

ADMINISTRATIVE PANEL DECISION

MyScript (SAS) v. Robertson Price
Case No. DAI2024-0063

1. The Parties

The Complainant is MyScript (SAS), France, represented internally.

The Respondent is Robertson Price, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <myscript.ai> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2024. On September 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 6, 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 (“DomainsByProxy.com”) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 September 13, 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 September 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 6, 2024. A Response had been received by the Center on September 13, 2024 from an individual identifying himself as the Respondent but using an email address different to the contact details advised by the Registrar. The email was also copied to the email addresses the Registrar had confirmed were the email addresses for the Respondent. Accordingly, the Center commenced the panel appointment process on October 8, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on October 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

The Complainant is a company based in France which, since 1998, has been providing handwriting recognition and digital ink management technologies. Some of its products include MyScript Interactive Ink® SDK, Nebo®, and MyScript Calculator 2. These products are said to be powered by the Complainant's proprietary artificial intelligence (AI) technology which can be used to provide handwriting recognition in over 70 languages as well as mathematical equations and musical notation.

The Complainant promotes its products and services from a number of websites including "www.myscript.com", the domain name for which was registered on December 17, 1999.

The Complaint includes evidence that the Complainant holds three registered trademarks:

- (1) French Registered Trademark No 3070535, MYSCRIPT, which was registered on May 18, 2001 with effect from December 5, 2020;
- (2) International Registration No 761126, MYSCRIPT, which was registered on May 15, 2001 designating numerous countries around the world; and
- (3) United States Registered Trademark No 2645420, MYSCRIPT, which was registered in the Principal Register on November 5, 2002.

The French Registered Trademark and the International Registration are registered in respect of a range of goods and services in International Classes 9, 41, and 42 including recorded interface software, publication of software and rental of computer software, software development. The trademark in the United States is registered in respect of computer software for use in handwriting recognition and analysis in International Class 9.

The disputed domain name was registered on July 27, 2023.

It resolves to a website which appears to promote an artificial intelligence tool for use in connection with novel, script or other copy writing. The website displays the Complainant's trademark.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

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

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

The Panel considers it is appropriate to treat the Response received by the Center from an individual identifying himself as the Respondent as being from the Respondent even though the email address used was different to that advised by the Registrar. The email is in the name of the Respondent, it addresses the issues arising under the Policy consistently with what appears to be the content on the website, and was copied to the two email addresses provided by the Registrar for the Respondent. Although it was so copied, no further communication has been received from those accounts.

In addition, the email address registered with the Registrar ends in “[...]@rplogic.com”. That domain name redirects to a website at “www.groupomada.com”. That website identifies a person with the Respondent’s name as its CEO. Further, the business of Group Omada appears from its website to be providing consultancy services related to the use of artificial intelligence. The same Mr Price is also according to his LinkedIn profile the CEO of “Ragu AI” and the domain name “[...]@ragu.ai” is the email address used to submit the Response.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant’s trademark rights.

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’s ownership of registered trademarks for MYSCRIPT is not in dispute in this proceeding.

In accordance with usual practice, it is permissible in the present circumstances to disregard the country code Top-Level Domain (ccTLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the “.ai” ccTLD, the disputed domain name consists of the Complainant’s registered trademark.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant’s trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent’s] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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.

The Respondent registered the disputed domain name after the Complainant began using its trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent’s name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any trademarks for the disputed domain name.

Further, the Complainant contends that the name “MyScript” has been chosen to trade on the Complainant’s significant goodwill and reputation in that expression.

According to the Complainant, this is evidenced by the same form of the name – a capital “M” and a capital “S” as one word. Also, when the Complaint was filed, the Respondent’s website included the strapline “Welcome to the Future of Writing”. This is said to be similar to slogans and trademarks registered by the Complainant. In 2018, the Complainant held a conference called “MyScript future.write()” and in 2016 used the slogan “The Power of Handwriting”. The Complainant has also registered “future.write()” as a trademark in France. The Complainant further contends that the risk of confusion is exacerbated by the use of the ccTLD as .ai is frequently seen as an abbreviation for “artificial intelligence”.

The Respondent contends that the disputed domain name resolves to a website which provides script writing services using artificial intelligence. According to the Response, this is a distinct field of operations and the services offered are fundamentally different to the handwriting recognition products and services offered by the Complainant. The Respondent claims that his service has been used to produce 300 page novels.

