

ADMINISTRATIVE PANEL DECISION

Re-Logic, Inc. v. Chung Chung
Case No. D2024-1802

1. The Parties

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

The Respondent is Chung Chung, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <terraria.store> 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 29, 2024. On April 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 30, 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 May 12, 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 May 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 May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 13, 2024.

The Center appointed Alejandro Garcia as the sole panelist in this matter on June 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

The Complainant, founded in 2011, is the developer of a 2-D video game, Terraria, which is available on multiple gaming platforms globally. The Complainant states that the Terraria game is well known and one of the best-selling video games of all time, with over 44 million copies sold.

The Complainant has provided evidence establishing that is the owner of several trademark registrations in the United States including the following:

Trademark	Registration No.	Jurisdiction	Date of Registration
TERRARIA	4,176,854	United States	July 17, 2012
TERRARIA	4,180,576	United States	July 24, 2012
TERRARIA	5,206,169	United States	May 16, 2017
TERRARIA	5,219,654	United States	June 6, 2017
TERRARIA	5,306,739	United States	October 10, 2017
TERRARIA	5,396,593	United States	February 6, 2018
TERRARIA	5,508,873	United States	July 3, 2018
TERRARIA	5,508,874	United States	July 3, 2018
TERRARIA	6,032,904	United States	April 14, 2020

The Complainant, according to the evidence furnished by it, further owns registrations in other jurisdictions for trademarks consisting of, or prominently featuring the word “Terraria”.

In addition, according to information on the record, the Complainant, either itself or through others authorized to do so on the Complainant’s behalf, owns the domain names <terraria.org> and <terraria.shop>.

The disputed domain name was registered on July 20, 2023. At the time of filing of the Complaint, the disputed domain name resolved to a website that purported to allow visitors to shop for merchandise related to the Terraria video game.

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.

Identical or Confusingly Similar

The Complainant states that the disputed domain name is confusingly similar to the TERRARIA trademarks and domain name <terraria.shop>, in respect of which it has rights.

The Complainant contends that the fact that the disputed domain name wholly incorporates the Complainant’s TERRARIA trademark is sufficient to establish identity or confusing similarity for purposes of the Policy. The Complainant contends that the disputed domain name is confusingly similar in sound, appearance, connotation, and commercial impression to the Complainant’s well-known name and trademark TERRARIA and its registered domain names <terraria.org> and <terraria.shop>. The Complainant contends

that the Respondent intentionally incorporated the Complainant's TERRARIA trademark in the disputed domain name to create a high risk of confusion with the Complainant's registered trademarks and commercial identity leading third parties to believe that the disputed domain name is registered with the Complainant, which is not correct.

Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the TERRARIA name, mark, or any other mark similar thereto, or the disputed domain name, in any capacity. To the Complainant's knowledge, the Respondent has never been commonly known by TERRARIA or any other name or trademark similar to TERRARIA, and the disputed domain name was registered by the Respondent just months ago.

The Complainant argues that it has made continued and uninterrupted use of the TERRARIA trademark since 2011, and, in addition to the registered rights detailed above in section 4, it enjoys common law rights to its TERRARIA trademark. The Complainant asserts that the Respondent registered the disputed domain name with actual or constructive knowledge of the Complainant's rights to the well-known TERRARIA trademark, of which the Respondent has no rights or legitimate interests in.

Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and began using the disputed domain name for the unauthorized sale of merchandise featuring the TERRARIA marks, with the view of attracting Internet users for commercial gain by creating a likelihood of confusion as to source, sponsorship, affiliation, or endorsement with the Complainant's TERRARIA trademark.

The Complainant asserts that the Respondent registered and began using the disputed domain name in bad faith, as it had evident knowledge of the Complainant's rights in its trademarks.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the domain name holder is to submit to a mandatory administrative proceeding in the event that a third party (complainant) asserts to the Center that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the domain name holder has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Given the Respondent's failure to submit a response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a) and 15(a) of the Rules, and shall draw such inferences it considers appropriate under paragraph 14(b) 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](#)).

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant is required to establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Panel finds

that the Complainant has provided uncontested evidence to establish that it has rights over the trademark TERRARIA.

The Panel finds that the Complainant's TERRARIA mark is clearly recognizable in the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purpose of the Policy.

The Panel notes that when the disputed domain name's generic Top-Level Domain ("gTLD") designation, ".store", is disregarded, it is obvious that the disputed domain name entirely incorporates the Complainant's TERRARIA trademark, supporting a finding of confusing similarity.

The Panel therefore finds that paragraph 4(a)(i) has been satisfied based upon the disputed domain name being identical to the Complainant's trademark.

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:

- "(i) before any notice [...] of the dispute, [the respondent's] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) [The respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [The respondent is] making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain[,] to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Complainant's uncontested evidence shows that the Respondent did not use or intend to use the disputed domain name in connection with a bona fide offering of goods or services. There is no evidence that the Respondent is commonly known by the disputed domain name. In addition, the Respondent was not authorized by the Complainant to use the disputed domain name or its mark. The Complainant's uncontested evidence shows the Respondent's use of the disputed domain name for commercial gain by creating a likelihood of confusion with the Complainant's trademark.

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 contentions 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 also finds that the disputed domain name is inherently misleading. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Complainant meets the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a domain name in bad faith:

- "(i) circumstances indicating that [the respondent] registered or [...] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant [the owner of the trademark or service mark] or to a competitor of that complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name; or

- (ii) [circumstances indicating that the respondent] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or
- (iii) [circumstances indicating that the respondent] registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) [circumstances indicating that the respondent is using the domain name to] intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondents'] website or location or of a product or service on its website or location."

The Panel finds that the Respondent used the disputed domain name for financial gain by creating a likelihood of confusion with the Complainant's trademark by registering a domain name that is identical to the trademark, causing the Complainant's customers to trust the Respondent was authorized by the Complainant to sell goods which also contained the trademark. The Panel finds that the Respondent has engaged in bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy.

On the basis of this finding, the Panel concludes that the disputed domain name has been registered and is being used in bad faith and therefore, the Complainant meets the requirements of paragraph 4(a)(iii) 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 <terraria.store> be transferred to the Complainant.

/Alejandro Garcia/

Alejandro Garcia

Sole Panelist

Date: July 8, 2024