

ADMINISTRATIVE PANEL DECISION

Medtronic, Inc. v. Theresa Chavez, Web Commerce Communications Limited, Client Care, and sfsad sadfsdaf
Case No. D2023-4694

1. The Parties

The Complainant is Medtronic, Inc., United States of America (“United States”), represented by Snell & Wilmer, LLP, United States.

The Respondents are Theresa Chavez, United States; Web Commerce Communications Limited, Client Care, Malaysia; and sfsad sadfsdaf, China.

2. The Domain Names and Registrars

The disputed domain names <medtronic-plus.com> and <medtronic-pro.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar 1”). The disputed domain names <medtronic-pro.cc>, <medtronic-pro.city>, <medtronic-pro.live>, <medtronic-pro.vip>, <medtronic-pro.cyou>, <medtronic-pro.ink>, <medtronic-pro.pro>, and <medtronic-pro.world> are registered with NameSilo, LLC (the “Registrar 2”). The disputed domain names <medtronic-pro.shop> and <medtronic-pro.online> are registered with NameCheap, Inc (the “Registrar 3”). The disputed domain name <medtronic-pro.org> is registered with 1API GmbH (the “Registrar 4”). The disputed domain names <medtronic-pro.site> and <medtronic-pro.pw> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar 5”). The disputed domain names <medtronic-pro.top> and <medtronic-pro.xyz> are registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar 6”). The Registrar 1 to the Registrar 6 are collectively referred to as the “Registrars” hereinafter.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 14, 2023, the Center transmitted by emails to the Registrars a request for registrar verification in connection with the disputed domain names. On November 14, and 15, 2024, the Registrars transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Unknown, Whoisprotection.cc, Redacted for Privacy, Theresa Chavez, Unknown/unavailable) and contact information in the Complaint.

The Center sent email communication to the Complainant on November 21 and November 30, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars,

requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that the disputed domain names are under common control. The Complainant filed an amended Complaint on December 1, 2024.

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 Respondents of the Complaint, and the proceedings commenced on December 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on January 9, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on January 23, 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.

4. Factual Background

The Complainant is a medical device and technology company with its registered seat in the United States, internationally offering a wide variety of medical and health technology since 1949.

The Complainant owns numerous trademark registrations around the world for its MEDTRONIC trademark (hereinafter, the "MEDTRONIC Marks"), including United States Registration No. 1,038,755, registered on May 4, 1976 for MEDTRONIC, covering protection for medical apparatus and instruments as protected in class 10; and United States Registration No. 989,169, registered on July 23, 1974, for MEDTRONIC, covering protection for consultation with physicians and medical researchers regarding apparatus and leasing of medical apparatus to physicians, clinics, hospitals and the like as protected in class 42.

Since 1990, the Complainant has operated its official website at "www.medtronic.com".

The Respondents are reportedly located in the United States, Malaysia, and China, respectively. Two of the Respondents were already subject to an UDRP proceeding decided in favor of the Complainant, concerning domain names similar to the disputed domain names, i.e., <medtronic.us.com>, <medtronicinc.us.com>, and <medtronic.us.org>.

The registration dates of the disputed domain names are as follows:

[1]	<medtronic-pro.com>	March 15, 2023
[2]	<medtronic-pro.top>	March 15, 2023
[3]	<medtronic-pro.cc>	March 15, 2023
[4]	<medtronic-pro.org>	March 15, 2023
[5]	<medtronic-pro.city>	March 22, 2023
[6]	<medtronic-pro.online>	March 29, 2023
[7]	<medtronic-pro.live>	April 19, 2023
[8]	<medtronic-pro.pw>	April 19, 2023
[9]	<medtronic-pro.xyz>	May 1, 2023
[10]	<medtronic-pro.vip>	June 3, 2023
[11]	<medtronic-pro.cyou>	June 29, 2023
[12]	<medtronic-pro.world>	June 29, 2023
[13]	<medtronic-pro.shop>	June 29, 2023

[14]	<medtronic-pro.ink>	June 29, 2023
[15]	<medtronic-pro.site>	July 21, 2023
[16]	<medtronic-pro.pro>	August 21, 2023
[17]	<medtronic-plus.com>	August 25, 2023

According to the case record, the disputed domain names <medtronic-pro.com> and <medtronic-plus.com> resolve to a virtually identical website, which mimics the Complainant's official website and provides the look and feel as if it is operated by the Complainant (which is not). Visitors of this associated website, when clicking on the link "join us", are redirected to another website falsely purporting to be an investment website (Annexes 3 and 4 to the Complaint).

