

ADMINISTRATIVE PANEL DECISION

Motorola Trademark Holdings, LLC v. Name Redacted
Case No. D2024-3491

1. The Parties

The Complainant is Motorola Trademark Holdings, LLC, United States of America (“United States”), represented by Neal, Gerber & Eisenberg LLP, United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <motorola-usa.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 August 28, 2024. On August 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 September 3, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. Considering 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Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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 September 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2024. The Respondent sent an email communication to the Complainant on September 3, 2024, asserting that she had no involvement in setting up the disputed domain name.

The Center appointed William F. Hamilton as the sole panelist in this matter on October 18, 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 sells communication solutions and consumer electronic products to consumers around the world. Since the 1930s, the Complainant has utilized the mark MOTOROLA (the Mark) in the United States to market and sell its numerous products. The Mark has attained considerable consumer recognition and fame in the United States and elsewhere.

The Complainant owns and maintains the website at the domain <motorola.com>.

The Complainant owns numerous Mark registrations throughout the world. The Complainant's Mark registrations with the United States Patent and Trademark office include:

- Reg. No. 619,039, date January 10, 1956
- Reg. No. 620,672, dated February 7, 1956
- Reg. No. 814,700, dated September 6, 1966
- Reg. No. 6,768,321, dated June 21, 2022

The disputed domain name was registered on July 29, 2024. The disputed domain name resolves to a "Launching Soon" website that allows visitors to "Subscribe" to "Sign up to be the first to get updates."

On August 20, 2024, the Complainant sent a letter to the Respondent demanding that the Respondent cease and desist the illegal utilization of the Mark, including using emails associated with the disputed domain name to fraudulent phishing information from unsuspecting email recipients.

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.

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name consists of the Mark plus the suffix "usa." The Complainant contends that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, has not advertised the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Mark and registered and used the disputed domain name in bad faith to confuse unsuspecting Internet users and to phishing information from unsuspecting users.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used 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 the Mark for the purposes of the Policy by virtue of the Mark's registration. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark because it incorporates the Mark in its entirety and merely adds the geographical abbreviation "usa" as a suffix. [WIPO Overview 3.0](#), section 1.7. Although the addition of another term (here, "usa") may bear on the assessment of the second and third elements, the Panel finds the addition of such a term 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 Top-Level Domain ("TLD") of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1 and *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

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.

The Panel finds on the evidence that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has expressly disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has made a bona fide offering of goods or services under the disputed domain name or is commonly known by the disputed

domain name. The Respondent has failed to provide evidence showing rights or legitimate interests in the disputed domain name.

The disputed domain name is confusingly similar to the Mark. It will cause Internet users to believe that the disputed domain name resolves to a website sponsored, affiliated, or owned by the Complainant. Moreover, the Complainant asserts that while the disputed domain name resolves to an empty website with content alleged to be "Launched Soon," the disputed domain name is being used for phishing information from unsuspecting email recipients. Such use of a disputed domain name cannot establish 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

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is 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) the respondent has 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) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, 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 website or location or of a product or service on the respondent's website or location.

On the evidence presented, including (i) that the disputed domain resolves to a "Launching Soon" website that solicits email addresses of Internet visitors, (ii) the international fame of the Mark, (iii) the close similarity of the Mark to the disputed domain name, (iv) the failure of the Respondent to answer the Complainant's cease and desist letter, (v) the failure of the Respondent to reply to the Complaint, (vi) the Respondent registration the disputed domain name utilizing a stolen identity, and (vii) the use of the disputed domain name Mail Exchange record to phish information from unsuspecting persons, the Panel finds that the Respondent implemented a scheme that prominently featured the Complainant's Mark in the disputed domain name primarily to phish information from unsuspecting persons who believed they were dealing with the Complainant. Indeed, Panels have found that using a domain name for phishing constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

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 <motorola-usa.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: November 1, 2024