

ADMINISTRATIVE PANEL DECISION

Bitmain Technologies Pte. Ltd., Bitmain Technologies Limited v.
Rakesh Bodat, Crazy PC Pty Ltd
Case No. DAU2023-0046

1. The Parties

The Complainants are Bitmain Technologies Pte. Ltd., Singapore (“First Complainant”), and Bitmain Technologies Limited, Hong Kong, China, (“Second Complainant”) represented by Corrs Chambers Westgarth, Australia.

The Respondent is Rakesh Bodat, Crazy PC Pty Ltd, Australia.

2. The Domain Name and Registrar

The disputed domain name <bitmain.com.au> is registered with Web Address Registration Pty Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2023. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2023, the Registrar 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 October 20, 2023. In accordance with the Rules, paragraph 5(a), the due date for Response was November 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 10, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on November 15, 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 Complainants are both part of the Bitmain Technology group of companies, established in 2013. The group manufactures and sells blockchain equipment, such as bitcoin miners.

The Second Complainant holds trademark registrations for BITMAIN in a stylized script in multiple jurisdictions, including the following:

- European Union trademark registration number 013913521, registered on August 31, 2015, specifying goods and services in classes 9, 36, and 42; and
- United States of America trademark registrations numbers 4884613 and 4980879, registered on January 12, 2016 and June 21, 2016, respectively, specifying goods and services in classes 9 and 42, respectively.

The First Complainant holds trademark registrations for BITMAIN in multiple jurisdictions, including the following:

- International trademark registration number 1444183, registered on July 18, 2018, specifying goods and services in classes 9, 35, 36, 41, and 42, designating multiple jurisdictions including Australia, where it was registered under trademark number 1982224 on November 17, 2020, specifying services in classes 35, 36, and 41; and
- Australian trademark registration number 2329573, registered on September 1, 2023, specifying goods and services in classes 9 and 42.

The Complainants have used the domain name <bitmain.com> since at least August 28, 2016 in connection with a website where they offer their products for sale. The products offered include Antminer application-specific integrated circuit (“ASIC”) miners, in connection with which the Complainants use an ant logo (the “Antminer logo”). The Second Complainant has registered “Bitmain” as a domain name in four Top-Level Domains (“TLDs”). The Complainants also operate social media accounts under the Bitmain name.

The Respondent Crazy PC Pty Ltd is a deregistered Australian company; its contact person in the Registrar’s Whols database is Rakesh Bodat. According to evidence presented by the Complainants, the Respondent company was incorporated on March 22, 2011, and deregistered on February 10, 2022. Mr. Bodat was its sole director and majority shareholder. The Respondent registered the Australian business names “Bitmain” and “Bitmain Australia” on September 13, 2017, and September 8, 2017, respectively, but these business name registrations were cancelled on April 21, 2018.

The disputed domain name was created on September 6, 2017. According to archived screenshots presented by the Complainants, during a period from at least January 7, 2018, to March 5, 2019, the disputed domain name resolved to a website that prominently displayed the BITMAIN mark and offered for sale the Complainants’ Antminer ASIC miner. The website displayed images of the Complainants’ Antminer products, including the Complainants’ Antminer logo. The website displayed the taglines “Buy Bitmain ASIC miners in Australia”, “Buy local – we are Australian”, and “We are BITMAIN Direct Importer”. The copyright notice claimed rights in the name of Bitmain Pty Ltd followed by the tagline “Proudly Australian owned and operated”. From at least March 10, 2020, the disputed domain name resolved to a “Sorry We’re Closed” webpage and later, from at least December 21, 2021, it resolved to a maintenance page. Since at least the time when the Complaint was filed, the disputed domain name has not resolved to any active website; rather, it has been passively held.

According to information provided by the Complainants, Mr. Bodat is the director of, and majority shareholder in, another Australian company named Bitmain Pty Ltd, incorporated on December 13, 2017. The Respondent company (which has been deregistered) is the only other shareholder of this company. Bitmain Pty Ltd was the registered proprietor of Australian trademark registration number 1895577 for BITMAIN,

registered on July 18, 2018 (application filed on December 18, 2017), specifying goods in class 9, and cancelled due to non-use on April 11, 2023, at the request of an affiliate of the Complainants. The Panel notes that Bitmain Pty Ltd registered the Australian business names “Bitmain” and “Bitmain Australia” on March 20, 2018, and those registrations remain current.¹

According to information provided by the Complainants, Mr. Bodat is the registrant contact of two other domain names, one of which is <avalonminer.com.au> that wholly incorporates the trademark AVALONMINER, owned by another bitcoin miner provider. This domain name resolves to a landing page displaying Pay-Per-Click (“PPC”) links for, among other things, bitcoin miners.

