

ADMINISTRATIVE PANEL DECISION

Global Electronic Technology, Inc. v. 喜 譚
Case No. D2023-5321

1. The Parties

The Complainant is Global Electronic Technology, Inc., United States of America (“US”), represented by Greenberg Traurig, LLP, US.

The Respondent is 喜 譚, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <gettrx.club> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 22, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 28, 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 January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on February 7, 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

In the absence of a Response the Panel accepts the following submissions from the Complainant as factually accurate given the supporting evidence the Complainant has filed.

The Complainant is a US corporation specializing in payment solutions such as payment gateways, payment facilitation, and advanced settlement. It builds and owns technology in-house in order to develop and provide customized software for various types of businesses. The Complainant also provides promotional and financial sponsorship of automobile racing teams and race cars.

The Complainant promotes its business under the name GETTRX and has done so since at least August 1, 2021. It uses and promotes its GETTRX mark, including, for example, on its website located at the domain name <gettrx.com> (the "Global Electronic Technology's Website"), e-commerce and social media platforms, printed media, automobile racing teams and race cars and other advertising materials.

From late 2021 to date, the Complainant's gross amount of sales under the GETTRX mark has been approximately USD 189 million. From late 2021 to date, the Complainant has also spent approximately USD 480,000 in advertising its services under the GETTRX mark and spent approximately USD 2.4 million in providing promotional and financial sponsorship of automobile racing teams and race cars.

The Complainant actively promotes its GETTRX branded goods and services on social media and has large followers on social media platforms, such as Instagram, Facebook, LinkedIn, TikTok and Twitter. For example, the Complainant's Instagram page, located at <<https://www.instagram.com/gettrx/>> has nearly 16,000 followers.

The Complainant also has filed a number of pending trademark applications for the term GETTRX, including pending US trademark application No. 98156060, filed on August 29, 2023.

The Disputed Domain Name was registered on September 11, 2023.

The Complainant has placed in evidence a customer contact request that it received online via its website which reads "Pls. Continue my subscription w/gettrx.club having timed out issuance". It has also placed in evidence Trustpilot reviews of a website linked to the Disputed Domain Name which appear to indicate it has been associated with financial fraud. It also places in evidence a webpage to which the Disputed Domain Name previously resolved which was branded "TRON" (a competitor of the Complainant) and which appeared to be designed to capture personal information such as login data.

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.

Notably, the Complainant contends that its extensive use of the term GETTRX (see above) establishes common law trademark rights in that term. It also says the Respondents use of the Top-Level Domain ("TLD") ".club" increases the likelihood of confusion given the Complainant's well publicized sponsorship of

automobile racing teams. It also says the Disputed Domain Name is being used in connection with fraudulent activity which is clear evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given the Notification of Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

6.2 Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a 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 pending trademark applications the Complainant relies upon do not in themselves amount to trademark rights for the purposes of the Policy – see [WIPO Overview 3.0](#) at section 1.1.4

However, the Panel considers that the term "GETTRX" itself is one in which the Complainant has unregistered rights. The Panel does not consider the term "GETTRX" to be descriptive. The Complainant has traded under it since August 2021. As described above it has done so on a substantial scale with widespread advertising and promotion of the term. The Panel considers that the Complainant's customers and no doubt others must recognise the term "GETTRX" as a source identifier for the Complainant's services. The Panel concludes that the Complainant does have unregistered trademark rights in the term "GETTRX" for purposes of the Policy.

In addition, were there any doubt about this, it is relevant that the Respondent itself thought it worthwhile to use this term in the Disputed Domain Name. As the panel noted in *NEOVIA, Hi-Nutrients International Ltd. v. WhoisGuard Protected, WhoisGuard, Inc. / Deniz Hus* WIPO Case No. [D2019-0600](#): "The Respondent did not provide arguments to the contrary; rather, in the Panel's view, the Respondent cannot dispute that, given it deliberately targeted the source identifier in an apparent fraud attempt. Such targeting of the Complainants is sufficient to establish limited trademark rights in the HI-NUTRIENTS trademark for the purposes of the Policy. See *PEMF Supply, LLC v. Domain Administrator, See PrivacyGuardian.org / Gregory Lewis, American Healthcare Foundation*, WIPO Case No. [D2019-0235](#) ("[...] in light of the use of the PEMF SUPPLY mark that was submitted in this proceeding, the targeting of Complainant by Respondent is sufficient to establish Complainant has limited unregistered trademark rights in the PEMF SUPPLY mark for

the purposes of the Policy”). See also *Greenspring Associates, Inc. v. Lisa Knowles, Victoria capital pty*, WIPO Case No. [D2019-0265](#): “To that extent, Complainant has in fact used the domain name <gspring.com> as a source identifier for its services. One person who cannot dispute that fact is Respondent, who (as is discussed below) deliberately targeted that source identifier (<gspring.com>) to attempt to perpetrate a fraud via confusion. The Domain Name differs from the GSPRING mark only to the extent that the Domain Name replaces the “i” with an “l”. The visual similarity between the “i” and the “l” – especially when the font is small – is obvious”.

Accordingly, the Panel is satisfied on the evidence as filed that the Complainant has shown it has unregistered trademark rights in the term “GETTRX” as a source identifier for its services. The Panel will refer to the “GETTRX trademark” in the remainder of this decision in relation to such rights.

The Panel finds the Disputed Domain Name is identical or confusingly similar to the GETTRX trademark. It is well established that the TLD, in this case “.com”, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#) at section 1.11.

Accordingly, the Panel finds that the Disputed Domain Name is identical with or confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the term GETTRX. The Complainant has prior rights in the GETTRX trademark, which precede the Respondent’s acquisition of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Moreover, the impersonating, or phishing use of the Disputed Domain Name can never confer rights or legitimate interests on the Respondent.

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Name. Accordingly, the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

In the present case, the filed evidence (see above) shows the Disputed Domain Name being used in connection with fraudulent activity including confusing customers who may then be misled into providing confidential information. That falls squarely within the type of circumstances to which the Policy refers to in (iv) above. The Respondent is clearly engaged in activity which is intended to obtain data which can then in all probability be used in further fraudulent activity. See *Australia and New Zealand Banking Group Limited v. Bashar Ltd*, WIPO Case No. [D2007-0031](#), and the cases therein referred to, for further analysis of why "phishing" activities amount to use in bad faith. See also *Grupo Financiero Inbursa S.A. de CV v ibuirisa*, WIPO Case No. [D2006-0614](#), to similar effect. Moreover, the TLD ".club" in the Disputed Domain Name increases the likelihood of confusion given it may be taken as connected in some way with the Complainant's sponsorship of automobile racing teams.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <gettrx.club> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: February 21, 2024