

ADMINISTRATIVE PANEL DECISION

Xiaomi Inc. v. Truong Nguyen
Case No. D2023-2701

1. The Parties

The Complainant is Xiaomi Inc., China, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Truong Nguyen, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <tivixiaomi.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 23, 2023, the Registrar transmitted by email to the Center its verification response registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 13, 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 July 13, 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 July 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 4, 2023.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on August 10, 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 August 28, 2023, the Center received an email communication from the Respondent.

4. Factual Background

The Complainant is Xiaomi Inc, a Chinese consumer electronics company that develops and produces smartphones, mobile applications, and other electronic products. The Complainant distributes products through physical stores as well as via online stores in many countries and regions around the world.

The Complainant owns various trademark registrations for XIAOMI in different countries around the world, including international registrations No. 1177611, registered on November 28, 2012 and 1173390, registered on May 31, 2012, both for  in several classes and covering several countries, including Vietnam. The Complainant also holds United States of America registration No. 5450626 for the same design mark, as well as European registration No. 147970 for the word mark XIAOMI.

The Complainant has a strong Internet presence through its websites. Among these, it is important to mention its primary domain name <mi.com> was registered in 1998. Evidence of these allegations appear as Annex 7 to the Complaint.

Also, Annex 6 lists important information on the Complainant, such as history, financial records, global rankings, and prizes received throughout the years.

The disputed domain name, <tivixiaomi.com>, was registered on July 12, 2018, and is directed to a website displaying products related to the Complainant as well as those related to competitors of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant is a multinational electronics company based in China that develops and produces smartphones, mobile phone applications, and accessories, under the trademarks XIAOMI and MI.

According to the Complainant, the disputed domain name incorporates entirely its well-known XIAOMI trademark with the addition of the term "tivi", which is the Vietnamese word for TV, not being such addition sufficient to exclude a confusing similarity between them.

This descriptive term does not negate the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, it would lead to confusion, given the presence of the Complainant's mark. It may also lead the consumer to consider that the website associated with the disputed domain name may be an official page of the Complainant related to television and other similar products, and directed to the Vietnamese consumers.

The Complainant owns several registrations for the trademark XIAOMI, as evidenced by Annex 1 to the Complaint.

According to the Complainant, the disputed domain name adopted by the Respondent – a reproduction of the Complainant's registered mark associated with a descriptive expression – shows a clear intention of misleading Internet users, as it directs to a website that offers for sale products related to the Complainant as well as those related to competitors of the Complainant, as seen in Annex 3 to the Complaint.

B. Respondent

The Respondent did not submit any substantive response; however the Center received an informal communication from the Respondent on August 28, 2023, simply stating "I'm against it".

No further arguments or observations in response to the Complaint were filed.

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark XIAOMI, which is registered and clearly used regularly throughout the world.

Further, the Panel finds that the disputed domain name is confusingly similar to the trademark belonging to the Complainant, since this mark is entirely reproduced in the disputed domain name registered by the Respondent with the addition of the term "TIVI". According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Further, it is well established that ".com", as a generic Top-Level Domain, is disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's mark (section 1.11.1 of the [WIPO Overview 3.0](#)).

Hence, the Panel concludes that the first element of the Policy has been satisfied by the Complainant in this proceeding.

B. Rights or Legitimate Interests

The Panel notes that the mark XIAOMI is naturally associated with the Complainant, since it is not only registered as a mark, but also has been used to identify the goods and services rendered by the Complainant.

Further, the Complainant has provided evidence of the renown of the mark XIAOMI and the full range of products and services rendered under this name, such smartphones, software, home appliances, and other related goods and services.

Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark XIAOMI, and its direct relation to the Complainant.

In fact, the Complainant has never authorized the Respondent to use its XIAOMI mark, and the Complainant has presented evidence that the disputed domain name has been used for a website offering for sale products related to the Complainant as well as those related to competitors of the Complainant.

The Panel is satisfied that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

It is clear to the Panel that the Respondent knew or should have known of the Complainant's XIAOMI mark and has in all probability registered the disputed domain name with the purpose of taking advantage of the Complainant's mark.

The Panel finds that the disputed domain name was likely registered to mislead consumers because the disputed domain name incorporates the Complainant mark in its entirety, with the addition of the term "tivi", Vietnamese for "tv", in a clear allusion to the Complainant's products, a fact from which the Respondent may well profit by giving Internet users the impression that the disputed domain name belongs to the Complainant.

Further, the evidence shows that the disputed domain name resolves to a website that sells the products of the Complainant's competitors and misleads customers to believe that those are the Complainant's products, which directly competes with the Complainant's own offerings. Therefore, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element of 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, <tivixiaomi.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: August 29, 2023