

## **ADMINISTRATIVE PANEL DECISION**

Medtronic, Inc. v. Navin Gayapersad, Medtronic Limited  
Case No. D2024-4554

### **1. The Parties**

The Complainant is Medtronic, Inc., United States of America (“United States”), represented by Snell & Wilmer, LLP, United States.

The Respondent is Navin Gayapersad, Medtronic Limited, Trinidad and Tobago.

### **2. The Domain Name and Registrar**

The disputed domain name <medtronicsltd.com> is registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 6, 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 verified that 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 November 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2024.

The Center appointed John Swinson as the sole panelist in this matter on December 5, 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 is a medical device and technology company. The Complainant has used its MEDTRONIC mark since 1949.

The Complainant has operated a website at <medtronic.com> since at least 1990.

The Complainant owns a portfolio of trademark registrations for MEDTRONIC, including Trinidad and Tobago Reg. No. 1071006, registered on July 11, 2013.

The Respondent is reportedly located in Trinidad and Tobago.

The Respondent was incorporated on January 20, 2021.

On November 16, 2021, the Respondent changed its name from Medtronic Limited to Medtronics Limited.

The disputed domain name was registered on February 16, 2021.

The website at the disputed domain name is titled “Medtronics Ltd” and “Medical & Technology Solutions Provider”. The website promotes personal health care products, medical IT solutions, medical grade computers and medical equipment and supplies. The website does not include detailed information about the Respondent and does not enable transactions on the website. There is simply an email address to contact the Respondent at [...]@medtronicsltd.com.

#### **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 it is one of the largest medical device companies in the world and its MEDTRONIC mark is famous.

The Complainant asserts that the disputed domain name is not one that a business would legitimately choose unless seeking to create an impression of an association with the Complainant. The integral reproduction of Complainant's trademark within the disputed domain name can hardly be the result of coincidence. Accordingly, the Respondent cannot establish that it has rights or legitimate interests in the disputed domain name.

The Complainant asserts that the Respondent is not operating a legitimate business from the website at the disputed domain name.

Further, the Complainant contends that the Respondent is exploiting the confusing similarity between the disputed domain name and the Complainant's MEDTRONIC mark to divert Internet users searching for the Complainant's products and to deceive those users as to the origin of the advertised products.

##### **B. Respondent**

The Respondent did not file a formal Response. The Respondent states in a short informal Response:

“We are a company based in Trinidad and Tobago and operating in the Caribbean not in the United States, where the complainant seems to be base and registered. Their Company is Medtronic INC. our company in Medtronics Ltd. and Registered in Trinidad and Tobago.”

The Respondent also states that the disputed domain name is different to the Complainant's <medtronic.com> domain name.

The Respondent attached relevant corporate documents that show its incorporation and change of name.

## **6. Discussion and Findings**

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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.

The onus of proving these elements is on the Complainant.

### **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 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, "s" and "ltd") may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Two of the circumstances set out in paragraph 4(c) of the Policy are potentially relevant. The Panel will consider each in turn.

First, the Panel will consider whether, before notice to the Respondent of the dispute, the Respondent used or made demonstrable preparations to use the disputed domain name or a name correspondent to the disputed domain name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.2.

The Complainant places this issue in sharp relief by asserting that the Respondent's website purports to sell goods similar to the Complainant's goods, however these goods are not available for sale directly from the website, and that contact must be made by emailing the Respondent. There is no evidence that the Respondent has any other business or presence other than via the disputed domain name. In these circumstances, the Panel would have expected the Respondent to meet this challenge with the provision of appropriate evidence demonstrating that it is a genuine trading business.

Typically, the Panel would expect the Respondent, which had been incorporated for over three years, to be able to provide a wealth of material demonstrating that it is a genuine trading business. It is notable therefore that the Respondent has failed to do so, and it cannot be said based on the present record that the Respondent has been using the disputed domain name for a bona fide offering of goods and services. The Respondent cannot therefore avail itself of paragraph 4(c)(i) of the Policy.

Moreover, for reasons explained below in relation to the third element, the Panel considers that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's goods or services. Such use of the disputed domain name could not be said to be bona fide.

