

ADMINISTRATIVE PANEL DECISION

Trader Joe's Company v. Daniel Glon
Case No. D2024-1152

1. The Parties

The Complainant is Trader Joe's Company, United States of America, represented by Byron Raphael LLP, United States of America ("United States").

The Respondent is Daniel Glon, United States.

2. The Domain Name and Registrar

The disputed domain name <tradersjoescorp.com> is registered with eNom, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 15, 2024. On March 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 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 (Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 19, 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 March 26, 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 March 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 17, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on May 1, 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 owns over a dozen United States Patent and Trademark Registrations for the trademark TRADER JOE'S (the Mark), the earliest of which is Registration No. 1,424,176, dated January 6, 1987. The Complainant has used the Mark in connection with grocery stores and goods since 1967. The Complainant owns and operates over 540 grocery stores and distributes information to over 850,000 customers throughout the United States. The Complainant owns the domain name <traderjoes.com>, which resolves to a website that receives over 4.6 million visitors monthly.

The disputed domain name was registered on January 11, 2024. It does not resolve to an active site.

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. The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is identical to the Mark except the disputed domain name adds to the Mark the letter "s" and the term "corp." The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Mark when registering the disputed domain name and that the disputed domain name resolves to an inactive page¹.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (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 was registered and is being used in bad faith.

¹ The Complainant claims the disputed domain name has been used in a fraudulent email scheme and submits a declaration of the Complainant's EVP and General Counsel to support its allegations. However, the Panel notes that the domain name mentioned therein does not correspond to the disputed domain name. In addition, the Complainant has not submitted evidence of the fraudulent emails impersonating the Complainant. Therefore, the Panel has decided not to consider this argument to resolve this case.

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 the Mark for the purposes of the Policy by virtue of the Mark's registrations. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name's only deviations from the Mark are that the disputed domain name adds the letter "s" and the term "corp." These slight alterations between the Mark and the disputed domain name do not prevent a finding of confusing similarity between the disputed domain name and the Mark. The Mark is clearly recognizable in the disputed domain name.

The Panel finds that 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 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.

The disputed domain name resolves to an inactive page. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. The Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. It is beyond any reasonable doubt that the Respondent was aware of the Mark when registering and using the

disputed domain name. The fame of the Mark, in conjunction with the striking similarity of the disputed domain name to the Mark, compels such a conclusion.

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

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: May 15, 2024