

ADMINISTRATIVE PANEL DECISION

O2 Worldwide Limited v. John Doe
Case No. D2024-0607

1. The Parties

The Complainant is O2 Worldwide Limited, United Kingdom (“UK”), represented by Stobbs IP Limited, UK.

The Respondent is John Doe, Afghanistan.

2. The Domain Name and Registrar

The disputed domain name <o2.box> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2024. On February 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2024, 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 (3DNS Privacy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 13, 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 amended Complaint on February 15, 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 Respondent of the Complaint, and the proceedings commenced on February 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Evan D. Brown as the sole panelist in this matter on March 25, 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 grants licenses in its intellectual property who are in the telecommunications, entertainment and music business. It owns the mark O2 for which it enjoys the benefits of registration, (e.g., UK Reg. No. UK00003346463, registered on March 15, 2019). The Complainant has provided evidence showing the strength of its O2 mark, including various rankings by different organizations showing the O2 brand to be among the most recognized in the world, as well as the popularity and renown of the O2 music venue in London.

According to the Whois records, the disputed domain name was registered on January 27, 2024.

The Respondent initially used a privacy protection service to seek to conceal its identity. After the proceedings commenced, the Registrar revealed the contact information the Respondent used to register the disputed domain name – information that is, on its face, obviously bogus, namely, “John Doe,” located at “123 Fake Street,” in Chicago, Washington, Afghanistan, and a phone number of “555555555”.

Though the disputed domain name does not currently resolve to an active web page, the Complainant submitted evidence showing the disputed domain name in connection with an apparent Web3 page (likely a profile connected to <o2.box>) showing an NFT wallet, offering the possibility to “Connect Wallet” and displaying an NFT gallery with what appeared to be other “.box” domain names. Additionally, the Complainant has provided evidence showing that the disputed domain name is available as an NFT on the popular NFT trading platform OpenSea.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

Particularly, the Complainant contends that the Respondent’s wallet shown at the disputed domain name displayed other “.box” domain names, including one consisting of a trademark that belongs to a company operating in the same field as the Complainant. In this regard, the Complainant points out that both companies use the term “box” in relation to their WI FI routers, in the case of the Complainant as “O2 Homebox”.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical 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. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.7. 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. Id. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

The Complainant has established this first UDRP element because it has demonstrated its rights in the O2 mark by providing its trademark registrations for the mark. And the disputed domain name comprises the O2 mark in its entirety, making the disputed domain name – for these purposes – identical to the O2 mark.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts that: (1) the Complainant has not authorized or granted license to the Respondent to use the O2 mark or to register a domain name containing that mark, (2) as far as the Complainant is aware, the Respondent is not affiliated in any way with the Complainant or the O2 brand, (3) the use of the disputed domain name to display an NFT wallet, and the offering of the disputed domain name as an NFT do not constitute use of the disputed domain name in connection with a bona fide offering of goods or services, (4) the Respondent is not commonly known by the disputed domain name, and (5) the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name.

The Complainant has shown, prima facie, that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not come forward with any evidence that tips the scales in its favor. Accordingly, the Panel finds that the Respondent has established this second element under the policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent's] website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or a product or service on [the respondent's] website or location".

The Complainant asserts that the Complainant's goods and services available under the O2 mark have been extensively promoted and advertised on a global basis, such that members of the public are readily aware of the Complainant and its mark. The Complainant contends that the Respondent's wallet shown other ".box" domain names, including one consisting of a trademark that belongs to a company operating in the same field as the Complainant. In this regard, the Complainant points out that both companies use the term "box" in relation to their WI FI routers, in the case of the Complainant as "O2 Homebox". Because the Complainant's marks are well-known, and in the circumstances of the case, the Panel finds it more likely than not that the Respondent was aware of the O2 mark when it registered the disputed domain name. In the circumstances of this case, such a showing is sufficient to establish bad faith registration of the disputed domain name. The Respondent has not provided any evidence to contest this contention of the Complainant, or otherwise to provide a good-faith explanation for why it chose to incorporate the Complainant's mark in the disputed domain name.

The Respondent's bad faith is also affirmed by its use of a privacy service, and the provision of false registrant's details to obscure its identity. See *Pet Plan Ltd v. Mohammed Nahhas*, WIPO Case No. [D2021-1964](#). Bad faith is further shown by the use of bogus contact information to the Registrar. Panels view the provision of false contact information underlying a privacy or proxy service as an indication of bad faith. [WIPO Overview 3.0](#), section 3.6.

From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank 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. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The Panel finds that each of these factors weighs against the Respondent and in favor of the Complainant's assertion of bad faith.

The Panel acknowledges the evidence the Complainant provided that shows the disputed domain name purportedly available as an NFT under the category 3DNS Powered Domain Names. Some questions are unanswered as to what it would actually mean to purchase this NFT. However, the Panel notes that a search for 3DNS Powered Domain Names on the Internet shows an OpenSea page explaining that:

"3DNS is the first onchain domain platform.

Onchain domains powered by 3DNS work for websites and email using standard browsers and can be instantly and securely transferred on decentralized markets.

3DNS technology supports the most popular domain endings, including .com, .xyz, .ooo, .io, .box and more.

All domain owners are required to have a Whois record associated with their domain. Please go to [3DNS.box](#) to set your Whois information. This information is privacy protected and only used in the event of a dispute against your domain."

Although the evidence of the offer for sale at OpenSea would not in itself be dispositive of the Respondent's bad faith, the Panel finds the evidence to be consistent with the other assertions in the record of the Respondent's bad faith registration and use of the disputed domain name.

Accordingly, the Panel finds that the Complainant has established this third element under 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 <o2.box> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: April 8, 2024