

ADMINISTRATIVE PANEL DECISION

Spacelift, Inc. v. Soren Martius, Terramate GmbH
Case No. DAI2024-0048

1. The Parties

The Complainant is Spacelift, Inc., United States of America (“US”), internally represented.

The Respondent is Soren Martius, Terramate GmbH, Germany.

2. The Domain Name and Registrar

The disputed domain name <spacelift.ai> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 19, 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 June 24, 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 July 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on August 15, 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 Spacelift, Inc., a Delaware company providing technology services such as continuous integration and deployment (CI/CD) platforms for infrastructure-as-code. It describes its services as follows in its website: “Spacelift is a sophisticated CI/CD platform for OpenTofu, Terraform, Terragrunt, CloudFormation, Pulumi, Kubernetes, and Ansible”.

The Complainant owns trademark registrations and applications for the word mark SPACELIFT around the world, including: (i) EUIPO registration under number 018267536, registered on November 21, 2020; (ii) International registration under number 1590561, registered on December 1, 2020; (iii) Australian registration under number 2178359, also registered on December 1, 2020; (iv) US registration under number 6541783, registered on November 2, 2021; and (v) United Kingdom registration under number UK00918267536, registered on November 21, 2020.

The Complainant operates a domain name located at <spacelift.io> to promote its services.

The Respondent appears to be a competitor of the Complainant.

The Respondent name is a typo of the CEO of Terramate GmbH, a company that uses the domain name mineiros.io, and describes its services as “Terramate is an IaC collaboration, visibility and observability platform that empowers your team to manage Terraform and OpenTofu faster and more confidently than ever before”. It is therefore not entirely clear if the Respondent is this competitor (and merely made a typo in its name), or is potentially someone posing as this competitor.

The disputed domain name was registered on February 5, 2024, and is currently not active. However, the evidence provided by the Complainant states that at some point the disputed domain name resolved to a website located at “www.hashicorp.com”.

5. Parties’ Contentions

A. Complainant

According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the disputed domain name is identical or confusingly similar to the trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the disputed domain name.

Third, the Complainant submits that the disputed domain name was registered and is being used in bad faith.

In the amended Complaint the Complainant notes that: “Upon disclosure of the registrant’s information, it has come to our attention that the Respondent is a direct competitor in the same market as the Complainant, providing similar products and services. The new information regarding the registrant substantiates the claim of bad faith registration and use of the disputed domain name as well as the lack of Respondent’s rights or legitimate interests in respect of the domain name [...] the Respondent was aware of the Complainant’s ownership of the Trademark “Spacelift”, since both entities operate within the same industry and the same market. This competitive relationship establishes a clear motive for the Respondent to register the disputed domain name with the intent to disrupt the Complainant’s business”.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following elements with respect to each disputed domain name:

- (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 burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 4.3.

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 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 identical 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 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 the present case the amended Complaint states that the Respondent is a competitor of the Complainant. The Respondent has not denied these assertions. The Respondent cannot have a legitimate interest to offer its goods and services by using his direct competitor trademark in a domain name. Nor is the Respondent known by the name or trademark of the Complainant (SPACELIFT) since the Respondent's name is Soren Martius (with typo) and he is the CEO of Terramate GmbH, a competitor of the Complainant. The Complainant has never granted any license or rights to use the trademark to any third parties, including to register a domain containing the trademark. The disputed domain name is not in use and the Respondent has not showed evidence of preparations for its use.

There, 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.

The Complainant relies on sub-paragraph (iii) of Paragraph 4(b) of the Policy which states: "For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: [...] (iii) You have registered the domain name primarily for the purpose of disrupting the business of a competitor".

The essence of the Complaint is that the Respondent registered the disputed domain name for the purpose of disrupting the business of the Complainant since the Respondent is a competitor of the Complainant.

The Respondent must have been aware of the trademark of the Complainant since the Respondent is a direct competitor of the Complainant.

The disputed domain name is currently not in use. However, nothing prevents the Respondent from using it in the future. In the present case there is no indication of what use will the domain name be devoted to, however, with the Respondent being a competitor of the Complainant, any possible use would not be acceptable.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark within its field of business, and the identical composition of the disputed domain name, including the fact that the Parties are direct competitors (or possibly the Respondent is posing as a competitor), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under 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 <spacelift.ai> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: August 29, 2024.