

ADMINISTRATIVE PANEL DECISION

Timbro Trading S/A. v. Heidi Lights and Co Sherif Salama; Admin Admin;
Eduardo Oliveira; wealth only, Timbro
Case No. D2023-2125

1. The Parties

Complainant is Timbro Trading S/A., Brazil, represented by Salusse, Marangoni, Parente e Jabu Advogados, Brazil.

Respondents are Heidi Lights and Co, Sherif Salama; Admin Admin; Eduardo Oliveira; wealth only, Timbro, United States of America ("United States").

2. The Domain Names and Registrar

The disputed domain names <timbrotrading.com>, <timsbrotrading.com>, and <tlmbrotrading.com> are registered with Google LLC (the "Registrar 1"). The disputed domain name <timbrtrading.com> is registered with NameSilo, LLC (the "Registrar 2"). The Panel will refer hereinafter to the "Domain Names".

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 12, 2023. On May 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 15, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251, and PrivacyGuardian.org llc), and contact information in the Complaint. The Center sent an email communication to Complainant on May 25, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on May 25, 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 Respondent of the Complaint, and the proceedings commenced on June 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on June 28, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on July 18, 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.

On June 13, 2023, Complainant submitted by email its request to add another domain name <tlmbrotrading.com> (“Additional Domain Name”) to the proceeding.

On August 14, 2023, the Center at the Panel’s instruction transmitted by email to the Registrar a request for registrar verification in connection with the Additional Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Additional Domain Name.

On August 17, 2023, the Center issued at the Panel’s instruction the Procedural Order No.1 to the Parties, requesting Complainant to provide consolidation arguments for the Additional Domain Name and inviting Respondent (wealth only, Timbro) to comment on Complainant’s submission. On August 19, 2023, Complainant filed its submission. Respondent did not submit any response.

4. Procedural Issues

A. Addition of Domain Name

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.12.2, “Requests for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment”.

On June 13, 2023, Complainant submitted by email its request to the Additional Domain Name to the proceeding claiming that it suffered further phishing attacks. The Additional Domain Name shares the same naming pattern as the Domain Names.

In view of the above, the Panel finds that the proposed Additional Domain Name is *prima facie* registered by the same or related Respondent and it would be practical and efficient to consider it as part of this present proceeding. The request for addition of the Additional Domain Name is therefore accepted.

B. Consolidation of Respondents

The Panel has considered the possible consolidation of the Complaint for the Domain Names at issue. According to [WIPO Overview 3.0](#), section 4.11.2, “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

The Panel notes the following features of the Domain Names and arguments submitted by Complainant in favor of the consolidation:

- (i) they were used in connection with the same fraudulent scheme to defraud the Complainant and its customers in an attempt to impersonate Complainant using genuine information pertaining to Complainant’s employees and submitting false invoices and/or banking details to Complainant’s employees and customers;
- (ii) they share a similar pattern consisting of misspelling of Complainant’s trademark and name;
- (iii) they were registered within a short period of time (January – March 2023); and
- (iv) they do not resolve to active webpages.

Considering all the above, the Panel also notes that the contact details including the postal addresses for Respondents are apparently fake, and thus finds that, as Complainant has argued, there appears *prima facie* to be one single Respondent, providing possibly fake contact details, or at least both Respondents are under the common control. Furthermore, named Respondents did not submit any arguments to rebut this inference.

As regards consolidation of the Additional Domain Name, the Panel notes the following features of the Additional Domain Name and arguments submitted by Complainant in favor of the consolidation:

- (i) the registrant information disclosed, *i.e.* “wealth only”, indicates false or inaccurate details;
- (ii) Respondent does not appear as the applicant or owner of any trademark application or registration per Complainant’s searches; and
- (iii) MX servers have been configured in relation to the Additional Domain Name, sharing the same IP address (142.250.27.27) which has also been configured in relation to the Domain Name <timbrotrading.com>.

Last, the Panel notes the following features of all Domain Names and arguments submitted by Complainant in favor of the consolidation:

- (i) all Respondents have selected privacy protection services to conceal the true identity of the underlying Respondent;
- (ii) all Respondents indicate addresses in the United States, as well as email addresses that share the same pattern (*i.e.* name + initial + number @ free email service provider); and
- (iii) all Domain Names share a similar pattern (consisting of a misspelling of Complainant’s TIMBRO TRADING trademark).

The Panel finds that consolidation is fair to Parties, and all Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint but have chosen not to respond (see [WIPO Overview 3.0](#), section 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)). Based on the case file, the Panel finds that it is more likely than not that the Domain Names are in common control of one entity, and hence the Panel grants the consolidation (and will refer to these Respondents as “Respondent”).

