

ADMINISTRATIVE PANEL DECISION

Space Exploration Technologies Corp. v. LARA SOFTWARE SISTEMAS Case No. D2024-1612

1. The Parties

The Complainant is Space Exploration Technologies Corp., United States of America (“United States”), represented by Daniel Advogados, Brazil.

The Respondent is LARA SOFTWARE SISTEMAS, Brazil.

2. The Domain Name and Registrar

The disputed domain name <starlink-ba.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu., (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2024. On April 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 19, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 23, 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 April 24, 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 April 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on May 24, 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

According to information in the Complaint, the Complainant is a United States corporation acting as aerospace manufacturer, space transportation, and communications company worldwide. It is using its trademark STARLINK in connection with its Internet and telecommunications services in the United States and internationally.

The Complainant is the holder of a number of trademark registrations for STARLINK, including the Brazilian trademark STARLINK (word) No. 501713437, applied for on October 12, 2022, designating goods and services in international classes 9, 38, 39, and 42, or the United Kingdom trademark STARLINK (word) No. UK00917133621, registered as of May 15, 2018, designating goods and services in international classes 9, 38, and 42. The Complainant also maintains its official website at <starlink.com>.

The disputed domain name was registered on December 8, 2020, and according to evidence with the Complaint, it was used before pre-Complaint notice in a manner similar to the Complainant's domain name <starlink.com>. After a cease-and-desist letter from the Complainant, the disputed domain name redirects to a commercial website, with competing services, at the domain name <starline.link>.

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 nearly identical to the Complainant's well-known STARLINK trademark, as it incorporates the entirety of the STARLINK trademark in addition to the term "-ba" (from "Bahia", a state of Brazil), which does not dispel the confusing similarity of the disputed domain name with the STARLINK trademark of the Complainant.

As regards the second element, the Complainant argues that the Respondent is not, and has never been, a representative of the Complainant or licensed to use the STARLINK mark of the Complainant. The only use the Respondent has for the disputed domain name is to currently masquerade as the Complainant by means of a redirection, and before the redirection, directly. The Respondent has never been commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy, as the disputed domain name is not derived from the Respondent's name.

With respect to the third element, the Complainant argues that in view of the composition of the disputed domain name, which incorporates the entirety of the Complainant's trademark, the Respondent was aware of the Complainant's existence at the time of the registration of the disputed domain name. Not only does the disputed domain name incorporate the STARLINK mark, but also mimics the official domain name of the Complainant <starlink.com>, and directs to a fraudulent website offering telecommunications services, to scam Internet users into believing that the Respondent purportedly provides the Complainant's services.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case, although duly notified of the Complaint and the present proceedings. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.2.

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.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the STARLINK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the STARLINK trademark is incorporated in its entirety in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the STARLINK trademark of the Complainant for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “ba”, and a hyphen) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the STARLINK trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

It is the settled view of panels applying the Policy that the generic Top-Level Domain (“gTLD”) (here “.com”) should be disregarded under the first element test.

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.

From the unrebutted statements of the Complainant (and as independently verified by the Panel on the "web.archive.org") the website to which the disputed domain name resolved before pre-Complaint notice to the Respondent displayed the Complainant's STARLINK trademark and allegedly offered similar products or services to those of the Complainant with no apparent disclaimer as to the lack of affiliation with the Complainant. The disputed domain name currently redirects to the Respondent's website at <starline.link> where competing services are offered, with no disclaimer as to the lack of any relationship with the Complainant. The Complainant contends that it has never licensed or otherwise permitted the Respondent to use the trademark STARLINK. The Respondent's use of the disputed domain name in the above circumstances is not in connection with a bona fide offering of goods or services as contemplated by the first circumstance of paragraph 4(c) of the Policy.

Given also the nature of the disputed domain name, that includes the Complainant's STARLINK trademarks in its entirety, and therefore carries a risk of implied affiliation and cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant, neither such use nor the previous one confer in the Panel's view rights or legitimate interests to the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name in the meaning of the second circumstance of paragraph 4(c) of the Policy. Moreover, the use of the disputed domain name is not a legitimate noncommercial or fair use as contemplated by the third circumstance of paragraph 4(c) of the Policy.

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.

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 disputed domain name was registered some years after the Complainant had obtained registration of its STARLINK trademarks. The disputed domain name is confusingly similar to the Complainant's trademark. The website at the disputed domain name displayed the Complainant's trademark and offered competing products or services. Also, the website to which the disputed domain name currently redirects, is found at a domain name registered under the gTLD ".link", which alludes to the Complainant's trademark STARLINK. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademark and that it targeted that trademark.

As regards the use of the disputed domain name, paragraph 4(b)(iv) of the Policy has direct bearing to the present case:

"(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to his website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the said website location or of a product or service on that website location."

The conduct of the Respondent falls under the above provisions. The disputed domain name is confusingly similar to the STARLINK trademark of the Complainant. The website to which the disputed domain name redirects, directs users to a website where services similar to those of the Complainant are apparently offered and no disclaimer was included regarding the lack of a relationship between the Respondent and the Complainant. The Internet users will likely be confused as to the source of the products or services offered on such website.

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. Rather, during pre-Complaint discussions, the Respondent appears to have agreed to deactivate the disputed domain name and asked for details to perform the transfer the disputed domain name, which in the Panel's view is a further indication of bad faith.

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 <starlink-ba.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: June 6, 2024