

ADMINISTRATIVE PANEL DECISION

Curriculum Associates, LLC v. FlokiNET Ltd WhoisProtection, FlokiNET Ltd
Case No. D2024-4189

1. The Parties

The Complainant is Curriculum Associates, LLC, United States of America (“United States”), represented by Wolf, Greenfield & Sacks, P.C., United States.

The Respondent is FlokiNET Ltd WhoisProtection, FlokiNET Ltd, Seychelles.

2. The Domain Name and Registrar

The disputed domain name <i-ready.net> is registered with Tucows 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 11, 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 disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. 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 amendment to the Complaint on October 15, 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 October 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 6, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on November 11, 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 specializes in providing educational services, programs, and materials to empower educators with the tools, resources, and research to support students.

I-READY is a research-based assessment and personalized instruction curriculum package that provides students with an opportunity to test their mathematics and English language arts (ELA) skills at their own level, allowing them to take computer-adaptive assessments that show teachers how students perform in relation to grade-level work and what skills they still need to work on.

The Complainant is the owner of several trademark registrations for I-READY, including the following, as per trademark registration details in Annex 7 to the Complaint:

- United States trademark registration No. 4256190 for I-READY (word mark), filed on October 4, 2011, and registered on December 11, 2012, in international class 41;

- United States trademark registration No. 6719394 for I-READY (word mark), filed on December 11, 2019, and registered on May 3, 2022, in international classes 16, 41, and 42.

The Complainant is also the owner of numerous domain names incorporating I-READY, including <i-ready.com>, registered on May 27, 2010, and used by the Complainant to provide its services under the trademark I-READY.

The disputed domain name <i-ready.net> was registered on October 11, 2023, and is currently pointed to a website at "www.schoolsnews.org", publishing articles on school and education news, high school grades chart, map test scores, and other tools and resources including I-READY resources.

According to the screenshots submitted by the Complainant - which have not been contested by the Respondent, the disputed domain name previously resolved to a website displaying the Complainant's I-READY mark and a screenshot of the Complainant's login page, providing information on the Complainant's I-READY app and the related features and including advertisements to other businesses. A disclaimer was displayed in the "About" section of the website indicating that the website was not owned by or affiliated with the Complainant or any other online learning program or courses.

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 identical to the trademark I-READY in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the generic Top-Level Domain ("gTLD") ".net".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that:

- i) the Respondent is not licensed by the Complainant to use the I-READY mark;
- ii) the Respondent is not authorized to sell or otherwise promote or market the Complainant's products or services;
- iii) the Respondent is not commonly known by the disputed domain name as it did not disclose its identity in the registration of the disputed domain name and indicated an address corresponding to a co-working provider on the "Contact" page of the corresponding website;
- iv) the Respondent does not own any trademark applications or registrations for the I-READY mark;

- v) the Respondent registered the disputed domain name years after the Complainant attained its commercial success and more than 13 years after the Complainant registered its domain name <i-ready.com> and commenced use of the I-READY mark; and
- vi) the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name and is not using it in connection with a bona fide use, as the Respondent's website includes advertisements that presumably generate clickthrough revenue.

The Complainant indicates that the Respondent registered and is using the disputed domain name in bad faith because:

- i) the Respondent cannot reasonably deny that it had knowledge of the Complainant's mark prior to registration of the disputed domain name as the disputed domain name is identical to the Complainant's registered and well-known trademark and the corresponding website features the Complainant's mark on the homepage and throughout the website;
- ii) the Respondent's use of advertisements on its website, visited by consumers looking for the Complainant's website, demonstrates the Respondent's intentional attempt to fraudulently obtain financial gain by capitalizing on consumers misunderstanding of the source of the disputed domain name;
- iii) the disputed domain name, and the fact that the Respondent's website prominently features a screenshot of the Complainant's login page, suggests the Respondent's intent in registering the disputed domain name was to confuse or mislead the Complainant's customers in order to encourage customers to visit the Respondent's website and engage with the advertisements that provide the Respondent with click-through revenues;
- iv) the Respondent's website also features the Complainant's registered figurative marks, which is further evidence that the Respondent was aware of the Complainant's associated I-READY mark; and
- v) the disclaimer published by the Respondent on the "About" page of its website is inadequate for shielding the Respondent from the consequences of its bad faith use, as it can be found only after a user has arrived at the Respondent's website and has coincidentally arrived at the "About" page.

