

ADMINISTRATIVE PANEL DECISION

Yamaha Corporation v. Hai Quang
Case No. D2024-4722

1. The Parties

Complainant is Yamaha Corporation, Japan, represented by Noritoshi Kojima, Japan.

Respondent is Hai Quang, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <pianoyamaha.com> is registered with SNAPNAMES, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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 (“SnapNames Web.com, LLC / Statutory Masking Enabled”) and contact information in the Complaint. The Center sent an email communication to Complainant on November 15, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on November 18, 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 Respondent of the Complaint, and the proceedings commenced on November 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 10, 2024. Respondent sent an email communication to the Center on November 18, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on December 16, 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

Complainant is a company organized under the laws of Japan that is a well-known manufacturer of musical instruments and audio equipment which sells, inter alia, pianos under its YAMAHA brand.

Complainant has provided evidence that it is the registered owner of the following trademark relating to its company name and brand YAMAHA:

- word trademark YAMAHA, United States Patent and Trademark Office (USPTO); registration number: 3,559,368; registration date: June 13, 2009; status: active.

Respondent, according to the Registrar Verification, is located in Viet Nam. The disputed domain name was registered on July 21, 2024. It resolves to a website in Vietnamese at “www.pianoyamaha.com”, used to offer pianos and other musical instruments, thereby prominently displaying Complainant’s YAMAHA trademark; this website apparently does not contain any disclaimer informing Internet users of the non-existing (business) relationship between Respondent and Complainant, e.g. that the website is not operated by or affiliated with Complainant.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends that its roots go back to 1897 and that its YAMAHA trademark is globally recognized and famous.

Complainant submits that the disputed domain name is confusingly similar to Complainant’s YAMAHA trademark, as it incorporates the latter entirely, added by the term “piano”. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent has no relation with Complainant, Complainant’s group of companies or Complainant’s products and services with YAMAHA as the trademark, (2) Complainant has never given authority to Respondent in any way to use its YAMAHA trademark, (3) there is no fact that Respondent had been well-known for the name “Yamaha”, and (4) Respondent has no registered trademark rights related to the term “Yamaha”. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Complainant’s YAMAHA trademark is world-famous, (2) it is, therefore, unlikely that Respondent has registered the disputed domain name without knowing of Complainant’s rights in the YAMAHA trademark, and (3) as of November 13, 2024, the disputed domain name has been used to run a website without any permission from Complainant, obviously based on the intention to guide Internet users to such website, thereby abusing the value connected to the name “Yamaha”.

B. Respondent

Respondent did not formally reply to Complainant’s contentions, but sent an informal email communication to the Center on November 18, 2024, simply stating: “Thank you for your information.”

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that 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.

Respondent's formal default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a formal response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a formal Response as it considers appropriate.

A. Identical or Confusingly Similar

First, 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 Complainant's YAMAHA 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.

Complainant has shown rights in respect of its YAMAHA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Also, the entirety of such trademark is reproduced within the disputed domain name, simply added by the term "piano". Accordingly, the disputed domain name is confusingly similar to Complainant's YAMAHA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, the term "piano") 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 Complainant's YAMAHA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel, therefore, finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Second, paragraph 4(c) of the Policy provides a list of circumstances in which 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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 particular, Respondent has not been authorized to use Complainant's YAMAHA trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "yamaha" on its own. To the contrary, the disputed domain name resolves to a website at "www.pianoyamaha.com" which appears to offer Complainant's pianos and other musical instruments, thereby prominently displaying Complainant's YAMAHA trademark without any authorization to do so; this website does not contain any disclaimer informing Internet users of the non-existing (business) relationship between Respondent and Complainant, e.g. that the website is not operated by or affiliated with Complainant. Such making use of the disputed domain name, therefore, neither qualifies as bona fide nor as legitimate noncommercial or fair within the meaning of the Policy, not even so under the so-called *Ok! Data* principles which would indeed have required Respondent e.g. to accurately and prominently disclose on such website the nonexistent relationship between Respondent and Complainant as the YAMAHA trademark holder, which Respondent obviously did not. [WIPO Overview 3.0](#), section 2.8.

The Panel, therefore, finds the second element of the Policy has been established, too.

C. Registered and Used in Bad Faith

Third, 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.

The circumstances of this case leave no doubts that Respondent was fully aware of Complainant's rights in its undisputedly famous YAMAHA trademark when registering the disputed domain name and that the latter is clearly directed thereto. Moreover, using the disputed domain name, which is at least confusingly similar to Complainant's YAMAHA famous trademark, to run a website at "www.pianoyamaha.com", used to offer pianos and other musical instruments, thereby prominently displaying Complainant's YAMAHA trademark, however containing no disclaimer informing Internet users of the non-existing (business) relationship between Respondent and Complainant, e.g. that the website is not operated by or affiliated with Complainant, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's YAMAHA trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided incomplete contact information in the Whois register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL, the Written Notice on the Notification of Complaint dated November 20, 2024 could not be delivered. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

The Panel, therefore, finds that Complainant has established the third element of the Policy, too.

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, <pianoyamaha.com>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: December 17, 2024