

ADMINISTRATIVE PANEL DECISION

Tripledote Studios Limited v. Phu Cuong Ha
Case No. D2023-2272

1. The Parties

Complainant is Tripledot Studios Limited, United Kingdom, represented by Tyz Law Group, United States of America (“United States”).

Respondent is Phu Cuong Ha, Viet Nam.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 25, 2023. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 26, 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 (woodoku.io LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on June 8, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 12, 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 Respondent of the Complaint, and the proceedings commenced on June 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 19, 2023.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on July 28, 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

Complainant is a British mobile games studio that has developed casual mobile games such as solitaire app and several puzzle games since 2017. Complainant owns and operates the WOODOKU game on mobile platforms such as iOS and Android, and originally released WOODOKU on mobile storefronts on March 2, 2020.

Complainant owns a wide portfolio of international trademarks such as:

Registration No.	Trademark	Jurisdiction	International Class	Date of Registration
6292505	WOODOKU	United States	09	March 16, 2021
018483851	WOODOKU	European Union	09	September 22, 2021
UK00003649463	WOODOKU	United Kingdom	09	October 15, 2021

The disputed domain name was registered on April 1, 2023, and, according to the evidence submitted by Complainant, used to resolve to a page exhibiting a copycat version of Complainant's mobile game WOODOKU. The disputed domain name currently redirects to another domain name <basketball-legends.co> related to games.

5. Parties' Contentions

A. Complainant

Complainant pleads that the disputed domain name is confusingly similar to the registered trademark WOODOKU, since it fully incorporates Complainant's trademark WOODOKU.

Complainant affirms that the disputed domain name uses the trademark WOODOKU in its entirety with the addition of the word "online" – which would not avoid a confusingly similarity between the disputed domain name as it is merely a descriptive term that is widely used. Complainant claims the generic Top-Level Domain ("gTLD") ".com" should be ignored when assessing similarity.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark WOODOKU, fulfilling paragraph 4(a)(i) of the Policy.

In addition, Complainant states that Respondent would not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark WOODOKU as a domain name nor is Respondent associated with Complainant.

Complainant observes that Respondent would have registered the disputed domain name for the purpose of exploiting Complainant's rights and well-known reputation of the WOODOKU trademark, to trade on consumers' goodwill and divert Internet traffic from the legitimate WOODOKU game in order to generate advertising revenue for itself, which would not constitute a *bona fide* offering of goods and services, nor represent a legitimate noncommercial or fair use of the disputed domain name.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy.

Finally, Complainant states that (i) Respondent was well aware of the existence of the trademark WOODOKU, and is intentionally diverting customers into the website hosted by the disputed domain name through the confusion caused by the unauthorized use of the trademark WOODOKU on the Internet; (ii) the website which purports from the disputed domain name is a blatant clone of Complainant's WOODOKU mobile game, falsely attributing it as having been developed by Complainant; and (iii) Respondent 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 trademark WOODOKU as to the source, sponsorship, affiliation, or endorsement of Respondent's website or of a product or service on Respondent's website.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(b)(iv) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

A. Identical or Confusingly Similar

Complainant has duly proven that it owns prior trademark rights for WOODOKU, and that the disputed domain name is constituted by the trademark WOODOKU in its entirety with the sole addition of the word "online".

The addition of the term "online" does not prevent a finding of confusing similarity with Complainant's trademark WOODOKU – since the trademark WOODOKU is fully integrated, and recognizable, in the disputed domain name.

Thus, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademark WOODOKU, and so the requirement of the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") as follows: "[w]hile the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

In this case, noting the facts and contentions listed above, the Panel finds that Complainant has made out a *prima facie* case showing that Respondent lacks rights or legitimate interests in the disputed domain name, so the burden of production shifts to Respondent. As Respondent has not replied to Complainant's contentions, the Panel has considered Complainant's un rebutted *prima facie* case to be sufficient to demonstrate that Respondent has no rights or legitimate interests in the disputed domain name.

It should be noted that Respondent's lack of response (in the broader context of the case), according to the above-mentioned guidelines from [WIPO Overview 3.0](#), suggests that Respondent has no rights or legitimate interests in the disputed domain name that it could put forward.

The composition of the disputed domain name carries a risk of implied affiliation with Complainant, as it suggests the disputed domain name connects to an official browser-based version of Complainant's mobile game. Furthermore, Respondent has not used the disputed domain name in the context of a *bona fide* that could demonstrate rights or legitimate interests, since the evidence shows that the confusingly similar disputed domain name resolves to an impersonating website that unfairly trades on the reputation of Complainant's mark to its browser-based game falsely claiming it was developed by Complainant, and moreover seeks to trade on Complainant's goodwill and divert Internet traffic from the legitimate WOODOKU game in order to generate advertising revenue for itself.

Therefore, the Panel finds that the requirement of the second element of paragraph 4(a) of the Policy is also satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of circumstances that, without limitation, are deemed evidence of registration and use of a domain name in bad faith.

Respondent has registered the disputed domain name that fully incorporates Complainant's well-known trademark WOODOKU, plus the addition of the word "online", which is inherently misleading. The Panel finds that it was duly demonstrated that Respondent was aware of Complainant's rights to the trademark WOODOKU at the time of the registration – as Complainant enjoys a worldwide reputation with the use of the referred trademark and Respondent hosted a browser-based game showcasing Complainant's trademark WOODOKU.

In addition, the use of the disputed domain name in the present circumstances allows a finding of bad faith registration and use, since Respondent's website falsely claiming its browser-based game was "developed by Tripledote Studios Limited" on its website, and Respondent website also uses a nearly identical version of Complainant's stylized logo as showcased by annex 6 creating a likelihood of confusion with the trademark of Complainant.

Moreover, the evidence indicates that Respondent's website is not legitimate and that Respondent most

likely uses the disputed domain name to trade on Complainant's goodwill and divert Internet traffic from the legitimate WOODOKU game in order to generate advertising revenue for itself.

Section 3.4 of the [WIPO Overview 3.0](#) establishes that "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] In some such cases, the respondent may host a copycat version of the complainant's website."

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent tries to obtain commercial gain by using the trademark WOODOKU in its entirety, and supposedly offering a copycat version of Complainant's game at the disputed domain name – likely to attract clicks for advertising revenue at the disputed domain name; (ii) the provision of false and/or misleading information on Respondent's website indicating it was developed by Complainant (as is the true WOODOKU game); and (iii) the trademark WOODOKU is well-known internationally and Respondent linked the disputed domain name to a website which showcases a copycat browser version of WOODOKU mobile app game, indicating that Respondent knew (or should have known) of its existence, taking advantage of the confusion caused on the public by its use in the disputed domain name. The current use of the disputed domain name to redirect Internet users to a competing online game website reinforces the Panel's finding of bad faith.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainant has put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

In light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Therefore, the requirement of the third element of paragraph 4(a) of the Policy is satisfied.

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 <woodokuonline.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: August 11, 2023