

ADMINISTRATIVE PANEL DECISION

Tarkett GDL S.A. v. firdous indiana, indiana international corporation
Case No. D2024-3735

1. The Parties

The Complainant is Tarkett GDL S.A., Luxembourg, represented by AtlantiP, France.

The Respondent is firdous indiana, indiana international corporation, India.

2. The Domain Name and Registrar

The disputed domain name <tarkettabia.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 18, 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, Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 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 20, 2024.

The Center verified that the Complaint together with 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 September 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 14, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on October 21, 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.

On November 5, 2024, the Panel issued Procedural Order No.1 (“PO1”) seeking information about the former distribution relationship between the parties mentioned in the Complaint. The Complainant responded on November 11, 2024. The Respondent did not take up the opportunity to comment on the Complainant’s submission. PO1 and the Complainant’s responses thereto are discussed in section 6 below to the extent material.

4. Factual Background

The Complainant and its predecessors have supplied floor and wall coverings under the mark TARKETT since at least the 1940s. The Complainant’s group currently operates in more than 100 countries, with 34 industrial sites employing some 12,000 staff.

The Complainant owns many registered trade marks for TARKETT including United Kingdom trade mark No. UK00000709314, registered on July 29, 1952, in classes 19 and 27, and Indian trade mark No. 4102316, registered on February 28, 2019, in class 27.

The Complainant operates a website at “www.tarkett.com”.

The Respondent, a dealer in flooring solutions, bought products from the Complainant from 2016 to 2019.

The disputed domain name was registered on March 22, 2022.

The disputed domain name has been used to resolve to a parking page with pay per click (“PPC”) links relating to flooring.

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.

B. Respondent

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

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 trade mark 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 trade mark 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, “arabia”) may bear on assessment of the second and third elements, the Panel finds the addition of such 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 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 recognised 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.

As to paragraph 4(c)(i) of the Policy, the disputed domain name has been used for a parking page with PPC links to products that compete with those supplied by the Complainant. Use of a domain name to host PPC links that compete with or capitalise on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users does not represent a bona fide offering. [WIPO Overview 3.0](#), section 2.9.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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, it is obvious that the Respondent, which distributed the Complainant’s products until at least 2019, was well aware of the Complainant’s mark when registering the inherently misleading disputed domain name in 2022.

In the Panel’s view, by using the disputed domain name that includes the Complainant’s distinctive trade mark, in connection with a parking page with PPC links relating to the Complainant’s industry, the Respondent has intentionally created a likelihood of confusion with the Complainant’s trade mark in accordance with paragraph 4(b)(iv) of the Policy.

The Respondent cannot disclaim responsibility for “automatically” generated pay-per-click links on its website and neither the fact that such links are generated by a third party such as a registrar, nor the fact that the respondent itself may not have directly profited, would by itself prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.5.

Furthermore, the Respondent has not appeared in this proceeding, including by responding to PO1, to attempt to justify its registration and/or use of the disputed domain name, for example, in the context of the former reseller relationship between the parties.

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 <tarkettarabia.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: November 16, 2024