

ADMINISTRATIVE PANEL DECISION

Immuta, Inc. v. 铁陈的
Case No. D2023-2454

1. The Parties

The Complainant is Immuta, Inc., United States of America (“United States”), represented by Wilmer Cutler Pickering Hale and Dorr LLP, United States.

The Respondent is 铁陈的, China.

2. The Domain Names and Registrar

The disputed domain names <immuta-plus.com>, <uk-immuta-app.com>, and <uk-immuta.com> (the “Domain Names”) are registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 6, 2023. On June 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 9, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names which differed from the named Respondent (Contact Privacy Inc. Customer) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 June 14, 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 June 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 17, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant offers cloud data access control and provides data engineering and operations teams with one universal platform to control access to analytical data sets.

The Complainant adopted the trademark IMMUTA in 2015 and is the owner of the United States trademark reg. no. 5880292 registered on October 8, 2019. It also has registered the domain name <immuta.com>.

The Domain Names were registered December 5, 2022, February 6, 2023, and April 12, 2023. The Domain Names have resolved to identical websites purporting to be run by the Complainant, *inter alia* using the Complainant trademark. The said websites have been reported as defrauding Internet users. At the time of drafting the Decision, the Domain Names resolve to error pages.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Names are confusingly similar to the Complainant's trademark. The Domain Names incorporate in their entirety the Complainant's trademark and trade name. The added terms "plus", "app" and "uk" do not change this.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Names. The Respondent has not made any demonstrable preparations to use the Domain Names in connection with a *bona fide* offering of goods or services. The Respondent had not acquired or owned any trademark or service mark rights in the Domain Names. Upon the Complainant's information and belief, the Respondent is not commonly known by the name "immuta".

The Complainant argues that the Respondent has been or should have been aware of the Complainant's trademark. The Respondent has registered the Domain Names for the purpose of making illegitimate use of the Complainant's trademark, or to divert traffic to the Respondent's website. The Respondent's use of the Domain Names, to defraud Internet users, is clear evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, \("WIPO Overview 3.0"\)](#), section 1.7.

The Complainant has established that it has rights in the trademark IMMUTA. The Domain Names incorporate the Complainant's trademark, with the addition of the terms "plus", "app" and "uk". The additions do not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. While 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. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Names.

The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Names as a trademark or acquired trademark rights. There is no evidence of the 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. The Respondent’s use of the Domain Names is evidence of bad faith, see below.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The composition and use of the Domain Names make it clear that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the Domain Names. The Respondent has failed to provide any evidence of actual or contemplated good-faith use of the Domain Names. The Respondent’s use of the Domain Names to defraud Internet users is evidence of bad faith registration and use.

For the reasons set out above, the Panel concludes that the Domain Names were registered and are being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Names <immuta-plus.com>, <uk-immuta-app.com>, and <uk-immuta.com>, be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: July 26, 2023