According to the Respondent, the disputed domain name was adopted to reflect the nature of this service: “My” as a personalization for the individual users, “Script” to refer to the content produced: written works such as scripts and novels and “.ai” to indicate artificial intelligence is being used.

The Panel accepts that Internet and branding usage often capitalises the first letters of two words which are combined to form a composite mark in the manner of “MyScript”. The Panel also accepts that “The Future of Writing” is an apt form of puffery for use in connection with the service the Respondent claims to be providing. However, the Panel is not convinced that the expression “My Script” is naturally suggested by, or descriptive of, that service.

Looking at the motivations for the adoption of the disputed domain name, the Respondent does state that the disputed domain name was registered with the intention of providing AI-assisted writing services, not to infringe on the Complainant’s rights or cause confusion.

The Respondent, however, has not specifically addressed whether he had knowledge of the Complainant and its trademark before adopting the disputed domain name. Given the long history of involvement in artificial intelligence which the Respondent's businesses claim, however, the Panel is skeptical that the Respondent would have been unaware of the Complainant and at least some of its products. The Panel is aware, for example, that the Complainant's Nebo product has achieved some degree of exposure and comment on the Internet in circles interested in the adoption and use of new technologies.

Apart from the website to which the disputed domain name resolves, the Respondent has not provided any objective evidence supporting the operation of a business using artificial intelligence to produce 300 page novels or the like. On the other hand, the Complainant contends that the website itself is not bona fide. According to the Complainant, the website does not provide a physical address nor the name of the company or other person operating it and there are no legal terms and conditions.

The Panel would not attribute much, if any, significance to the lack of legal terms and conditions. But the failure to clearly disclose the identity of the person who is operating the business is a concern.

More cogently, the Complainant points out that the social media icons on the website are not valid links to those accounts. Rather, as the Panel experienced, clicking on the Facebook, Instagram or Twitter links simply reloads the page the icon is placed on. There is, however, a link to "Schedule a Demo" which generates a webpage contact form to provide name, email address, and message information. What happens if one submits that form completed is not disclosed in the evidence. Similarly, clicking on the "email" icon, generates an email to be sent to the address provided.

The Panel acknowledges that the Parties' fields of operation, or claimed operation, appear to be different. At the very least, someone who was specifically looking for the Complainant's handwriting recognition services would be unlikely to consider the Respondent's claimed service to be a substitute. That does not necessarily follow for those outside the United States where the Complainant's trademark has somewhat wider scope and there is nothing the Panel can see limiting the Respondent's target audience to the United States.

The Panel also acknowledges that, apart from the name "MyScript", the content of the Respondent's website cannot be described on its face as seeking to mislead consumers or create confusion with the Complainant and its services. The Panel places considerably low weight on the similarity of the Respondent's strapline to the Complainant's 2016 and 2018 usages. Apart from anything else, the strapline is reasonably suggested by the nature of the service the Respondent claims to be providing especially bearing in mind the comparatively recent explosion of interest in artificial intelligence products and services.

As the Panel is unconvinced by the Respondent's proffered explanation for the adoption of the name "MyScript", the very limited functionality of the Respondent's website with invalid links to claimed social media accounts combined with the lack of objective evidence that it is a functioning website and business, such as evidence of the number of users or scripts generated, leads the Panel not to accept the Respondent's claim to be making a good faith offering of goods or services. This is a case where the disputed domain name has been registered for more than one year. It is not a case where the Respondent has sought to advance a claim that it is still developing its business prior to launch. On the materials before the Panel, however, the website itself is too flimsy a basis to support a claim to a genuine business or undertaking providing AI-generated content.

Accordingly, the Panel finds that the Respondent has not rebutted the Complainant's prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements;

both must be satisfied for a successful complaint: see e.g. *Group One Holdings Pte Ltd v. Steven Hafto*, WIPO Case No. [D2017-0183](#).

For the reasons discussed in Section 5B, the Panel considers it likely the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Further, the reasons for the failure of the Respondent's proffered defence of a good faith offering of goods and services leads to a conclusion that the likely explanation for the Respondent's registration of the disputed domain name was to take advantage of its resemblance to the Complainant's trademark.

That kind of opportunistic behaviour qualifies as bad faith under the Policy. Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

Accordingly, the Complainant has established all three requirements under 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 <myscript.ai> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: October 30, 2024