

ADMINISTRATIVE PANEL DECISION

Tirlán Limited v. Jian Sun
Case No. D2024-4170

1. The Parties

The Complainant is Tirlán Limited, Ireland, represented by F.R. Kelly & Co., Ireland.

The Respondent is Jian Sun, China.

2. The Domain Name and Registrar

The disputed domain name <tirlanfarmlifeus.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 October 10, 2024. On October 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 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 communication to the Complainant on October 14, 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 October 16, 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 8, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on November 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 in this proceeding, Tirlán Limited (formerly known as Glanbia Co-operative Society Limited from 1999 until 2022), is an Irish dairy co-operative based in Ireland. The co-operative has its roots in a series of amalgamations of small rural co-operative creamery societies throughout Ireland, which came together in 1966 to form Avonmore Creameries Federation. Its corporate website is “www.tirlan.com”.

The Complainant owns the TIRLÁN and TIRLÁN FARMLIFE trademarks.

The Complainant is, inter alia, the owner of:

United Kingdom trademark registration number UK00003917043 for the TIRLÁN FARMLIFE (device) trademark, registered on August 25, 2023.

European Union trademark registration number 018881503 for the TIRLÁN FARMLIFE (device) trademark registered on November 8, 2023.

United States trademark registration number 7369495 for the TIRLÁN (word) trademark, registered on April 30, 2024.

The disputed domain name was registered on July 10, 2024.

Currently, the disputed domain name is active and resolves to a website (the “Respondent’s website”) which displays the Complainant’s TIRLÁN FARMLIFE trademark and logo throughout as well as imagery and color schemes similar to those on the Complainant’s official 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 disputed domain name.

Notably, the Complainant contends that the Respondent, by using the Complainant’s logo throughout its website as well as imagery and color schemes similar to those on the Complainant’s official website, is attempting to benefit from the Complainant’s goodwill and reputation by deceiving consumers, leading them to believe that the Respondent’s website is affiliated, sponsored or endorsed by the Complainant. The Complainant also claims that there are a number of features on the Respondent’s website that would suggest illegitimate activity. The Complainant thus notes that a) the Respondent’s website includes a ‘Contact Us’ section which includes a fictitious postal address, and b) that the Respondent’s website includes an ‘About Us’ section, in which they detail the company’s history as fashion retailers (however, the products which are available to purchase on the website are garden accessories and equipment, not clothing); and c) that a cyber security scan of the Respondent’s website indicated that the website is malicious and suspicious. The scans also indicate the URL corresponding to the disputed domain name is malicious and associated with phishing.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to 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 has been 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 respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the TIRLÁN FARMLIFE mark is reproduced and 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.

Although the addition of other terms here, "us", 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 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.

In addition, the Panel notes that the composition of the disputed domain name reproducing the Complainant's TIRLÁN FARMLIFE trademark with the addition of the letters "us", which are commonly used to designate the United States, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

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.

In the present case, the Panel notes that given the composition of the disputed domain name together with the use throughout the Respondent's website of the Complainant's TIRLÁN FARMLIFE trademark and logo, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the TIRLÁN and TIRLÁN FARMLIFE trademarks.

Indeed, the Respondent's use of the disputed domain name to host an unauthorized commercial website displaying the Complainant's trademark and logo is a clear inference that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark, and this amounts to bad faith use and registration of the disputed domain name.

In fact, previous panels have held that the use of a domain name for illegitimate activity, here claimed as attempting to benefit from the Complainant's goodwill and reputation by deceiving consumers, leading them to believing that the Respondent's website is affiliated with or economically linked to the Complainant, through their website design and deceptive domain name, 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 bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent did not respond to, nor denied the assertions of bad faith made by the Complainant in this proceeding. This is further evidence of bad faith in accordance with paragraph 4(b)(i) of 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 <tirlanfarmlifeus.com> be cancelled.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 21, 2024