

ADMINISTRATIVE PANEL DECISION

Thomas Concrete Group AB v. Name Redacted
Case No. D2024-2543

1. The Parties

The Complainant is Thomas Concrete Group AB, Sweden, represented by Abion GmbH, Switzerland.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <th0masconcrete.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2024. On June 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 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 June 24, 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 26, 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”).

¹The Respondent appears to have used the name of a third party when registering one of the disputed domain names. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).


In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 26, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on August 13, 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, Thomas Concrete Group AB, is a global producer and distributor of high-quality, ready-mixed concrete for commercial and private customers. Founded in 1955 in Sweden and still owned by the Thomas family, the Complainant has its headquarters in Gothenburg, Sweden. The Complainant has expanded its operations to the United States of America, Germany, Sweden, Poland, and Norway.

The Complainant holds numerous trademark registrations for THOMAS CONCRETE and THOMAS CONCRETE GROUP in various jurisdictions, including the following marks:

- the European Union word mark registration No. 011327211 for THOMAS CONCRETE GROUP, registered on May 15, 2013 for goods and services in classes 19, 37, and 40; and
- the United States figurative mark registration No. 5037560, for  registered on September 6, 2016 for goods and services in classes 19, 37, and 40.

The Complainant operates their official website at the domain names <thomasconcrete.com> and <thomasconcretigroup.com>.

On May 15, 2024, the Complainant attempted to contact the Respondent by sending a cease-and-desist letter. A follow-up reminder was sent on May 27, 2024. The Respondent did not provide any response to either communication.

The disputed domain name was registered on April 15, 2024, which at the time of Complaint filing revolved to an inactive webpage.

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 confusingly similar to their registered marks THOMAS CONCRETE and THOMAS CONCRETE GROUP. The disputed domain name incorporates a misspelling of the Complainant's mark by substituting the letter "o" with the number "0". This practice, known as typosquatting, is intended to exploit typographical errors by users searching for the Complainant's marks. Previous UDRP panels have consistently found that minor alterations do not negate a finding of confusing similarity, and the presence of a generic Top-Level Domain ("gTLD") like ".com" does not affect this assessment.

The Complainant asserts that the Respondents have no rights or legitimate interests in the disputed domain name, which was registered after the Complainant's marks. The Respondents are not authorized, affiliated, or known by the disputed domain name and have not demonstrated any legitimate use. The disputed domain name is a misspelled version of the Complainant's mark, indicating an intent to cause confusion. The disputed domain name is inactive, and the Respondents failed to respond to a cease-and-desist letter, further confirming the lack of rights or legitimate interests.

The Complainant asserts that the Respondent has used the identity of one of the Complainant's employees without authorization when registering the Disputed Domain Name, and requests the Panel that the redact the registrant information in the Decision. The Complainant asserts the Respondent's use of false Whois information, including a non-official email address, suggests the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent registered the disputed domain name in bad faith, aware of the Complainant's marks, as it was registered after the Complainant's marks. The disputed domain name intentionally misspells the Complainant's mark by replacing "o" with "0", creating confusion and implying an association with the Complainant. The disputed domain name registration was intended to exploit the Complainant's reputation.

The disputed domain name is also being used in bad faith. Despite being passively held, previous panels establish that non-use can still indicate bad faith. The Respondent's lack of response to the Complainant's cease-and-desist letter further supports this claim.

B. Respondent

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

6. Discussion and Findings

As the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 by the Respondent 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

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

The Panel finds the mark is recognizable 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. The disputed domain name consists of the term “th0masconcrete”, which differs from the Complainant’s registered mark, THOMAS CONCRETE, only by the misspelling that replaces the letter “o” with the numeral “0”. [WIPO Overview 3.0](#), section 1.9. Such misspelling, commonly referred to as “typosquatting”, does not prevent a finding of confusing similarity.

Furthermore, it is well accepted practice by UDRP panels that a gTLD, such as “.com”, is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take gTLD “.com” when assessing confusing similarity of the disputed domain name.

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.

According to the Complainant, it seems that the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted to the Respondents any license or authorization to use or register any domain name that includes the Complainant’s THOMAS CONCRETE and THOMAS CONCRETE GROUP marks. Rather, the Complainant contends that the Respondent has impersonated an employee of the Complainant when registering the disputed domain name, likely in an attempt to falsely suggest an affiliation with the Complainant. The Respondent has further failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name. Additionally, there appears to be no evidence of the Respondent is engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or bona fide activities, since the disputed domain name, at the time of the Complaint filing, resolved to an inactive webpage.

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.

In the present case, the Panel notes that the Complainant established rights to registered marks featuring THOMAS CONCRETE and THOMAS CONCRETE GROUP, which have been in use since 2013, 11 years before the disputed domain name was registered. The Complainant also operates domain names such as <thomasconcrete.com> and <thomasconcretegroup.com>.

The Respondent's registration of the disputed domain name, which incorporates a typographical variation of the Complainant's mark, suggests awareness of the Complainant's rights and leads to an inference of bad faith. Previous panels confirmed that typosquatting, registering domain names that are confusingly similar to established marks, particularly with typographical errors, can indicate bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

Additionally, the Respondent has concealed its identity and impersonated a Complainant employee. This conduct reflects a clear attempt to mislead and deceive Internet users. The Respondent's failure to respond to the cease-and-desist letter or to provide a substantive response further suggests in these circumstances that the domain name was registered and used in bad faith under paragraph 4(a)(iii) of the Policy.

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.

Panels have found that the non-use of a domain name (including a blank or "This site can't be reached" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's mark, 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.

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, <th0masconcrete.com>, be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: August 26, 2024