

ADMINISTRATIVE PANEL DECISION

Honda Motor Co., Ltd. v. Domain Administrator,
Fundacion Privacy Services Ltd.
Case No. D2023-4861

1. The Parties

Complainant is Honda Motor Co., Ltd., Japan, represented by P. S. Davar and Company, India.

Respondent is Domain Administrator, Fundacion Privacy Services Ltd., Panama.

2. The Domain Name and Registrar

The disputed domain name <hondaindia.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 21, 2023. On November 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 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. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 4, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on January 18, 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

Complainant is a company organized under the laws of Japan that is active in the automobile industry.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its company name and brand HONDA, including, but not limited, to the following with protection for the territory of India to which the disputed domain name refers:

- word/design mark HONDA, Government of India Trademarks Registry, registration number: 393803, registration date: August 5, 1982, status: active;
- word/design mark HONDA, Government of India Trademarks Registry, registration number: 422777, registration date: June 4, 1984, status: active.

Moreover, Complainant has demonstrated to own numerous domain names relating to its company name and trademark HONDA, including since August 15, 2023, the domain name <hondaindia.in>.

Respondent, according to the Whois information for the disputed domain name, is located in Panama. The disputed domain name was first registered on June 13, 2010. By the time of rendering this decision, the disputed domain name does not resolve to any content on the Internet and there are no indications apparent from the case file that it has ever done so in the past (so-called "passive holding").

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends to be one of the leading and most reputed automobile companies in the world with roots going back to 1948 when Complainant was established by its founder Mr. Soichiro Honda. Ever since, Complainant's HONDA trademark has been continuously and extensively used and is meanwhile ranked as one of the leading brands in leading brand surveys worldwide. Complainant has manufacturing facilities in numerous countries around the world, including in India.

Complainant submits that the disputed domain name is confusingly similar to Complainant's HONDA trademark, as it incorporates the latter in its entirety. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) the disputed domain name does not resolve to any active page on the Internet so that Respondent is not using it for any bona fide or any legitimate noncommercial or fair purpose, and (2) given that Complainant's HONDA trademark is well-known on a worldwide basis, including in India, it is apparent that the general and purchasing public will be confused and deceived by the disputed domain name into believing that there is a connection/affiliation of some sort between Respondent and Complainant which is not the case. Finally, Complainant argues that Respondent is still using the disputed domain name in bad faith since (1) Complainant's HONDA trademark has been registered prior to the disputed domain name, and (2) Complainant's HONDA trademark is well known and it appears that Respondent has merely blocked the disputed domain name, comprising such well-known trademark, in order to sell it to Complainant or to any third party for wrongful commercial gain.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

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

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

First, 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 Complainant's HONDA trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of its HONDA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of Complainant's HONDA trademark is reproduced within the disputed domain name, simply added by the term "india". Accordingly, the disputed domain name is confusingly similar to Complainant's trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, "india") 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 Complainant's HONDA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which 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 record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent itself has not rebutted 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. In this context, the Panel has well noted that Respondent so far obviously has neither used the disputed domain name for a bona fide offering of goods or services nor for a legitimate

noncommercial or fair purpose, but rather passively held it instead. UDRP panels, however, have found that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, does not by itself automatically confer rights or legitimate interests therein. [WIPO Overview 3.0](#), section 2.10.1.

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

C. Registered and Used in Bad Faith

Third, 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.

Also, 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. While 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, (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 undisputed distinctiveness and reputation of Complainant’s HONDA trademark, and the composition of the disputed domain name (which reproduces such trademark entirely, simply added by the geographical term “india”, in which country Complainant has vast business presences, too), and so 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. In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois records for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated December 31, 2023, could not be delivered. This fact at least throws a light on Respondent’s behavior which further supports the Panel’s conclusion that the disputed domain name has been registered and is used in bad faith within the meaning of the Policy.

For the sake of completeness, it is finally worth mentioning that the registration date of the disputed domain name back in 2010 is not in contrast to such finding, because (1) Complainant’s HONDA trademark has been registered and has been used even many decades prior to the disputed domain name’s registration, and (2) panels have widely recognized that the mere delay between the registration of a domain name and the filing of a complaint neither bars a complainant from filing such case, nor from potentially prevailing on the merits. [WIPO Overview 3.0](#), section 4.17.

The Panel, therefore, finds the third element of the Policy has been established, too.

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, <hondaindia.com>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: February 1, 2024