

ADMINISTRATIVE PANEL DECISION

MicroStrategy Incorporated v. Marin Ivezic
Case No. DAI2024-0054

1. The Parties

The Complainant is MicroStrategy Incorporated, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Marin Ivezic, Canada.

2. The Domain Name and Registrar

The disputed domain name <microstrategy.ai> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 10, 2024. On July 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 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 | Registry Policy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 amended Complaint on July 16, 2024.

The Center verified that the Complaint together with the amended 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 12, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on August 22, 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 an American company founded in 1989, specialized in the development and production of business intelligence, AI-powered enterprise analytics software, mobile software, and bitcoin applications.

Worth approximately USD 30 billion, the Complainant currently trades on NASDAQ under "MSTR" and has attained a total revenue of USD 115.2 million in the first quarter of 2024.

The Complainant is the owner of several trademark registrations for MICROSTRATEGY including the following, as per trademark registration certificates submitted as annexes to the Complaint:

- United States trademark registration No. 1908974 for MICROSTRATEGY (word mark), filed on January 12, 1994, and registered on August 1, 1995, in International Class 42;
- United States trademark registration No. 1959945 for MICROSTRATEGY (word mark), filed on November 23, 1994, and registered on March 5, 1996, in International Class 9;
- European Union Trade Mark No. 000577346 for MICROSTRATEGY (word mark), filed on July 22, 1997, and registered on September 10, 1999, in classes 9, 16, and 42;
- United Kingdom trademark No. UK00900577346 for MICROSTRATEGY (word mark), filed on July 22, 1997, and registered on September 10, 1999, in classes 9, 16, and 42;
- International trademark registration No. 1260970 for MICROSTRATEGY (word mark), registered on July 8, 2015, in classes 9 and 42; and
- Canada trademark registration No. TMA1227504 for MICROSTRATEGY (word mark), filed on February 15, 2019, and registered on April 1, 2024, in International Classes 9, 41, and 42.

The Complainant is also the owner of the domain name <microstrategy.com>, registered on March 7, 1996, and used by the Complainant to promote its products and services under the trademark MICROSTRATEGY.

The disputed domain name is currently not pointed to an active website. According to a screenshot submitted as an annex to the Complaint, prior to the present proceeding the disputed domain name resolved to a website where it was offered for sale. Based on the information provided on the website "www.namebio.com", the disputed domain name was last sold for USD 204 on May 9, 2023, and the Whois details indicate a transfer of the disputed domain name occurred on May 10, 2023, which is presumably the date at which the disputed domain name was acquired by the Respondent.

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 by virtue of its prior trademark registrations, the disputed domain name is identical to the trademark MICROSTRATEGY in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the country code Top-Level Domain ("ccTLD") ".ai".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that: i) the Respondent is not sponsored by or affiliated with the Complainant in any way; ii) the Complainant has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's trademark; and iii) the Respondent is not commonly known by the disputed domain name.

The Complainant further states that at the time of filing the Complaint, the Respondent was using a Whois privacy service and the disputed domain name resolved to a blank page, whilst prior to the present proceeding the disputed domain name was being offered for sale.

In view of the above, the Complainant concludes that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and that in absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide use of the disputed domain name can reasonably be claimed.

With reference to the circumstances evidencing bad faith, the Complainant indicates that considering its prior registration of the MICROSTRATEGY mark and its goodwill and world renown, by registering the disputed domain name, identical to the Complainant's trademark, the Respondent has demonstrated knowledge and familiarity with the Complainant's brand and business.

In particular, the Complainant submits that the Respondent chose to acquire the disputed domain name with the ".ai" extension on May 9, 2023, which was shortly after the Complainant publicly announced the launch of its "MicroStrategy AI" product, during the "MicroStrategy World 2023" conference on May 1, 2023, a circumstance strongly suggesting that the Respondent knew of the Complainant and registered the disputed domain name in response to the publicity generated and received by the Complainant.

The Complainant further states that though the disputed domain name currently resolves to an inactive website, in response to the Complainant's cease-and-desist letter sent on November 3, 2023, the Respondent offered to sell the disputed domain name for USD 34,000, which is well in excess of his out-of-pocket expenses, considering the Respondent paid USD 204 to purchase the disputed domain name through an auction service in May 2023.

Lastly, the Complainant contends that the Respondent, at the time of filing of the Complaint, had employed a privacy service to hide its identity, which would further evidence the Respondent's bad faith registration and use.

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 the word mark MICROSTRATEGY in several jurisdictions.

The entirety of the mark is reproduced within the disputed domain name with the mere addition of the ccTLD ".ai", which can be disregarded under the first element confusing similarity test. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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.

Furthermore, there is no indication before the Panel that the Respondent is commonly known by the disputed domain name, has made preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or that it intends to make a legitimate noncommercial or fair use of the disputed domain name.

The Panel in fact notes that the disputed domain name is passively held. In view of the Respondent's default, the Panel shares the view held in *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#), where the panel found that, absent some contrary evidence from a respondent, passive holding of a domain name does not constitute legitimate noncommercial or fair use.

Therefore, the Panel finds the second element of the Policy has also 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, in light of the prior registration and use of the Complainant's trademark MICROSTRATEGY in connection with the Complainant's activity and products, including business intelligence and AI-powered software products, promoted online via the Complainant's website "www.microstrategy.com", and considering the widely known character of the trademark in its sector, the Respondent was or should have been aware of the Complainant's trademark at the time of registration.

Indeed, the identity of the disputed domain name with the Complainant's trademark and the circumstance that the Respondent appears to have acquired the disputed domain name, registered in the ".ai" ccTLD (with "ai" being a common abbreviation for "Artificial Intelligence"), shortly after the Complainant publicly announced the launch of its "MicroStrategy AI" product, suggest that the Respondent was aware of the Complainant at the time of registering the disputed domain name and intended to target the Complainant and its trademark.

Moreover, in view of the screenshots and correspondence respectively submitted as annexes to the Complaint – which have not been contested by the Respondent – it appears that the Respondent registered the disputed domain name with the intent to offer it for sale, in all likelihood to the Complainant which is the owner of the identical trademark MICROSTRATEGY, for valuable consideration in excess of the out-of-pocket costs directly related to the disputed domain name.

At the time of the drafting of this Decision, the disputed domain name is not resolving to an active website. 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: i) the reputation of the Complainant's trademark, ii) the identity of the disputed domain name with such trademark and the registration in the ".ai" ccTLD referable to Artificial Intelligence, a field in which the Complainant operates, and iii) the Respondent's failure to file a Response to counter the Complainant's allegations, 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.

Therefore, the Panel finds that the Complainant has also 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 <microstrategy.ai> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: September 5, 2024