

ADMINISTRATIVE PANEL DECISION

Tata Sons Pvt. Ltd., Sir Ratan Tata Trust, and Sir Dorabji Tata Trust v.
Corey Carson
Case No. D2023-4652

1. The Parties

The Complainants are Tata Sons Pvt. Ltd., Sir Ratan Tata Trust, and Sir Dorabji Tata Trust, India, represented by Anand & Anand, India.

The Respondent is Corey Carson, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <ladytatatrust.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 9, 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 (Registrant Details have been redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 10, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on November 15, 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 December 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on January 15, 2024. 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.

The Panel has not received any requests from the Complainants or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainants are Tata Sons Pvt. Ltd., founded in 1917 as the India's oldest, largest and best-known business conglomerate, Sir Ratanji Tata Trust, an Indian philanthropic trust created in 1919 and owned by Sir Ratanji Tata and Sir Dorabji Tata Trust, established in 1932 by Sir Dorabji Tata as the India's oldest and non-sectarian philanthropic organization. The Complainants own several trademark registrations for TATA and TATA TRUSTS, among which:

- United States Trademark Registration No. 789432 for TATA, registered on May 11, 1965;
- Indian Trademark Registration No. 4420787 for TATA TRUSTS, registered on January 27, 2020.

The Complainants also operate on the Internet, owning several domain name registrations including the trademark TATA, among which include <tata.com> and <tatatrusts.org>.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on December 6, 2011, and was held by the Complainant Sir Dorabji Tata Trust until May 2018, when the Complainant's registrar for the disputed domain name ceased its operations and the new registrar did not consider the disputed domain name registration as renewed, putting it up for sale and allowing the Respondent to register it. The disputed domain name currently directs to an inactive website, however, when the Complaint was filed, it resolved to a porn website.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants state that the disputed domain name is confusingly similar, if not identical, to their trademarks TATA and TATA TRUSTS.

Moreover, the Complainants assert that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainants to register the disputed domain name or to use their trademarks within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainants submit that the Respondent has registered the disputed domain name in bad faith, since the Complainants' trademarks TATA and TATA TRUSTS are distinctive and well known. Therefore, the Respondent targeted the Complainants' trademarks at the time of registration of the disputed domain name and the Complainants contend that the use of the disputed domain name in connection with a porn website qualifies as bad faith registration and use.

B. Respondent

The Respondent has made no reply to the Complainants' contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainants must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (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. Consolidation of Multiple Complainants

The Complaint and the amended Complaint were filed by three Complainants, and the Complainants have requested consolidation of multiple complainants. No objection to this request was made by the Respondent.

Pursuant to the [WIPO Overview 3.0](#), section 4.11.1: "[a]ssessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

The Panel finds that there is sufficient evidence that the Complainants have common grievance against the Respondent, who has engaged in a conduct that has affected all of them, and that the consolidation would be procedurally efficient and equitable. The Panel further notes that the Respondent did not object to the consolidation request. The Panel therefore accepts the Complainants' consolidation request.

For the purpose of this decision, the "Complainant" will refer to all the Complainants.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "lady", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is also well accepted that a generic Top-Level Domain ("gTLD"), in this case ".org", is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

C. 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. [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 disputed domain name. 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 disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the Complainant; indeed it was previously held by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

D. 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.

In the present case, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademarks TATA and TATA TRUSTS is clearly established, and the Panel finds that the Respondent must have known of the Complainant, and deliberately registered the disputed domain name in bad faith.

The Panel further notes that the disputed domain name is also being used in bad faith since the Respondent was trying to attract Internet users to its porn website by creating likelihood of confusion with the Complainant's trademarks as to the disputed domain name's source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant's business and likely to tarnish the Complainant's trademarks. As it has been established in [WIPO Overview 3.0](#) section 3.12, using a domain name to tarnish a complainant's mark may constitute evidence of a respondent's bad faith. Thus, the panel finds that using the domain name to host a porn website is evidence of bad faith.

As regards the apparent one-time or periodic (potentially rotating) use of the disputed domain name, directing to an inactive website, panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademarks, the composition of the disputed domain name, and the failure of the Respondent to submit a formal response, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name which was previously held by the Complainant, and which includes the Complainant's trademark TATA TRUSTS in its entirety with the mere addition of the term "lady" and deletion of the final "s", further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds 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 that the disputed domain name, <ladytatatrust.org>, be transferred to the Complainant Sir Dorabji Tata Trust.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: January 22, 2024