

ADMINISTRATIVE PANEL DECISION

Toyota Motor Sales, U.S.A., Inc. v. Nebojsa Vujinovic
Case No. D2024-3357

1. The Parties

The Complainant is Toyota Motor Sales, U.S.A., Inc., United States of America (“United States”), represented by Dinsmore & Shohl LLP, United States.

The Respondent is Nebojsa Vujinovic, Serbia.

2. The Domain Names and Registrar

The disputed domain names <ronhibbardtoyota.com> and <thompsontoyota.com> (the “Domain Names”) are registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed as regards the Domain Name <thompsontoyota.com> with the WIPO Arbitration and Mediation Center (the “Center”) on August 15, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 19, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email on August 19, 2024 requiring the Complainant to submit an amendment in relation to a deficiency. On the same day, the Center received an email from the Respondent. The Complainant filed an amended Complaint on August 21, 2024 in which the Complainant requested the addition of the Domain Name <ronhibbardtoyota.com> into the proceeding. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 22, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 August 23, 2024. In accordance with the Rules, paragraph

5, the due date for Response was September 12, 2024. The Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on September 13, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on September 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 following facts are undisputed.

The Complainant is a car company, based in Plano, Texas, United States. The Complainant belongs to a – worldwide operating – group of companies, that is primarily known for designing, manufacturing, and selling vehicles under the brand TOYOTA (the “TOYOTA Group”).

The TOYOTA Group was founded more than 75 years ago and is currently offering its goods and services to customers in over 170 different countries worldwide. As such, the TOYOTA brand has been recognized as one of the top 100 brands in the world by, e.g., Ranking the Brands and Interbrand.

The Complainant is a wholly-owned subsidiary of Toyota Jidosha Kabushiki Kaisha DBA Toyota Motor Corporation, which group company owns various trademark registrations for the mark TOYOTA. As such, the Complainant is the exclusive licensee of the trademark registrations for the TOYOTA mark, such as but not limited to:

- The United States trademark registration TOYOTA (wordmark), with registration No. 1,274,261, and with a registration date of April 17, 1984, for goods in class 12;
- The United States’ trademark registration TOYOTA (wordmark), with registration No. 1,721,365, and with a registration date of October 6, 1992, for goods in classes 6, 7, 8, 9, 11, 12, 14, 17, 24, and 27.

The abovementioned trademark registrations will hereinafter also in singular be referred to as the “TOYOTA Trademark”.

The Domain Name <thompstoyota.com> was registered on February 9, 2023, and the Domain Name <ronhibbardtoyota.com> was registered on November 17, 2022. Before filing this Complaint, the Domain Names resolved to two websites, that both largely displayed the TOYOTA Trademark, providing various articles, a number of which contain links to third party websites for generating revenue, and also making different references to the Complainant and the products it offers for sale. The Panel takes note of the information displayed at the bottom of the website which the Domain Name <thompstoyota.com> resolves to: “We at Thompson Toyota participate in various affiliate marketing programs, which means we may earn commissions on products or services that we recommend or promote through our website. When you click on a link to purchase a product or service that we have recommended or promoted, we may earn a commission from the sale. This commission helps us maintain and improve our website and provide you with valuable information and resources.” Where there is no distinction necessary, the websites will hereinafter be referred to in singular as the “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 Domain Names.

Notably, the Complainant contends that the TOYOTA Trademark is a well-known trademark, also in the country Serbia, in which the Respondent is based. Additionally, the TOYOTA Group also owns Serbian trademark registrations for the mark TOYOTA.

Furthermore, the Domain Names are confusingly similar to the TOYOTA Trademark in which the Complainant, through its license, has longstanding rights. More specifically, the Domain Names both consist of the TOYOTA Trademark in its entirety, to which the Respondent has added the name “Thompson” and the name “Ron Hibbard” respectively. The addition of the (personal) names and the generic Top-Level Domain (“gTLD”) does not change the overall impression and does not make the Domain Names any less confusingly similar to the TOYOTA Trademark.

Moreover, the Respondent has no rights, nor legitimate interests in the Domain Names. There is no evidence that the Respondent is commonly known by the term “toyota” or by the Domain Names. Also, the Complainant has not licensed, authorized, or otherwise permitted the Respondent to use the TOYOTA Trademark or to register domain names incorporating the TOYOTA Trademark. In addition to this, the Respondent is making neither a bona fide offering of goods or services, nor a legitimate, noncommercial fair use of the Domain Names. The Domain Names resolve to the Website showing articles about the TOYOTA brand, which – when selected – lead to websites of third parties, which in turn generates revenue for the Respondent as a result of the click-through commissions. In an interview article in WIRED magazine, the Respondent essentially admits to using the domain names he acquires to trade off the goodwill and reputation of established brands to generate money for himself.

The Respondent has engaged in bad faith. The Respondent has registered the Domain Names with clear prior knowledge of the TOYOTA Trademark in order to take predatory advantage of the Complainant’s reputation. By doing so the Respondent intentionally disrupts the Complainant’s business, whereas the Domain Names attempt to attract or mislead Internet users for commercial gain. In addition to this, the Domain Names are not being used for any genuine or noncommercial activities, considering the fact that the Domain Name resolves to the Website providing different links to third-party websites for click-through commissions. Lastly, the Complainant contends that the Respondent’s registration of the Domain Names engages in a pattern of cybersquatting, and the Respondent has confirmed such pattern of conduct in online news articles.

