

ADMINISTRATIVE PANEL DECISION

Thoughtworks, Inc. v. McAfee Sankalp, Bajaj; and McAfee Sankalp, Thought Works Pvt Ltd

Case No. D2023-3161

1. The Parties

The Complainant is Thoughtworks, Inc., United States of America (“United States”), represented by Culhane Meadows PLLC, United States.

The Respondent is McAfee Sankalp, Bajaj, India; and McAfee Sankalp, Thought Works Pvt Ltd, India.

2. The Domain Names and Registrar

The disputed domain names <thoughtworks.cloud> and <thoughtworks.email> are registered with Hostinger operations, UAB (the “Registrar”).

3. Procedural History

The Complaint regarding the disputed domain name <thoughtworks.email> was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with this disputed domain name. On July 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 27, 2023, providing the registrant and contact information for this disputed domain name disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant submitted an amendment to the Complaint on July 28, 2023.

On July 27, 2023, the Complainant filed a request to add the disputed domain name <thoughtworks.cloud> to the proceedings. On July 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with this disputed domain name. On July 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for this disputed domain name. The Center sent an email communication to the Complainant on August 1, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 2, 2023, the Complainant requested consolidation of the proceedings. The Complainant filed an amended Complaint on August 4, 2023.

The Center verified that the Complaint together with the amendment to the Complaint, and 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 August 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 5, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on September 12, 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 is a global technology consultancy that integrates strategy, design, and software engineering with more than 10,000 employees and offices in 18 countries.

The Complainant owns numerous trademark registrations incorporating the term THOUGHTWORKS, *inter alia*, the United States Trademark Registrations No. 1866548 registered on December 6, 1994, and No. 2361539 registered on June 27, 2000, the International Trademark Registration No. 1644097 registered on September 30, 2021, and the Indian Trademark Registration No. 1019484 registered on June 22, 2001.

The Complainant also holds the domain name <thoughtworks.com>.

The disputed domain names <thoughtworks.email> and <thoughtworks.cloud> were registered on June 24, 2023, and July 26, 2023, respectively. The disputed domain name <thoughtworks.cloud> was registered shortly after the Complainant filed the Complaint.

The record shows that at the time of filing of the Complaint and of the Complainant’s request to add another disputed domain name, the disputed domain name <thoughtworks.email> redirected to the Complainant’s website while the disputed domain name <thoughtworks.cloud> resolved to the Registrar’s parking page. Both disputed domain names are currently inactive.

5. Parties’ Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain names are identical or confusingly similar to the THOUGHTWORKS trademark in which the Complainant has rights, because it incorporates this trademark in its entirety. It is also well established that the Top-Level Domain (“TLD”), such as “.email”, in a disputed domain name is disregarded.

The Complainant submits that the trademark THOUGHTWORKS has become to a well-known and distinctive mark due to extensive use and promotion. The Respondent’s registration of the disputed domain name <thoughtworks.cloud> following the filing of the initial Complaint shows the Respondent’s actual knowledge of the Complainant’s trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The mark THOUGHTWORKS is associated with the Complainant, since the trademark THOUGHTWORKS has been extensively used to identify the Complainant and its services. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain names, and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain names in connection with a *bona fide* offering of goods and services. In particular, the Respondent's use of the disputed domain name <thoughtworks.email> to redirect users to the Complainant's website cannot be deemed a *bona fide* offering of goods and services because it uses the disputed domain name to impersonate the Complainant.

The disputed domain names were registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademark THOUGHTWORKS at the time it registered the disputed domain names, particularly considering that the Respondent registered <thoughtworks.cloud> shortly after the filing of the initial Complaint.

The Respondent has used the disputed domain name <thoughtworks.email> in bad faith to redirect Internet users to the Complainant's website, thereby impersonating the Complainant and creating a likelihood of confusion with the Complainant's mark. The Respondent's registration and use of the disputed domain name <thoughtworks.cloud> shortly after the filing of the initial Complaint reinforces the bad faith of the Respondent.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issue – Consolidation of Multiple Registrants

The Complainant requested the consolidation of the multiple registrants. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2 provides that "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."

Based on the available record, the Panel notes that (i) all of the registrant names are the same person, and (ii) the phone numbers, fax numbers, and email addresses of the registrants are the same.

Considering the above, the two disputed domain names are subject to common control, and the consolidation would be fair and equitable to all Parties and increase efficiency of the proceedings. Therefore, the Panel orders the consolidation.

6.2 Substantive Issues

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the 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.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has trademark rights by virtue of the registrations for its THOUGHTWORKS trademark.

The Panel notes that the disputed domain names <thoughtworks.email> and <thoughtworks.cloud> incorporate the THOUGHTWORKS trademark in its entirety.

The addition of the generic TLD (“gTLD”) “.email” and “.cloud”, respectively, in the disputed domain names is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain names are identical to the Complainant’s mark THOUGHTWORKS.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark THOUGHTWORKS and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain names in good faith. The Panel does not see any contrary evidence from the record. In particular, the Panel holds that the Respondent’s use of the disputed domain names to either redirect users to the Complainant’s website or the Registrar’s parking page cannot be deemed a *bona fide* offering of goods and services.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. For its part, the Respondent did not provide a Response and thus failed to provide any explanations as to any rights or legitimate interests.

Furthermore, the nature of the disputed domain names, comprising the Complainant’s trademark in its entirety and the gTLDs “.email” and “.cloud”, carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Moreover, although one of the registrant’s organizations is “Thought Works Pvt Ltd”, based on the available record, there is no evidence showing that the Respondent is commonly known by the disputed domain names.

Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain names.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its THOUGHTWORKS trademark is well known.

In the view of the Panel, noting in particular that the Respondent registered the disputed domain name <thoughtworks.cloud> shortly after the filing of the initial Complaint and the disputed domain name <thoughtworks.email> redirected to the Complainant’s website, it is inconceivable that the Respondent could have registered the disputed domain names without the knowledge of the Complainant’s well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name <thoughtworks.email>, at the time of filing of the Complaint, redirected to the Complainant's website. The Panel thus finds that by using the disputed domain name to redirect Internet users to the Complainant's website, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy (See [WIPO Overview 3.0](#), section 3.1.4). When the Complainant requested to add the disputed domain name <thoughtworks.cloud> to the proceeding, it resolved to the Registrar's parking page which also constitutes bad faith. Although both disputed domain names are currently inactive, it does not change the Panel's finding of the Respondent's bad faith.

Furthermore, the Respondent furnished incorrect or incomplete contact information while registering the disputed domain names, evidenced by the inability of the courier to deliver the Center's Written Notice to the address disclosed by the Registrar for the Respondent.

The Panel thus finds that the disputed domain names were registered and are being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 names, <thoughtworks.email> and <thoughtworks.cloud>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: September 22, 2023