The Complainant concludes that the Respondent has registered and used the disputed domain name with the clear intent of taking advantage of the Complainant's trademark, attracting users to its website for commercial gain by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for I-READY.

The entirety of the mark is reproduced within the disputed domain name without any variation. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Moreover, the gTLD in a domain name, such as ".net" here, is viewed as a standard registration requirement and as such can be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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 that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademark.

Moreover, there is no element from which the Panel could infer a Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel notes that, as highlighted above, the disputed domain name currently redirects to a website at "www.schoolsnews.org", publishing articles on school and education news, High School grades chart, map test scores and other tools and resources including inter alia I-READY resources and displaying sponsored links advertising other businesses. The Complainant has submitted evidence showing that the disputed domain name previously resolved to a website published at "www.i-ready.net", displaying the Complainant's I-READY mark and a screenshot of the Complainant's login page, providing information on the Complainant's I-READY app and the related features and including advertisements to other businesses.

The Panel notes that, considering the identity of the disputed domain name with the Complainant's I-READY mark and the publication of the Complainant's trademarks on the corresponding website (initially available at "www.i-ready.net" and currently at "www.schoolsnews.org"), Internet users could have been, and could be, misled into believing that the website was, and currently is, operated by the Complainant or one of its affiliated entities using the I-READY mark with the Complainant's consent, which is not the case here. Moreover, the publication of sponsored advertisements promoting third-party businesses suggests that the Respondent intended to use the disputed domain name for commercial gain in order to obtain click-through revenues, attracting users looking for information on the Complainant to the Respondent's website.

Thus, the Panel concludes that the Respondent's use does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name without the intent to misleadingly divert the consumers or to tarnish the Complainant's trademark.

In addition to the above, the Panel finds that the disputed domain name, being identical to the Complainant's I-READY mark and its domain name <i-ready.com>, is inherently misleading and carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Furthermore, noting the nature of the disputed domain name, and the prominent use of the Complainant's logo on the website at the disputed domain name, the Panel finds that the disclaimer, included in the "About" section of the website (visible to the Internet users at a later stage while visiting the website), is not capable to prevent that the disputed domain name creates a high risk of implied affiliation or association with the Complainant and its trademark.

Therefore, the Panel finds the second element of the Policy has also been established.

C. Registered and Used 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 finds that, in light of i) the prior registration and use of the trademark I-READY in connection with educational services, resources, and tools provided by the Complainant also via its website at "www.i-ready.com"; ii) the distinctiveness of the I-READY mark for educational services; iii) the identity of the disputed domain name with the Complainant's I-READY mark and its domain name <i-ready.com>; and iv) the reference to the Complainant's trademarks on the website to which the disputed domain name resolved, the Respondent clearly registered the disputed domain name having the Complainant and its trademark in mind.

The Panel also notes that the use of the disputed domain name in connection with the website described above, featuring the Complainant's trademarks and providing information on the Complainant's services along with sponsored links related to other businesses, suggests that the Respondent deliberately chose to take advantage of the Complainant's trademark for commercial gain, diverting traffic intended for the Complainant to its website.

Therefore, the Panel finds that, on balance of probabilities, the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy.

The Panel further notes the Respondent's disclaimer to be ineffective in dispelling the confusion caused by the disputed domain name and website content, and notes that Internet users will in any event have been enticed to the Respondent's website before seeing that disclaimer. Where the overall circumstances of a case point to the respondent's bad faith, the mere existence of a disclaimer cannot cure such bad faith. Moreover, the use of such disclaimer, besides demonstrating that the Respondent was actually aware of the Complainant and its trademark, can be considered as an admission by the Respondent that users may be confused. [WIPO Overview 3.0](#), section 3.7.

Therefore, the Panel finds that the Complainant has established the third element of the Policy as well.

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 <i-ready.net> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: November 25, 2024