5. Factual Background

Complainant was founded in 2010 and has since then been using the TIMBRO mark in connection with trading and import-export of goods from and into Brazil. Complainant maintains its main website at “www.timbrotrading.com”. Per Complaint, Complainant is one of Brazil’s biggest importers of food and beverages, chemicals, automobile parts, executive airplanes and other items and is also a leader in the export of Brazilian agricultural commodities (specially sugar, cotton and coffee) and metals (iron, inox, alloys *etc.*) on large scale.

Complainant is the owner of *inter alia* the Brazilian trademark registration No. 903115018 TIMBRO (word) filed on November 11, 2010 and registered on April 15, 2014 for services in international class 35.

Complainant is also the owner of the domain name registration <timbrotrading.com> registered on August 12, 2010.

The Domain Name <timbrotrading.com> was registered on January 11, 2023, the Domain Name <timbrtrading.com> was registered on January 25, 2023, and the Domain Name <timsbrotrading.com> was registered on March 6, 2023. The Domain Names were used in a fraudulent scheme, namely they were

used, as Complainant demonstrated, to create email addresses and create emails sent in the context of a fraudulent scheme to impersonate Complainant and defraud Complainant and its customers, using genuine information pertaining to Complainant's employees and submitting false invoices and/or banking details to Complainant's employees and customers. Currently, the Domain Names lead to inactive websites. The Additional Domain Name was registered on April 4, 2023, and leads to an inactive website.

6. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Names and the Additional Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

7. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Names:

- (i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant's TIMBRO trademark is recognizable within the Domain Names and the Additional Domain Name. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The substitution of the letter "i" for an "l", the suppression of the letter "o", the addition of a letter "s", as the case may be, do not avoid that the trademark remains recognizable in the Domain Names ([WIPO Overview 3.0](#), section 1.9).

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Names and the Additional Domain Name are confusingly similar to Complainant's trademark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Names, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Names, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names and the Additional Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Names and the Additional Domain Name. As per Complainant, Respondent was not authorized to register the Domain Names and the Additional Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Names and the Additional Domain Name or a trademark corresponding to the Domain Names and the Additional Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Names were used to create an email address and send emails in the context of a fraudulent scheme to impersonate Complainant and defraud Complainant and its customers, using genuine information pertaining to Complainant's employees and submitting false invoices and/or banking details to Complainant's employees and customers. The use of the Domain Name for an illegal activity such as constructing an email composition containing the Domain Name for deceiving purposes can never confer rights or legitimate interests on Respondent (*L'Oréal v. Cimpress Schweiz GmbH*, WIPO Case No. [DCO2017-0021](#) and [WIPO Overview 3.0](#), section 2.13.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Names.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Names in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Names registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Names; or
- (ii) that Respondent has registered the Domain Names in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, Respondent has intentionally attempted 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 of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names and the Additional Domain Name in bad faith.

Because Complainant's mark had been used and registered by Complainant before the Domain Names and the Additional Domain Name registrations, and noting the use made by Respondent, it is clear that Respondent had Complainant's mark in mind when registering the Domain Names and the Additional Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

The Domain Names and the Additional Domain Name incorporate misspelt versions of Complainant's trademark and the term "trading" relevant to Complainant's business. This further indicates that Respondent knew of Complainant and chose the Domain Names and the Additional Domain Name with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc.*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, Complainant demonstrated that at least three of the Domain Names were employed in a fraudulent scheme impersonating Complainant, namely they were used to create email addresses for emails sent in the context of a fraudulent scheme to impersonate Complainant and defraud Complainant and its customers, using genuine information pertaining to Complainant's employees and submitting false invoices and/or banking details to Complainant's employees and customers. Use of a domain name for purposes other than to host a website may also constitute bad faith. Such purposes include sending deceptive emails, phishing, identity theft, or malware distribution ([WIPO Overview 3.0](#), section 3.4). This pattern can be used in support of bad faith registration and use (*Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#), [WIPO Overview 3.0](#), sections 3.1.4 and 3.4).

The Panel notes that the Domain Names and the Additional Domain Name currently lead to inactive websites. The non-use of a domain name does not prevent a finding of bad faith under the circumstances of this proceeding (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent registered and is using the Domain Names in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

8. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Names, <timbrotrading.com>, <timbrtrading.com>, <timsbrotrading.com>, and <tImbrotrading.com> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: September 4, 2023