

## **ADMINISTRATIVE PANEL DECISION**

iTech World Pty Ltd v. Revolution Group Australia  
Case No. DAU2023-0037

### **1. The Parties**

The Complainant is iTech World Pty Ltd, Australia, represented by Griffith Hack Lawyers, Australia.

The Respondent is Revolution Group Australia, Australia.

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

The disputed domain name <itechworld.au> is registered with Web Address Registration Pty Ltd.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2023. On the same day, the Center transmitted by email to Web Address Registration Pty Ltd a request for registrar verification in connection with the disputed domain name. On August 18, 2023, Web Address Registration Pty Ltd 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 .au Dispute Resolution Policy (the “Policy” or “.auDRP”), the Rules for .au Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .au Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 28, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was September 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 19, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on September 26, 2023. 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 manufacturer and retailer of portable power solutions products and portable telecommunications products primarily designed for use in relation to portable power storage solutions for camping, campervans, caravans, four-wheel drive vehicles, and other similar activities. It was incorporated in 2006 and is based in Burswood, Western Australia. The Complainant holds Australian trademark registration number 1636029 for an ITECHWORLD mark (“the ITECHWORLD mark”), entered on the register on April 7, 2015, registered from July 22, 2014, specifying solar panels for electricity generation; satellite communications equipment in class 9. That trademark registration is current. In 2021 and 2022, respectively, the Complainant filed trademark application number 2197783 for the ITECHWORLD mark in respect of a wider range of goods in classes 7 and 9, and trademark application number 2263098 for an ITECHWORLD GOFURTHER mark in classes 7 and 9. Both those trademark applications are currently pending. The Complainant also uses the domain name <itechworld.com.au> in connection with a website that prominently displays the ITECHWORLD mark and offers the Complainant’s products for sale. The Complainant sells its products via this website and its own retail outlets; it does not sell any products through resellers or distributors.

The Respondent is a company based in Queensland, Australia. According to evidence provided by the Complainant, the Respondent is the registrant of the domain name <revolutionpoweraustralia.com.au> and uses that domain name in connection with a website that prominently displays a Revolution Power Australia logo and offers for sale the Respondent’s power solutions, notably lithium batteries, for marine vessels, four wheel-drive vehicles, caravans, and camper trailers. The contact telephone is an Australian local rate number.

The disputed domain name was created on October 3, 2022. It is parked with a web host and domain name registrar and does not resolve to an active website for the Respondent.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain name is identical to the Complainant’s ITECHWORLD trademark or, at the very least, confusingly similar to it.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never licensed or otherwise permitted the Respondent to use the ITECHWORLD trademark or name, whether as a domain name or otherwise.

The disputed domain name was registered and is being used in bad faith. The Complainant enjoys substantial reputation in its ITECHWORLD trademarks in the portable storage industry. The disputed domain name does not resolve to an active website. The Respondent is unfairly and unlawfully preventing the Complainant from reflecting its ITECHWORLD trademark in the .au country-code Top-Level Domain (“ccTLD”). The disputed domain name was registered primarily for the purpose of disrupting the business or activities of the Complainant.

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

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

## 6. Discussion and Findings

Paragraph 4(a) of the auDRP provides that a complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a name, 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 or subsequently used in bad faith.

The burden of proof of each element is borne by the Complainant.

### A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the ITECHWORLD mark by virtue of its trademark registration.

The disputed domain name wholly incorporates the textual elements of the ITECHWORLD mark. The sole additional element in the disputed domain name is the “.au” ccTLD. As a standard requirement of domain name registration, the Panel may disregard the ccTLD for the purposes of the first element of paragraph 4(a) of the auDRP. See *Clarins v. Netlocal Consulting Pty Ltd*, WIPO Case No. [DAU2023-0016](#).

Therefore, the Panel finds that the disputed domain name is identical to the Complainant’s ITECHWORLD trademark.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the auDRP sets out circumstances which, without limitation, if found by the Panel to be proven based on its evaluation of all evidence presented, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the auDRP:

- (i) before any notice to [the respondent] of the subject matter of the dispute, [the respondent’s] *bona fide* use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with an offering of goods or services (not being the offering of domain names that [the respondent has] acquired for the purpose of selling, renting or otherwise transferring); 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.

