

ADMINISTRATIVE PANEL DECISION

Re-Logic, Inc. v. Rabindranath Pal
Case No. D2024-1618

1. The Parties

The Complainant is Re-Logic, Inc., United States of America (“US”), represented by Gray Ice Higdon, US.

The Respondent is Rabindranath Pal, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <terrariamerc.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 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 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 (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 April 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 amended Complaint on April 23, 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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent sent email communications to the Center on April 22 and 29, 2024. The Respondent did not submit a formal Response.



The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on May 27, 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 United States videogame company owner of the Terraria videogame, which has been available since 2011 until today. Terraria is available in multiple gaming platforms and has sold more than 40 million copies worldwide. The Complainant also sells merchandise related to Terraria, through itself or through authorized licensees.

The Complainant is the owner of several trademark registrations in the United States, including:

Trademark	Registration No.	Jurisdiction	Date of Registration	Goods or Services
TERRARIA	4,176,854	United States	July 17, 2012	Class 9: Interactive video game programs; Video and computer game programs; Computer game software; Interactive multimedia computer game program; Downloadable computer game programs. Class 41: Entertainment services, namely, providing online video games.
TERRARIA 	6,032,904	United States	April 14, 2020	Class 9: Downloadable interactive video game software; Recorded video game programs; Interactive video game programs recorded on cartridges and discs; Downloadable video and computer game programs; Downloadable video game programs; Downloadable computer game software; Downloadable video game software; Recorded video game software; Downloadable interactive multimedia computer game programs; Interactive multimedia computer game programs recorded on cartridges and discs; Downloadable computer game programs. Class 41: Entertainment services,

				namely, providing online video games.
TERRARIA 	4,180,576	United States	July 24, 2012	Class 9: Interactive video game programs; Video and computer game programs; Computer game software; Interactive multimedia computer game program; Downloadable computer game programs. Class 41: Entertainment services, namely, providing online video games
TERRARIA	5,219,654	United States	June 6, 2017	Class 16: Posters; stickers; calendar. Class 18: Handbags. Class 25: Articles of clothing, namely, t-shirts, shirts. Class 28: Toys, namely, action figures; plush toys; [toy swords; toy tools; play sets for action figures; clips specially adapted for use in attaching action figure characters to clothing].
TERRARIA 	5,206,169	United States	May 16, 2017	Class 16: Posters; stickers; calendar. Class 18: Handbags. Class 25: Articles of clothing, namely, t-shirts, shirts. Class 28: Toys, namely, action figures; plush toys; [toy swords; toy tools; play sets for action figures; clips specially adapted for use in attaching action figure characters to clothing].

The Complainant owns the domain names <terraria.org> and <terraria.shop> which resolve to the Complainant's official website regarding the Terraria game and to the Complainant's merchandise shop related to the Terraria game, respectively.

The disputed domain name <terrariamerc.com> was registered on January 11, 2023. At the time the Complaint was filed, the disputed domain name was resolving to a website that purports to sell products related to the Terraria video game. At the moment of writing of this decision, the disputed domain name does not resolve to an active website.

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 the following:

Identical or Confusingly Similar

That the Complainant has provided video game services to the public since 2011 by means of the TERRARIA game, and also sells merchandise (clothing, toys, and other accessories) related to it through itself or authorized licensees via the Complainant's domain names <terraria.org> and <terraria.shop> which resolve to the Complainant's official website and virtual shop, respectively.

That the Complainant owns and uses trademarks and service marks for TERRARIA in the United States and other jurisdictions, in addition to common law rights regarding its TERRARIA marks.

That the TERRARIA trademark has been used in the United States since 2011 while other TERRARIA marks were also used prior to the Respondent's registration of the disputed domain name, which establishes the presumption of the Complainant's exclusive rights to use its TERRARIA marks and a presumption of their validity (citing *Echelon Corporation v. RN Webreg, a.k.a. Rarenames, LLC*, WIPO Case No. [D2003-0790](#), and *Royal Bank of Canada v. Namegiant.com*, WIPO Case No. [D2004-0642](#)).

That the Complainant has standing to bring its action as owner of the TERRARIA marks, which goods and services are provided through the websites to which the domain names <terraria.org> and <terraria.shop> resolve.

That the disputed domain name combines the Complainant's TERRARIA marks plus the term "merch" (alluding to merchandise), satisfying the Policy's first element for being confusingly similar to the Complainant's marks (citing *Alfred Dunhill, Inc. v. Registration Private, Domains By Proxy, LLC / Abdullah Altubayieb*, WIPO Case No. [D2017-0209](#)).

