

ADMINISTRATIVE PANEL DECISION

Ocean Technologies Group Ltd v. Carolina Rodrigues Case No. D2023-5121

1. The Parties

The Complainant is Ocean Technologies Group Ltd, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Carolina Rodrigues, Panama.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 7, 2023. On December 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 11, 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 December 11, 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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 15, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on January 19, 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 an international learning and operational technology company in the maritime industry. It provides a large learning library with more than 850 titles related to the maritime topics. One of its previous company names was Pelican Midco Ltd (Annex 9 to the Complaint).

The Complainant is the owner of the OCEAN TECHNOLOGIES GROUP trademark, which is, among others, registered as the European Union Trademark Registration No. 018218678, registered on November 9, 2021, for OCEAN TECHNOLOGIES GROUP, providing protection for various goods and services as protected in class 9, 41 and 42 (Annex 10 to the Complaint).

The Complainant further operates its official website at “www.oceantg.com” and its official webstore at “shop.oceantg.com”, where individuals and organization can purchase the Complainant’s products and publications (Annex 4 to the Complaint).

The Respondent is reportedly located in Panama.

The disputed domain name was registered on February 14, 2023.

The disputed domain name resolves to landing page with pay-per-click (“PPC”) links to third-party websites (Annex 5 to the Complaint). As evidenced in the Complaint, some of the links redirect Internet users to websites with malware or create the impression that the Internet user’s computer has been compromised, but technical support could allegedly be provided under a certain telephone number (Annex 6 to the Complaint).

Also, the Respondent configured a Mail Exchange (“MX”) email server for the disputed domain name, which enables the Respondent to send and receive emails using the disputed domain name (Annex 7 to the Complaint).

Furthermore, the disputed domain name is listed for sale on public market place for domain names to a minimum offer of USD 899 (Annex 8 to the Complaint).

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 name.

B. Respondent

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

6. Discussion and Findings

According to paragraphs 14 and 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 and on the basis of the Complaint where no substantive response has been submitted.

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 name is 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 name; and
- (iii) the disputed domain name has been registered and is 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 substantively 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured 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 name. [WIPO Overview 3.0](#), section 1.7.

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

The Panel finds the mark is recognizable within the disputed domain name. The disputed domain name comprises the first part of the Complainant's trademark "ocean" in combination with the letters "t" and "g", which can be understood as an abbreviation of the terms "technology" and "group".

While the addition of other terms (here: "shop") 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.

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, 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.

There is particular no indication in the case file that the Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish the Respondent's rights or legitimate interests therein. Rather, the disputed domain name resolves to a landing page featuring PPC links to malware or to websites which allegedly compromise the visitor's computer. Such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.9.

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 OCEAN TECHNOLOGY GROUP trademark in mind when registering the disputed domain name. Given also the high confusing similarity between the Complainant's official webstore at "shop.oceantg.com" and website at "www.oceantg.com" and the disputed domain name, it is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain names in bad faith.

With respect to the use of the disputed domain names in bad faith, the Panel notes that visitors of the disputed domain name are redirected to a landing page with PPC links to third party websites. As evidenced in the Complaint, some of these links redirect Internet users to websites with malware or create the impression that the Internet user's computer has been compromised, but technical support is allegedly available under a provided telephone number. This kind of use is also known as technical support scam.

Panels have held that the use of a domain name for illegal activity, here, claimed distributing malware and alike, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Furthermore, the Panel believes that the active MX email server for the disputed domain name creates a real or implied ongoing threat to the Complainant, since the disputed domain name may be used by the Respondent to mislead Internet users looking for the Complainant in their false belief that any email sent from the disputed domain name originates from the Complainant, likely for fraudulent activities.

Also, the Panel accepts the failure of the Respondent to submit a substantive response to the Complainant's contentions as an additional indication for bad faith use.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name 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 name <shopocean.tg.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: February 2, 2024