

ADMINISTRATIVE PANEL DECISION

GitHub, Inc. v. Julius Hofreiter, Julius Hofreiter
Case No. D2024-4357

1. The Parties

The Complainant is GitHub, Inc., United States of America (“US”), represented by Chestek Legal, US.

The Respondent is Julius Hofreiter, Julius Hofreiter, Germany.

2. The Domain Name and Registrar

The disputed domain names <github-scanner.com> and <github-scanner.shop> are registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 22, 2024. On October 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 24, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 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 25, 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 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on November 26, 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, GitHub, Inc., founded in 2008, is a software developer platform that allows developers to create, store, manage and share their software code.

The Complainant owns several GITHUB trademarks, covering computer software and related services, globally, including:

Trademark	Jurisdiction	Application Number	Application Date	Registration Number	Registration Date
GITHUB	US	86094079	10/17/2013	4665707	6/1/2015
GITHUB	EUTM	012454823	12/20/2013	012454823	5/14/2014
GITHUB	Japan	2013099823	12/19/2013	0005699414	7/5/2014

The Complainant owns the domain name <github.com>, registered on October 9, 2007.

The Respondent is Julius Hofreiter, from Germany.

The disputed domain names <github-scanner.com> and <github-scanner.shop> were both registered on September 18, 2024, and resolve to inactive websites. Previously, the disputed domain names were being used with a widespread malware campaign targeting GitHub users.

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.

The Complainant argues that the disputed domain names are identical to the trademark GITHUB.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain names for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain names in connection with any commercial or fair use.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain names. That being the case, the Complainant finds that the disputed domain names are used to mislead its potential clients exploiting GITHUB trademark in order to carry out malware attacks on GitHub users.

According to the Complainant, it has prior rights over the trademark GITHUB and has not authorized the registration and use of the disputed domain names.

The Complainant's intellectual property rights for GITHUB trademarks and domain name predate the registration of the disputed domain names.

According to the Complainant, the registrations of the disputed domain names were conducted in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain names are identical or confusingly similar to the 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 names; and
- (iii) the disputed domain names have been registered and are 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 the GITHUB 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 names. The disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 that the Complainant has established prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain names such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain names or that, before any notice of the dispute, the Respondent has made use of, or demonstrable

preparations to use the disputed domain names or a name corresponding to the disputed domain names in connection with a bona fide offering of goods or services. Panels have categorically held that the use of a domain name for illegal activity (in this case distributing malware) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.

The nature of the disputed domain name carries a risk of implied affiliation.

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, the Panel finds that the Respondent was aware of the GITHUB trademarks as the Complainant's trademark registrations predate the registration date of the disputed domain names.

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.

Taking into account the distinctiveness of the Complainant's trademark, the composition of the disputed domain names, the lack of Response by the Respondent and the malware distribution, 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 names <github-scanner.com> and <github-scanner.shop> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: December 5, 2024