That the addition of the term "merch" in the disputed domain name is a clear reference to the Respondent's use of the website (selling merchandise associated with the Complainant's TERRARIA marks) to which it resolved (citing *Jacques Bermon Webster II, also known as Travis Scott, and LaFlame Enterprises, Inc. v. Nano Techan*, WIPO Case No. [D2022-4121](#)). And that this circumstance makes confusion more likely for Internet users, with a risk of implied affiliation between the Respondent and the Complainant (citing *Alfred Dunhill, Inc. v. Registration Private, Domains By Proxy, LLC / Abdullah Altubayieb*, WIPO Case No. [D2017-0209](#)).

That the disputed domain name wholly incorporates the Complainant's TERRARIA mark in its entirety, and that this sole fact is sufficient to establish confusing similarity for purposes of the Policy (citing *Experian*

Information Solutions, Inc. v. Credit Research, Inc., WIPO Case No. [D2002-0095](#); *Adaptive Molecular Technologies, Inc. v. Priscilla Woodward & Charles R. Thorton, d/b/a Machines & More*, WIPO Case No. [D2000-0006](#)).

Rights or Legitimate Interests

That the Complainant's use of its TERRARIA mark predates the Respondent's registration of the disputed domain name, and that the Complainant has never licensed said mark to the Respondent for its use, establishing a prima facie case and thus shifting the burden to the Respondent's ability to produce evidence of having legitimate rights on the Complainant's TERRARIA mark (citing *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#)).

That the Respondent hid his identity through a privacy service and is not using the disputed domain name in connection with a bona fide offering of goods or services; rather, that the Respondent registered the disputed domain name for the purpose of falsely associating himself with the Complainant and its TERRARIA videogame and mark, to benefit from their reputation.

The Respondent used the disputed domain name to advertise and seemingly sell products which feature the Complainant's TERRARIA mark, and certain characters and iconography from the Complainant's TERRARIA videogame. That by clicking on the "Shop" tab located at the top of the website to which the disputed domain name resolves, a user will be redirected to a website called Viralstyle, an online marketplace that sells goods. That Viralstyle was not authorized either to use the Complainant's TERRARIA mark or any other intellectual property of the Complainant, and that these goods were ultimately removed by Viralstyle after the Complainant reported the Respondent's unauthorized use of its intellectual property.

That the Respondent's use of the Complainant's TERRARIA mark through the website to which the disputed domain name resolves, clearly demonstrates that the Respondent was well aware of the existence of said mark, which shows that the Respondent has no legitimate interests in the disputed domain name (citing *Mattel, Inc. v. Magic 8 ball factory*, WIPO Case No. [D2013-0058](#)).

That the Respondent's statements made available through the website to which the disputed domain name resolves, in the sense that it was allegedly "The Official Terraria Merchandise Store", in addition to the inclusion of links to the Complainant's official social media pages, created the impression that the Complainant was affiliated with the Respondent and its unauthorized products. That said circumstances have led the Complainant to believe that the Respondent's actions constitute infringement of the Complainant's TERRARIA mark. That said conduct does not constitute a legitimate interest in the disputed domain name (citing *Mattel, Inc. v. Magic 8 ball factory*, WIPO Case No. [D2013-0058](#)).

That the Respondent has not used, is not using and will not use the disputed domain name in connection with a bona fide offering of goods or services or as a legitimate noncommercial fair use; rather, that the Respondent has used the disputed domain name to resolve to a website in which the Complainant's TERRARIA marks were reproduced, redirecting visitors to an online marketplace where unauthorized merchandise was being sold, and therefore, that the Respondent has no rights or legitimate interests in the domain name (citing *Canon U.S.A., Inc. v. Miniatures Town*, WIPO Case No. [D2014-0948](#).)

Registered and Used in Bad Faith

That the Complainant has used its TERRARIA mark since at least 2011 and that its TERRARIA videogame has sold over 40 million copies around the world. That the Complainant also has other trademark registrations for more TERRARIA marks in the United States and other countries worldwide.

That the Complainant never authorized the Respondent to register the disputed domain name or any other domain name incorporating the Complainant's TERRARIA mark. That the Respondent's use of the disputed domain name (to sell unauthorized merchandise) clearly indicates that the Respondent knew the Complainant's TERRARIA mark and had a bad faith intent when registering the disputed domain name to

capitalize or monetize from it, incorporating the Complainant's TERRARIA mark and associating the disputed domain name with the Complainant's TERRARIA videogame (citing *Jacques Bermon Webster II, also known as Travis Scott, and LaFlame Enterprises, Inc. v. Nano Techan*, WIPO Case No. [D2022-4121](#)).

