

ADMINISTRATIVE PANEL DECISION

STX Commodities Holding B.V. v. Jamie Zuniga, IRC law office
Case No. D2024-0305

1. The Parties

The Complainant is STX Commodities Holding B.V., Netherlands (Kingdom of the), represented by NLO Shieldmark B.V., Netherlands (Kingdom of the).

The Respondent is Jamie Zuniga, IRC law office, United States of America.

2. The Domain Name and Registrar

The disputed domain name <stxgroups.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 January 24, 2024. On January 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 January 25, 2024, 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 amendment to the Complaint on January 30, 2024. Further to the Center’s invitation to rectify certain information in the Complaint, the Complainant filed an amended Complaint on February 1, 2024.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2024.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on March 11, 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 Dutch-based Environmental Commodity Trader and Climate Solutions provider for corporations, founded in 2005 with presently offices in Amsterdam, New York, Gothenburg, Lyon, Singapore, Hamburg, Madrid, London, and Mexico.

The Complainant is the holder of registered trademarks for STX including:

STX, European Union trademark, registration number 018233078, registered on October 27, 2020, in classes 35 and 36;

STX, United Kingdom Intellectual Property Office trademark, registration number UK00918233078, registered on October 27, 2020, in classes 35 and 36;

STX SERVICES, Benelux Office for Intellectual Property trademark, registration number 906679, registered on December 12, 2011, in classes 35, 36, and 42.

The Complainant owns and uses the domain name <stxgroup.com> for its corporate website and for email purposes, and also owns domain names including <stxgroup.eu>, <stxgroup.fr>, <stxgroup.se> and <stxgroup.nl>.

The Respondent has not provided any background information except for the contact details provided to the Registrar at the time of registration of the disputed domain name on November 16, 2023. The disputed domain name does not appear to have resolved to a website but has been used as the basis of an email address for purposes alleged by the Complainant to be fraudulent. The Complainant sent a cease and desist notice dated December 8, 2023 to the Respondent at its email address.

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 the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant's trademark STX is replicated in its entirety in the disputed domain name. The additional word "groups" makes the disputed domain name similar to the Complainant's tradename, which includes "group", and to several of the Complainant's domain names. The additional letter "s" making the word "group" into the plural can easily be overlooked.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, which was registered later than the Complainant's trademarks. The Complainant says it has not authorized the Respondent to use its trademarks. There is no evidence of any use of the disputed domain name by the Respondent for any legitimate purpose or that the Respondent has been commonly known by any name similar to the disputed domain name. The Respondent has, however, used the disputed domain name as an email address for an allegedly illegal and fraudulent phishing purpose (an attempt to inveigle itself into the business of others by subterfuge) as described further below.

There has been no reply to the Complainant's cease and desist communication to the Respondent dated December 8, 2023.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. In particular the disputed domain name has been used as the basis of an email address intended to be confused with the Complainant. The Complainant has produced evidence of an email sent from the disputed domain name to a client of the Complainant with the intention of causing that client to change its banking arrangements.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 Complainant's trademark STX 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, the word "groups") 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.

Panels have held that the use of a domain name for illegal activity (here, alleged phishing and impersonation of the Complainant) can never confer rights or legitimate interests on a respondent: [WIPO Overview 3.0](#), section 2.13.1. The composition of the disputed domain name carries a risk of implied affiliation, and the use of the disputed domain name affirms such risk.

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

C. Registered and Used 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.

The Complainant has produced in evidence an email, which it says is similar to emails received by various of the Complainant's clients. The email was not sent by the Complainant but appears as though it has been. The email, dated November 16, 2023 (the date on which the disputed domain name was registered), had the sender's name "STX Group Settlements" at an email address of the disputed domain name. The joint addressees were a person and an office at an apparent client company of the Complainant. The message indicated that copies were directed to a named person (evidently the Complainant's Trade Operations Specialist) and to "STX AMS Contracts", both at the disputed domain name, thus creating a superficial impression that the email had been sent by the Complainant, with copies to its own internal staff. The subject heading made reference to an invoice number.

In the text of its email, the Respondent, impersonating the Complainant, sought to have the Complainant's client make future payments to an Australian bank account instead of to the Complainant's proper bank account. The communication was signed by a person purporting to represent "Back Office STX Commodities N.V.", with a physical address and telephone number differing from those given by the Complainant in the Complaint. In the Panel's finding on the evidence and on the balance of probabilities, the Respondent has used the disputed domain name for the purpose of attempting to divert future payments from the client, intended for the Complainant, to the Respondent's own account.

Panels have held that the use of a domain name for illegal activity (here, alleged phishing and impersonation of the Complainant) constitutes 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 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 <stxgroups.com> be transferred to the Complainant.

/Dr. Clive N.A. Trotman/

Dr. Clive N.A. Trotman

Sole Panelist

Date: March 19, 2024