

ADMINISTRATIVE PANEL DECISION

Acer Incorporated v. aadarshini s
Case No. D2024-2238

1. The Parties

The Complainant is Acer Incorporated, Taiwan Province of China, represented by Rahul Chaudhry & Partners, India.

The Respondent is aadarshini s, India.

2. The Domain Name and Registrar

The disputed domain name <acer-servicecenter.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 May 31, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 3, 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 Foundation) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 4, 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 June 8, 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 June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. The Respondent sent email communications to the Center on June 5, 2024, June 13, 2024, July 26, 2024, September 9, 2024, October 17, 2024, October 19, 2024, October 21, 2024, and October 23, 2024.

On June 18, 2024, the Complainant requested the suspension of the proceedings. On June 18, 2024, the Center notified the Parties of the suspension of the proceedings. On July 19, 2024, the Complainant requested the extension of the suspension of the proceedings. On July 19, 2024, the Center notified the Parties of the extension of the suspension. On September 10, 2024, the Complainant requested another extension of the suspension. On September 10, 2024, the Center notified the Parties of the extension to the suspension until October 10, 2024. On October 4, 2024, the Complainant requested the reinstitution of the proceedings. On October 4, 2024, the Center notified the Parties of the reinstitution of the proceedings and noted that the new Response due date was October 19, 2024. On October 19, 2024, the Respondent requested an extension to the due date of the Response. On October 22, 2024, the Center confirmed that the Respondent would be granted the automatic four-day extension to the due date pursuant to paragraph 5(b) of the Rules. On October 23, 2024, the Respondent submitted their Response.

The Center appointed Jeremy Speres as the sole panelist in this matter on November 5, 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, established in 1976, is a Taiwan Province of China based multinational computer technology and electronics corporation that manufactures and markets televisions, laptops, desktops, projectors, monitors, tablets, chromebooks, smart devices, electronics and accessories. The Complainant sells its products under its ACER mark through dealers and distributors in more than 100 countries. The Complainant has been operational in the Respondent's country of India since 1987, and its subsidiary, Acer India Private Limited, has offices in various Indian cities. The Complainant's ACER mark has been recognized as being well-known by prior UDRP panels. See e.g. *Acer Incorporated v. Registration Private, Domains By Proxy, LLC / Ashish Gupta*, WIPO Case No. [D2018-1404](#).

The Complainant's primary domain name, <acer.com>, was registered by the Complainant in 1994 and is used for the Complainant's primary website.

The Complainant owns registrations for its ACER mark in many jurisdictions. Amongst others, the Complainant's Indian subsidiary owns Indian Trademark Registration No. 470291 ACER in class 9, having a registration date of April 3, 1987.

The disputed domain name was registered on December 20, 2023, and currently does not resolve to an active website. The Complainant's evidence establishes that the disputed domain name previously resolved to a website headed "ACER TV Service" in green text, ostensibly for a television service and repair business "for all types of ACER Television problems in and around Coimbatore region."

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 was registered and has been used in bad faith in order to create the false impression that it relates to the Complainant's own support services

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In the Respondent's informal responses, the Respondent appeared to concede to the Complaint, acknowledging the Complainant's rights in the ACER mark and agreeing to transfer the disputed domain name to the Complainant.

The Respondent appears to have informally consented to the transfer of the disputed domain name, and the disputed domain name stands to be transferred to the Complainant on that basis alone. However, the Panel believes that it is in the interests of justice to render a substantive decision on the merits given, inter alia, the future relevance of a potential pattern of bad faith conduct on the Respondent's part under UDRP paragraph 4(b)(ii) or otherwise. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.10.

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 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. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms, here "-servicecenter", 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 mark for the purposes of the Policy. [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. [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.

For the reasons discussed in relation to bad faith below, the website to which the disputed domain name resolved previously created the impression that it was the official support presence of the Complainant. To the extent that the disputed domain name's website might be considered that of a service provider for the Complainant's products, it does not meet the requirements of the well-known "Oki Data test" given that the site did not accurately and prominently disclose the Respondent's relationship with the Complainant. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#); and [WIPO Overview 3.0](#), section 2.8.

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.

For the following reasons, the Panel finds that it is more likely than not that the Respondent registered and has used the disputed domain name to take advantage of confusion with the Complainant's well-known mark for the Respondent's commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trademark, as in this case, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), sections 3.1.4. The Respondent has failed to rebut this presumption.

The website to which the disputed domain name previously resolved prominently used a shade of green for its header that is identical or nearly identical to the shade of green the Complainant uses for its logo. Additionally, the disputed domain name's erstwhile website used the header "ACER TV Service" and "ACER TV Service Center". This composition itself, which is consistent with the composition of the disputed domain name, creates the false impression that the services in question are offered by the Complainant. The Respondent could have chosen a more accurate composition indicating its lack of connection to the Complainant, but it did not. There is also nothing on the website indicating that it is operated independently to the Complainant and is not associated with the Complainant. As a result, a user viewing the disputed domain name's website is left with the impression that it is operated by the Complainant, which clearly points to bad faith targeting.

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 <acer-servicecenter.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: November 11, 2024