That the website to which the disputed domain name resolves explicitly and misleadingly claims to be "The Official Terraria Merchandise Store", which is false. That the Respondent and the online marketplace Viralstyle (which claimed to provide "Official Apparel"), created the impression of an association between their websites and the Complainant and its goods and services (citing *Jacques Bermon Webster II, also known as Travis Scott, and LaFlame Enterprises, Inc. v. Nano Techan*, WIPO Case No. [D2022-4121](#) and *Frankie Shop LLC v. Jenna Staggs*, WIPO Case No. [D2023-3219](#)).

That the Complainant communicated its concerns to the Respondent through his contact information displayed on the website to which the disputed domain name resolves, and that this correspondence was returned as undeliverable. That the Complainant also filed a complaint before Viralstyle regarding the unauthorized use of the Complainant's intellectual property by means of the Respondent's offering of goods through the Viralstyle marketplace. That Viralstyle confirmed that the offering of said goods were removed, lending to support that the Respondent is acting in bad faith (citing *The Royal Bank of Scotland Group plc v. Barbara McBane*, WIPO Case No. [D2012-1726](#)), also confirming that the Respondent has no rights or legitimate interests in the disputed domain name. Additionally, that the Complainant did not receive a response or counternotice to its Viralstyle complaint, and that such failure to respond constitutes evidence of bad faith citing *The Royal Bank of Scotland Group plc v. Barbara McBane*, WIPO Case No. [D2012-1726](#)).

That the Respondent's listed contact information (phone number and email address) are false and different to the contact information retrieved by the Center, and that such provision of false information is evidence of bad faith (citing *DFDS A/S v. Milena Valenskaya*, WIPO Case No. [D2011-0941](#)), in addition to the Respondent's use of the Complainant's official social media accounts linked to the website to which the disputed domain name resolves.

That the Respondent is based in Bangladesh rather than the United States, as the Respondent misleadingly and falsely stated in his contact information, evidencing his bad faith (citing *World Market Management Services, LLC v. Aleksandr Butenko*, WIPO Case No. [D2023-2377](#).)

That the Respondent's use of a privacy service provides a further indication that the Respondent wanted to hide his activities from public scrutiny owing to his bad faith, after failing to respond to legitimate inquiries and warning letters (citing *Champion Products Europe Ltd. v. eNominee Privacy Protection Service*, WIPO Case No. [D2016-0504](#)).

That the Respondent intentionally attempted to attract commercial gain by creating a likelihood of confusion with one or more of the Complainant's TERRARIA marks.

B. Respondent

Even though the Respondent sent email communications to the Center on April 22 and 29, 2024, communicating that the Respondent would "remove all content" from the web site to which the disputed domain name resolves, and later on announcing that "all content had been removed", and that the Respondent would "never upload any content", the Respondent's communications do not constitute a formal Response to the Complaint.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to successfully request remedies:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in connection to the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Given the Respondent's failure to specifically address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainants' undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.3).

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 (see [WIPO Overview 3.0](#), section 1.7).

The Complainant has shown rights in respect to its TERRARIA mark for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.2.1).

The Panel finds that the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.7).

Although the addition of the term "merch" 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 (see [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 (see [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 notes that, based on the evidence provided by the Complainant, the Respondent used the disputed domain name to resolve to a website offering unauthorized goods that reproduce the Complainant's TERRARIA mark and other intellectual property rights related to the Complainant's TERRARIA videogame, creating a risk of implied affiliation with the Complainant, under the false claim that said website was "The Official Terraria Merchandise Store", notwithstanding that the Complainant has demonstrated that it has no relation with the Respondent. Therefore, no rights or legitimate interests can be found in favor of the Respondent (see [WIPO Overview 3.0](#), section 2.9). Moreover, the Respondent through its communications to the Center has proven that he does not have any rights or legitimate interests in the disputed domain name nor in the Complainant's TERRARIA trademarks.

The Respondent, on the other hand, has not provided any evidence of being authorized or licensed by the Complainant to use its TERRARIA mark in the disputed domain name and/or in relation the goods that were offered through the website to which the disputed domain name resolved. The Respondent has also failed to provide evidence of bona fide or noncommercial fair use of the disputed domain name.

Therefore, 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 Complainant has ascertained its rights over its TERRARIA mark. The dates of registration of the Complainants' trademarks and service marks significantly precede the date of registration of the disputed domain name.

The facts comprised in the case docket show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website was related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see [WIPO Overview 3.0](#), section 3.1.4; see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

At the date of writing of this decision, the disputed domain name does not resolve to an active website. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name do not prevent a finding of bad faith in the circumstances of this proceeding. 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 (see [WIPO Overview 3.0](#), section 3.3). Having reviewed the record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that under the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has successfully 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 <terrariamerc.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: June 10, 2024.