With respect to the first and third circumstances set out above, the disputed domain name is parked with a web host and domain name registrar and does not resolve to any active website for the Respondent. The Panel does not consider this use to be in connection with an offering of goods or services, and there is no evidence of any demonstrable preparations to make such a use of it. Nor is this a legitimate noncommercial or fair use of the disputed domain name.

With respect to the second circumstance set out above, the Respondent is identified in the Whois database as “Revolution Group Australia” and, according to the About Us tab on its website, the website is operated by “Revolution Power Australia Pty Ltd”. Nothing indicates that the Respondent is commonly known by the disputed domain name.

Given that the disputed domain name is identical to the Complainant's ITECHWORLD trademark, it creates a high risk of implied affiliation with the Complainant. However, the Complainant submits that it has never licensed or otherwise permitted the Respondent to use the ITECHWORLD trademark or name, whether as a domain name or otherwise.

Based on the above, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because it did not respond to the Complainant's contentions.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has satisfied the second element in paragraph 4(a) of the auDRP.

### **C. Registered or Subsequently Used in Bad Faith**

Paragraph 4(a)(iii) of the auDRP uses the conjunction "or", which indicates that the Complainant may satisfy this element by showing either that the disputed domain name has been registered in bad faith, or that it has been subsequently used in bad faith, or both.

Paragraph 4(b) of the auDRP provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, although they do not constitute an exhaustive list. The second and third of these circumstances are as follows:

- (ii) [the respondent has] registered the domain name in order to prevent the owner of a name, trademark or service mark from reflecting that name or mark in a corresponding domain name;
- (iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business or activities of another person.

As regards registration, the disputed domain name was registered in 2022, years after the registration of the Complainant's ITECHWORLD mark. The disputed domain name is identical to that mark, adding only the ".au" ccTLD. It is also identical to the Complainant's domain name except for the ".com.au" Second-Level Domain ("2LD") in the latter. The Respondent markets specialized products of the same type, and for the same end-uses, as certain products of the Complainant, and both Parties offer their goods online to customers in Australia. They are thus competitors. Although the mark is composed of three common elements (the prefix "i", the abbreviation "tech", and the word "world"), that combination is not a dictionary word nor is it a common phrase. The Respondent offers no explanation for its choice to register the disputed domain name. The Panel does not consider it a coincidence that the disputed domain name is identical to the trademark of a competitor of the Respondent. In view of these circumstances, the Panel finds it likely that the Respondent had the Complainant and its trademark in mind when it registered the disputed domain name.

As regards use, the disputed domain name is passively held but this does not prevent a finding of use in bad faith. See *Produits Berger v. Lay Tee Ong*, WIPO Case No. [DAU2004-0008](#), citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the present dispute, the Complainant's ITECHWORLD mark has acquired a reputation in the portage power storage solutions market through years of use, including online. The disputed domain name is identical to that mark, adding only the ".au" ccTLD, which in fact prevents the Complainant from reflecting its mark in that domain. The Respondent provides no explanation of any intended active use of the disputed domain name. Given that the Respondent is a competitor of the Complainant, the Panel considers it likely that the Respondent's purpose in registering the disputed domain name was to prevent the Complainant from reflecting its mark in the ".au" direct domain, as described in paragraph 4(b)(ii) of the auDRP. The Panel notes that, under the auDRP, there is no requirement that the Respondent has "engaged in a pattern of such conduct".

The very fact that the disputed domain name prevents the Complainant from reflecting its trademark in the .au direct domain name may disrupt the Complainant's business, which it operates in Australia. Further, the

operational element of the disputed domain name is identical to that of the Complainant's domain name, which creates a likelihood of confusion for customers looking for the Complainant's website. The Respondent provides no explanation of any intended active use of the disputed domain name and there is no evidence that it has attempted to sell the disputed domain name. Although it is not a requirement under the auDRP, it is pertinent to recall that the Complainant's business competes with that of the Respondent in the portable power storage solutions market. For all the above reasons, the Panel finds it likely that the Respondent registered the disputed domain name primarily for the purpose of disrupting the Complainant's business, as described in paragraph 4(b)(iii) of the auDRP.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in *bad faith*. The Complainant has satisfied the third element in paragraph 4(a) of the auDRP.

## 7. Decision

For all 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 <itechworld.au> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: October 6, 2023