Second, the Panel will consider whether the Respondent has been commonly known by the disputed domain name or a name correspondent to the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

According to the Registrar's records, the name of the Respondent is "Medtronic Limited". According to the corporate records provided by the Respondent, the name of the Respondent is now "Medtronics Ltd" which corresponds with the disputed domain name. However, there is no evidence that the Respondent is commonly known by its corporate name. There is no evidence that the Respondent is known at all. The Respondent did not demonstrate that it had any customers or sales, or that it has any traffic to its website.

The disputed domain name was registered less than a month after the Respondent was incorporated.

The Respondent's case is brief and focuses on the fact that it had incorporated a company in Trinidad and Tobago. The fact that there is a pre-existing company matching the name in the disputed domain name could potentially give rise to rights and legitimate interests under the Policy if the Respondent is able to establish that it is commonly known by such name in accordance with paragraph 4(c)(ii) of the Policy. The expression "commonly known by" is usually interpreted by panels under the Policy as meaning that the respondent must have been commonly known by at least some other people than those responsible for the registration of the entity prior to the registration of the disputed domain name. *NICE Ltd. v. Registration Private, Domains By Proxy, LLC / Siao Wei Ng, Siao Wei Ng.*, WIPO Case No. [D2021-4018](#).

As the panel noted in *Royal Bank of Canada v. RBC Bank*, WIPO Case No. [D2002-0672](#):

"If the intention of the Policy were otherwise, every cybersquatter would be able to avoid the operation of the Policy by the simple expedient of: (i) quietly registering someone else's trademark as a corporation name (possibly in some jurisdiction having no connection with either the trademark owner or the cybersquatter); (ii) waiting some decent interval of time before registering the corporation name as a domain name; and

(iii) resisting the trademark owner's challenge under the Policy by claiming that the fact of the registration of the corporation proves that the corporation has been 'commonly known by' the corporation name/trademark/domain name, and therefore has a legitimate interest in the domain name."

Here, there is no evidence that the company incorporated as the Respondent on January 20, 2021 was commonly known by such name (for example, as an entity pre-incorporation and without any indication that it was trading off the Complainant's reputation) before the disputed domain name was acquired by the Respondent. In these circumstances, the existence of the company does not confer rights and legitimate interests upon the Respondent. See also *Senwes Limited v. Ha Gwaza, Senwes Group*, WIPO Case No. [D2022-0376](#). The Respondent therefore requires to show something going beyond the mere registration of a corresponding company name in order to demonstrate rights and legitimate interests under the Policy. See *SAP SE v. SAP Plus Plus LLC*, WIPO Case No. [D2024-3209](#). The Respondent cannot therefore avail itself of paragraph 4(c)(ii) of the Policy.

The Panel finds no other circumstances on the present record which would suggest that the Respondent possesses 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**

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant. *Instagram, LLC v. Domains By Proxy, LLC / Masud Rana, D-limit Ltd*, WIPO Case No. [D2022-0250](#).

The Panel has reviewed the Complainant's evidence and concludes that the Complainant has an international reputation in its field. The Complainant's MEDTRONIC trademark is long-standing and well-known. The Complainant has trademark rights in Trinidad and Tobago where the Respondent is reportedly located, and these rights are prior to the Respondent registering the disputed domain name.

The products on the website at the disputed domain name compete with the Complainant's products.

The Panel has conducted online searches, as the Panel is entitled to do, and it appears from LinkedIn that Navin Gayapersad, the Respondent's reported name (or at least a person of that same name in Trinidad and Tobago), works for a company in relation to ICT and healthcare related projects. This supports the Complainant's position that the Respondent was likely aware of the Complainant when registering the disputed domain name.

The Respondent does not assert that he was unaware of the Complainant and its trademark when he registered the disputed domain name. The Respondent asserts that the disputed domain name is different to the Complainant's domain name, suggesting that the Respondent was aware of the Complainant when registering the disputed domain name. The Panel concludes that it is likely that the Respondent was aware of the Complainant when he registered the disputed domain name and did so because of the Complainant's reputation, with the potential intent to attract customer leads to further business.

The Panel concludes that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's goods and services.

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 <medtronicsltd.com> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: December 19, 2024