B. Respondent

The Respondent did not substantively reply to the Complainant’s contentions. It only sent an email prior to the Complainant filing the amended Complaint replying to an email sent by the Center to the Complainant in which the Respondent was copied. The Respondent wrote that this email was the first email that the Respondent received from the Center and asked what the problem would be.

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 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 1.4. The Complainant is a licensee of the owners of the TOYOTA Trademark within the TOYOTA Group.

The Panel finds that the mark is plainly recognizable within the Domain Names. Accordingly, the Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here the names “Thompson” and “Ron Hibbard” 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 Domain Names 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 Domain Names. 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 Domain Names such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- The Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Names, even if the Respondent has acquired no trademark or service mark rights. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- The Complainant has not licensed, authorized, or otherwise permitted the use of the TOYOTA Trademark by the Respondent and/or the registration of the Domain Names comprising of the TOYOTA Trademark.
- The Respondent is not making a legitimate noncommercial or fair use of the Domain Names, without intent for commercial gain to misleadingly divert consumers or to tarnish the Trademark. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- The Website to which the Domain Names resolve does not prominently disclose its lack of relationship with the TOYOTA Trademark and/or the Complainant, creating confusion amongst Internet users visiting the Website whether it is operated by the Complainant or not. [WIPO Overview 3.0](#), section 2.5.2.
- The record contains no other factors demonstrating rights or legitimate interests of the Respondent.

The Domain Names, also in combination with the contents of the Website, falsely suggest that the Website is either operated or endorsed by the Complainant. This is because, the Website largely depicts the TOYOTA Trademark, providing different articles on TOYOTA branded cars and calls the companies behind the Website “Thompson Toyota” and “Ron Hibbard Toyota” respectively. In addition to this, the “About Us” page

refers to “Our Drive”, “Our commitment”, and “Join us”, and provides email addresses using the respective Domain Name. Taking this into consideration, the Panel finds that the Website creates the false impression that it might be a website from and/or endorsed by the Complainant or one of its distributors or dealers.

By doing so, the Respondent is using the Domain Names in order to attempt to attract, for commercial gain, Internet Users to its Website by creating a likelihood of confusion with the TOYOTA Trademark and/or the Complainant as to the source, sponsorship, affiliation, or endorsement of the Website. When in fact the Domain Names are used to generate revenue for the Respondent as a result of click-through commissions to third party websites.

Although UDRP panels have recognized limited rights for resellers or distributors to nominally use a trademark for its source-identifying function, such fair use is qualified. See e.g., section 2.8.1 of the [WIPO Overview 3.0](#). Here, noting the Websites to which the Domain Names resolve, and the impersonating nature of the Domain Names themselves, they cannot qualify as fair use as such composition effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See also [WIPO Overview 3.0](#), section 2.5.1.

Hence, the Panel finds that the Respondent is not making use of the Domain Names in connection with a bona fide offering of goods or services or for noncommercial or fair use purposes. As such, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel refers to its considerations under section 6.B.

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.

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.

The Respondent has intentionally attempted 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 Respondent’s web site or location or of a product or service on the Respondent’s website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the Respondent has intentionally targeted the Complainant by registering two domain names both comprising of the TOYOTA Trademark. Hence, the Respondent has shown to have engaged in a pattern of such conduct. [WIPO Overview 3.0](#), section 3.1.2.

In the present case, the Respondent chose to register two Domain Names that both consists of the TOYOTA Trademark in its entirety, to which the Respondent has added the names “Thompson” and “Ron Hibbard”. In this regard, the Panel considers the addition of the name “Ron Hibbard” to be a clear reference to the Complainant’s business activities, whereas Ron Hibbard Toyota was the name of a former Toyota dealer, located in Gallatin, Tennessee, United States, which, before its rebranding, used the Domain Name <ronhibbardtoyota.com> for its official website. Additionally, the Domain Names resolved to the Website, largely displaying the TOYOTA Trademark and making multiple references to the Complainant and TOYOTA branded cars. Accordingly, in the Panel’s view, the Respondent must have been aware of the existence of the Complainant’s activities and rights at the time the Respondent registered the Domain Names. In this regard, the Panel also refers to an (online) interview, brought forward by the Complainant, in which the Respondent explains that its business engages in domain name squatting and monetization through AI-generated content. Whether this is the genesis of the content on the pages matters not; the bottom line is

the Domain Names were registered and used to take unfair advantage of the reputation of the TOYOTA Trademark in a manner which plays on ensuing confusion as to source; this is textbook bad faith under UDRP paragraph 4(b)(iv) whereby the Respondent has sought to intentionally attract Internet users for commercial gain to its website by creating a likelihood of confusion with the TOYOTA Trademark as to the source, sponsorship, affiliation or endorsement of the Website.

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 Domain Names <ronhibbardtoyota.com> and <thompsontoyota.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: October 2, 2024