All other disputed domain names resolve to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

B. Respondents

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

6. Discussion and Findings

6.1. Consolidation of Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

In view of the Panel, the Complainant has provided sufficient evidence to support its consolidation request for the following reasons:

- sfsad sadfsdaf is the registrant for the disputed domain names <medtronic-pro.cc>, <medtronic-pro.top>, <medtronic-pro.xyz>, and <medtronic-pro.org>; Web Commerce Communications Limited, Client Care is the registrant for the disputed domain names <medtronic-pro.com> and <medtronic-plus.com>; and Theresa Chavez is the registrant for the remaining disputed domain names. Theresa Chavez and Sfsad sadfsdaf have already been the respondents in another previous UDRP proceeding in which the panel order the transfer of the domain names to the Complainant (see section 4 above);

- except for <medtronic-plus.com>, the dominant part of the remaining disputed domain names provides for the same composition, i.e., “medtronic-pro”. The disputed domain name <medtronic-plus.com> adopts a similar composition and resolves to the same website at the disputed domain name <medtronic-pro.com>;
- 15 out of 17 disputed domain names do not resolve to any active website;
- the disputed domain names were registered all in close temporal connection, partly even on the same date;
- seemingly false or incomplete contact information provided by the Respondents.

The Panel concludes that the Respondents must be the same individual or at least have acted collaboratively and, hence, accepts that the disputed domain names are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

It is further noted that the Respondents have not raised any objection to the Complainant’s consolidation request.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. 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 names. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the MEDTRONIC trademark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.2.1.

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

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

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record and considering the nature of the dispute domain names, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain names such as those enumerated in the Policy or otherwise. In the absence of a response, the Respondent has particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain names.

In particular, panels have held that the use of domain names for illegal activity, here, claimed impersonation as regards the disputed domain names <medtronic-pro.com> and <medtronic-plus.com> can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent must have had the Complainant and its MEDTRONIC trademark in mind when registering the disputed domain names. It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain names, which are comprising the

Complainant's MEDTRONIC trademark identically, to target the Complainant particularly considering the use of the disputed domain name <medtronic-pro.com> and <medtronic-plus.com>. Consequently, the Panel is convinced that the Respondent has registered the disputed domain names in bad faith.

As regards bad faith use, the overall content and design of the website associated to the disputed domain names <medtronic-pro.com> and <medtronic-plus.com>, which is impersonating the Complainant, as well as the inherently misleading nature of the disputed domain names is, in view of the Panel, sufficient evidence that the Respondent intentionally tries to attract Internet users to its websites by creating a likelihood of confusion with the Complainant.

As regards the other disputed domain names, which do not resolve to an active webpage, it is noted that panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of 15 of the 17 disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel particularly notes the reputation of the Complainant's trademark, the composition of the disputed domain names, and finds that in the circumstances of this case the passive holding of the 15 disputed domain names does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation as regards the disputed domain names <medtronic-pro.com> and <medtronic-plus.com>, is another indication of bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Panel finds that the Complainant has established 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 names <medtronic-plus.com>, <medtronic-pro.cc>, <medtronic-pro.city>, <medtronic-pro.com>, <medtronic-pro.cyou>, <medtronic-pro.ink>, <medtronic-pro.live>, <medtronic-pro.online>, <medtronic-pro.org>, <medtronic-pro.pro>, <medtronic-pro.pw>, <medtronic-pro.shop>, <medtronic-pro.site>, <medtronic-pro.top>, <medtronic-pro.vip>, <medtronic-pro.world>, and <medtronic-pro.xyz> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 6, 2024