

ADMINISTRATIVE PANEL DECISION

Ticket For The Moon v. WEI TU

Case No. D2024-2701

1. The Parties

The Complainant is Ticket For The Moon, France, represented by Alter Via Avocats, France.

The Respondent is WEI TU, China.

2. The Domain Name and Registrar

The disputed domain name <tikomoon.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 2, 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 (EDITOR OF THE TIKOMOON.COM WEBSITE) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 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 July 4, 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 July 15, 2024. In accordance with the Rules, paragraph 5, the due date for the Response was August 4, 2024. The Response was filed with the Center on July 18, 2024.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on August 19, 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 French company manufacturing and marketing wood furniture in numerous countries, including the United States, under the TIKAMOON mark. It is the proprietor of several trademark registrations, including International Trademark No. 1584426 for TIKAMOON (device mark), registered on January 28, 2021 for goods and services in classes 11, 20, and 35. The Complainant has also registered the domain name <tikamoon.com>, which it uses to redirect to websites where its products are sold.

The disputed domain name was registered on December 19, 2023. The record contains evidence that, as of shortly before the date of the Complaint, it resolved to a website purportedly offering furniture for sale. At the time of this Decision, it resolved to an inactive site on the Shopify e-commerce platform.

There is no information in the record about the Respondent nor about its use of the disputed domain name.

The record reflects that the Complainant sent a cease-and-desist letter to the Respondent on April 30, 2024. The record does not reflect the Respondent's response thereto.

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 a deliberate misspelling of the Complainant's TIKAMOON mark, with the letter "a" substituting by the letter "o." The confusion is increased by the use of the disputed domain name in connection with the sale of furniture, which is the Complainant's business. The Complainant has not authorized the Respondent to use the TIKAMOON mark. The Respondent is using the disputed domain name to divert Internet users seeking the Complainant's products.

B. Respondent

The Respondent contends that there was no infringement on the rights of the TIKAMOON brand or any malicious attempt to divert potential customers of TIKAMOON. Namely, the Respondent states that the disputed domain name is used for corporate domain by the Respondent's company. The website had ceased operations prior to receipt of the Complaint. The website was solely used for testing purposes and was not open for purchases, nor did it generate any profits for the Respondent. There was no infringement on the rights of the TIKAMOON brand or any malicious attempt to divert potential customers of the Complainant. The Respondent asserts its right to use the disputed domain name will continue to use it for internal and external communications related to company affairs.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three of the following:

- (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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[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".

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 trademark or service 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. In comparing Complainant's mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to the TIKAMOON trademark as it is a deliberate misspelling of Complainant's trademark. See [WIPO Overview 3.0](#), section 1.9.

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.

The Panel notes there is no evidence that the Respondent has used the disputed domain name in connection with a bona fide offering of goods or services, nor that the Respondent has been commonly known by the disputed domain name. There is no evidence that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name. The use of the disputed domain names reflected in the evidence does not support an inference that the Respondent was engaged in a legitimate business connected to the disputed domain name.

Furthermore, the Panel notes the Respondent's claims that it registered the disputed domain name for testing purposes, and that it has a "legitimate right to use tikomoon.com as our corporate domain and will continue to use it for internal and external communications related to company affairs." However, the Panel notes that the Respondent did not explain what was the nature of the mentioned testing, nor of its business, and neither how it would be used as their "corporate domain". In this regard, the Panel notes that the Complainant provided evidence of the use of the disputed domain name for a website concerning furniture. Whether the Respondent's website was just created for testing purposes and not for the selling of furniture does not alter the fact that the Respondent chose a deliberate misspelling of the Complainant's TIKAMOON mark, for a website concerning furniture (being the same business field of that of the Complainant). Such registration of a disputed domain name, and use, even if for testing purposes, cannot give rise to rights or legitimate interests in the disputed domain name.

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 Respondent intentionally attempted to attract, Internet users to its website by creating a likelihood of confusion with the Complainant's mark. The disputed domain name was registered several years after the Complainant registered its TIKAMOON trademark. The disputed domain name is a deliberate misspelling of the Complainant's mark and therefore implies a connection to the Complainant, particularly when the disputed domain name is used to display a website concerning furniture (which is the Complainant's business field). Under these circumstances, the Panel finds that the disputed domain name was registered in bad faith. [WIPO Overview 3.0](#), section 3.1.

The record contains evidence that the disputed domain name resolved to a website featuring a misspelling of the Complainant's mark and purporting to offer products similar to those offered by the Complainant. Whether the website was created for testing purposes, and not actually offering the products does not alter the Panel's conclusion. Such conduct is clearly indicative of bad faith use of the disputed domain name. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <tikomoon.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa /

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: September 2, 2024