Reg. No. 4,622,766, registered on October 14, 2014). According to the Whois records, the disputed domain name was registered on July 5, 2022. The Respondent has used the disputed domain name to set up a website purporting to offer the Complainant's products for sale. The website at the disputed domain name imitates the Complainant by using a stylized version of the Complainant's ONEWHEEL mark and by using the Complainant's product photos.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the ONEWHEEL mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the ONEWHEEL mark in its entirety. This is sufficient for showing confusing similarity under the Policy. The presence of the word "store" as part of the disputed domain name does not prevent a finding of confusing similarity.

The Panel finds that the Complainant has established this first element under the Policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or

legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) it has not authorized the Respondent to use the ONEWHEEL mark in the disputed domain name, (2) use of the ONEWHEEL mark in the disputed domain name is not a noncommercial or fair use, (3) the Respondent has not been known by the disputed domain name, and (4) the Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services. Instead, the Respondent has used the disputed domain name to establish a website that imitates the Complainant by using the Complainant's marks and other materials in an effort to deceive potential purchasers without disclosing the lack of any relation with the Complainant.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing and nothing in the record otherwise tilts the balance in the Respondent's favor. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

Registering a domain name comprising a company's trademark and then setting up a website that is clearly intended to imitate that company demonstrates obvious bad faith registration and use. That is precisely what has happened in this case. The Panel finds that the Complainant has established this third element under 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 <onewheelstore.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: May 24, 2023