

ADMINISTRATIVE PANEL DECISION

Stryten Energy LLC v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot

Case No. D2023-1951

1. The Parties

The Complainant is Stryten Energy LLC, United States of America (the “United States”), represented by Riebling IP, PLLC, United States.

The Respondent is Domain Sales - (Expired domain caught by auction winner) c/o Dynadot, United States.

2. The Domain Name and Registrar

The disputed domain name <strytenenergyincommand.com> (the “Disputed Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 1, 2023. On May 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 3, 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 sent an email communication to the Complainant on May 5, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the cover page of the Complaint. The Complainant filed an amended Complaint on May 9, 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 May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on June 6, 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 provides energy storage solutions to global industries. The Complainant first publicly started using the name STRYTEN on August 20, 2020.

The Complainant owns a European Union Registration for the mark STRYTEN Reg. No. 018285933 issued on January 27, 2021, covering a wide range of goods and services in classes 9, 35, 37, 39, 40, and 42.

The Complainant filed an intent to use trademark application for STRYTEN ENERGY INCOMMAND at the United States Patent and Trademark Office on September 27, 2022 (Ser. No. 97609322). This mark is currently in use see, “www.stryten.com/motive-power-solutions/stryten-energy-incommand/”.

The Complainant registered the domain name <stryten.com> on August 5, 2020.

The Respondent registered <strytenenergyincommand.com> on August 30, 2022.

The Disputed Domain Name resolves to a parked page offering the domain name for sale.

5. Parties' Contentions

A. Complainant

The Disputed Domain Name is nearly identical, or at a very minimum, confusingly similar, to the Complainant's STRYTEN Marks. The Disputed Domain Name clearly incorporates the whole STRYTEN prior and senior registered mark, and merely adds “energy” and “incommand” and the generic Top-Level Domain (gTLD) .com to the mark. Additionally, the Disputed Domain Name clearly incorporates the whole of the Complainant's United States common law and prior-filed trademark STRYTEN ENERGY INCOMMAND.

The Respondent has no rights or legitimate interests with respect to the Disputed Domain Name. The Respondent is clearly using the Disputed Domain Name to take advantage of the goodwill that the Complainant has developed in connection with the STRYTEN Marks and in order to attract and divert business and Internet users to the Respondent. The Complainant has not authorized or licensed the Respondent to use any of the STRYTEN Marks in any domain names. Nor upon information and belief, is the Respondent commonly known by the STRYTEN Marks or by the Disputed Domain Name.

The Respondent is not making *bona fide* use of the Disputed Domain Name at a parked page offering the domain name for sale. The Respondent registered the Disputed Domain Name for the purposes of targeting and mimicking the Complainant and is using the Disputed Domain Name to lure, bait, attract and divert potential customers of the Complainant and Internet users looking for the Complainant and to trade off of the goodwill the Complainant has established under the STRYTEN Marks.

The Respondent was both aware of the Complainant and its STRYTEN Marks at the time it registered the Disputed Domain Name. The Respondent's domain name is identical to the Complainant's trademark STRYTEN ENERGY INCOMMAND and was registered a mere three days after the Complainant filed such trademark, makes it clear that when the Respondent registered the Disputed Domain Name, it was no coincidence and that the Respondent knew about the Complainant.

There is clear evidence of a predatory stalking scheme and abuse by the Respondent, the Disputed Domain Name was filed just three days after the Complainant filed its United States trademark application for STRYTEN ENERGY INCOMMAND. Moreover, the Registrar's own records falsely and deceptively states

the ownership of the Disputed Domain Name is a drop catch auction bid of an “expired” domain name, when the truth is the domain name has never existed before and therefore never “expired” as misrepresented by the Registrar to the public in furtherance of its scheme.

The Disputed Domain Name contains the Complainant’s coined registered trademark. It would be difficult, perhaps impossible, for the Respondent to use the Disputed Domain Name as the name of any business, product or service for which it would be commercially useful without violating the Complainant’s rights.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated it owns registered and common law trademark rights in the coined STRYTEN mark and has shown that no other entity has rights in or uses the Complainant’s mark. The addition of “energy in command” does not prevent the Complainant’s trademark from being recognizable in the Disputed Domain Name. The Top-Level Domain (“TLD”) “.com” is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, and *Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not at any time been commonly known by the Disputed Domain Name. The fact that the Respondent obtained the Disputed Domain Name three days after the Complainant filed a trademark application for STRYTEN ENERGY INCOMMAND indicates that the Respondent likely sought to obtain a windfall based on the sale of the Disputed Domain Name to the Complainant.

After a complainant has made a *prima facie* case, the burden of production shifts to the respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

Here, the Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name rather, the evidence suggests that it was registered to make an undue profit based on the Complainant’s rights. See, e.g., *Bottega Veneta SA v. ZhaoJiafei*, WIPO Case No. [D2013-1556](#).

In the absence of any evidence rebutting the Complainant’s *prima facie* case indicating the Respondent’s lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered three days after the Complainant applied for its trademark STRYTEN ENERGY INCOMMAND and over three years after the Complainant started using the coined trademark STRYTEN. The evidence on the record provided by the Complainant with respect to the extent of use of its STRYTEN trademark, combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's STRYTEN mark, and knew that it had no rights or legitimate interests in the Disputed Domain Name.

The Panel is unable to determine any plausible good faith reason for the Respondent to have registered the Disputed Domain Name other than to extract money from the Complainant.

The Complainant submitted evidence that its STRYTEN mark has been used for more almost three years. The Respondent has not offered any evidence to rebut this conclusion, nor has it provided any evidence of its intended use of the Disputed Domain Name. In fact, the Respondent is not using the Disputed Domain Name in any manner to demonstrate a *bona fide* use or potential use, rather it is being offered for sale for an excessive cost. Given these circumstances, the Panel finds that the Respondent registered the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed Domain Name to the Complainant, or a competitor of the Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the Disputed Domain Name, and so satisfies the requirement of paragraph 4(b)(i) of the Policy that the Disputed Domain Name was registered and is being used in bad faith by the Respondent.

Accordingly, the Panel 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 <strytenenergyincommand.com> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: June 22, 2023