

ADMINISTRATIVE PANEL DECISION

TPG Telecom Limited v. Luis Alberto Laichter
Case No. D2024-1098

1. The Parties

The Complainant is TPG Telecom Limited, Australia, represented by Bird & Bird, Australia.

The Respondent is Luis Alberto Laichter, Argentina.

2. The Domain Name and Registrar

The disputed domain name <tpgtelecom.net> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 2024, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on March 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 7, 2024. The Respondent sent email communications to the Center on April 4, April 9, and April 22, 2024, respectively.

The Center appointed Jeremy Speres as the sole panelist in this matter on April 29, 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 large listed Australian telecommunications company formed as a result of a merger between Vodafone Hutchison Australia Pty Limited and TPG Corporation Limited. The merger occurred on July 13, 2020, but was announced on May 7, 2020. The Complainant and its predecessors have used TPG as a trademark since 1999, and TPG TELECOM since 2009. The Complainant uses the domain names <tpg.com.au> and <tpgtelecom.com.au> for its primary websites.

The Complainant owns various TPG-incorporating Australian trademark registrations, including Australian Trademark Registration No. 2145022 for TPG TELECOM, in classes 9 and 38, registered from December 23, 2020.

The disputed domain name was registered on June 1, 2020, and currently redirects to a website hosted at the domain name <seblanc.com> which ostensibly advertises the Respondent's domain name management, acquisition, and other services. The Complainant's evidence establishes that the disputed domain name previously resolved to a website offering the disputed domain name for sale.

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 Respondent registered and has used the disputed domain name in bad faith to disrupt the Complainant's business and to benefit financially from selling the disputed domain name to the Complainant.

B. Respondent

The Respondent sent a Response to the Center that did not substantively address the Complainant's contentions.

The essence of the Response was as follows: a) the disputed domain name was available for registration when the Respondent registered it, thus demonstrating a lack of interest on the Complainant's part in the disputed domain name; b) there are other businesses around the world that trade under the TPG TELECOM mark; and c) the Respondent offered to resolve the matter by selling the disputed domain name to the Complainant, plus an additional ten domain names all consisting of "tpgtelecom" at the second level.

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 mark is reproduced within the disputed domain name without more. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Respondent would appear to be a domainer who trades in domain names, and it is widely accepted that acquiring domain names for resale, without more, is not per se illegitimate. [WIPO Overview 3.0](#), section 2.1. However, for the reasons addressed below in relation to bad faith, it is likely that the Respondent registered the disputed domain name with the Complainant’s mark in mind, for the purpose of selling it to the Complainant for valuable consideration in excess of the Respondent’s out-of-pocket costs directly related to the disputed domain name. Taking advantage of trademark rights in this way cannot confer rights or legitimate interests.

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.

Here, it is more likely than not that the Respondent registered the disputed domain name in order to profit from selling it to the Complainant, falling squarely within paragraph 4(b)(i) of the Policy, for the following reasons:

- The Complainant’s evidence establishes that its TPG and TPG TELECOM marks were well known in its industry long before registration of the disputed domain name. UDRP panels have consistently found that the registration of a domain name that is identical or confusingly similar to a well known trademark (as in this case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1.
- The Respondent made a direct, unsolicited offer to sell the disputed domain name to the Complainant in 2022, long before the Complaint was filed and before the Complainant had engaged with the Respondent. In that offer, the Respondent indicated that the disputed domain name was available for a “market price”, clearly suggesting an intention to recoup more than the Respondent’s out-of-pocket costs.
- The Respondent was previously found to have committed cybersquatting under the Policy in circumstances where he had likewise registered a well known mark as a domain name and offered it for sale to the trademark owner. See *Virgin Enterprises Limited v. WhoisGuard, Inc. / Luis Alberto Laichter*, WIPO Case No. [D2016-2177](#). The Complainant’s evidence establishes that the Respondent has owned various

domain names consisting of well known trademarks, including <astonmartinmagazine.com>, <mazda.lat>, <mercedes-benz-eq.net>, and <peugeotfiat.com>. This demonstrates a history of cybersquatting.

- In April 2024, after notification of the Complaint to the Respondent, the Respondent registered ten additional domain names all identical to the Complainant's TPG TELECOM mark in different Top-Level Domains. The Respondent again offered these for sale to the Complainant along with the disputed domain name in his Response.

- The Respondent has provided no cogent explanation for registering eleven domain names all identical to the Complainant's mark, in circumstances where the "tpg" element has no obvious semantic value that the Respondent may in good faith have sought to adopt.

These are all relevant factors pointing to bad faith under paragraph 4(b)(i) of the Policy. [WIPO Overview 3.0](#), section 3.1.1.

The disputed domain name was registered shortly after the well-publicized merger forming the Complainant was announced. Taken together with the other factors raised above, this timing also suggests an intention on the Respondent's part to capitalize on the renewed attention given to the Complainant's mark.

[WIPO Overview 3.0](#), section 3.8.2.

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 <tpgtelecom.net> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: May 10, 2024