The notification of Complaint could not be delivered by courier as the Respondent’s contact addresses were incorrect.

5. Parties’ Contentions

A. Complainants

The disputed domain name is identical or confusingly similar to the Complainants’ BITMAIN name and mark.

The Respondent has no rights or legitimate interests with respect to the disputed domain name. The Respondent is not currently using the disputed domain name, and has not used it for a period of at least three years, in connection with the offering of any goods or services. The Complainants have no awareness of the Respondent being known by the disputed domain name. The Complainants have not licensed or otherwise authorized the Respondent’s registration of the disputed domain name or any domain name comprising “Bitmain”. Previously, the Respondent was using the disputed domain name to resolve to a website that copied the Complainants’ images of its BITMAIN products.

The disputed domain name was registered and/or is being used in bad faith. The Respondent registered and used the disputed domain name to deliberately attract users to the disputed domain name for commercial gain by intentionally creating a likelihood of confusion. The Respondent registered the disputed domain name primarily for the purpose of disrupting the business or activities of the Complainants.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

6.1 Procedural Issues

A. Consolidation: Multiple Complainants

The Complaint was filed by two complainants. Both Complainants own BITMAIN trademark registrations and are part of the Bitmain Technology corporate group. The Panel finds that the Complainants have a common grievance against the Respondents and that it is efficient to permit the consolidation of their complaints. Therefore, the Complainants are referred to below collectively as “the Complainant” except as otherwise indicated.

¹ The Panel notes its general powers articulated *inter alia* in paragraph 10 of the Rules and has searched the database of the Australian Securities and Investments Commission, which is a matter of public record, in order to verify the Complainants’ allegations regarding company and business name registrations. The Panel considers this process of verification useful in assessing the merits of this dispute.

B. Identity of the Respondent

The Complaint initiates this dispute in relation to both Crazy PC Pty Ltd and Rakesh Kumar Bodat. According to the Registrar's WhoIs database and verification response, the registrant of the disputed domain name is Crazy PC Pty Ltd and the registrant contact person is Mr. Bodat. Further, the company was under the effective control of Mr. Bodat as its sole director and majority shareholder and it has now been deregistered. In these circumstances, the Panel considers that both the company and Mr. Bodat may properly be considered the registered "holder" of the disputed domain name within the terms of paragraph 1 of the Rules. The Panel notes that the Complaint identified both Crazy PC Pty Ltd and Mr. Bodat as Respondents. They are referred to in this Decision separately and collectively as "the Respondent" except as otherwise indicated.

6.2 Substantive Issues

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 BITMAIN mark. Given that the stylistic features in the Second Complainant's trademark cannot be represented in a domain name, the Panel will not consider those features further.

The Complainant also bases its claims on rights in the trade name "Bitmain". However, the Panel recalls that, according to Note 1 to the auDRP, a "name ... in which the complainant has rights" may refer to the complainant's company, business or other legal or trading name where such name is registered with "the relevant Australian government authority". Nothing on the record indicates that the Complainant has registered any name with an Australian government authority. Accordingly, the Panel does not consider that the Complainant has rights in a name for the purposes of the first element of paragraph 4(a) of the auDRP.

The disputed domain name wholly incorporates the Complainant's BITMAIN mark. The only additional element is the Secondary Level Domain ("2LD") extension ".com.au", which may be disregarded in the comparison between a disputed domain name and a trademark for the purposes of the auDRP. See *BT Financial Group Pty Limited v. Basketball Times Pty Ltd*, WIPO Case No. [DAU2004-0001](#).

Therefore, the Panel finds that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the auDRP.

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.

Given that Crazy PC Pty Ltd was deregistered before the Complaint was filed, it no longer exists and cannot now have any rights to, or legitimate interests in, the disputed domain name. The Panel will continue its assessment as regards Mr. Bodat.

As regards the first and third circumstances above, the disputed domain name formerly resolved to a website that prominently displayed the Complainant's BITMAIN mark and offered for sale the Complainant's products. The incorporation of the Complainant's BITMAIN mark in the disputed domain name with nothing but the ".com.au" 2LD extension strongly suggests an affiliation with the Complainant. The website appears to have sold the Complainant's products only. Although the website identified the operator as Australian-owned and as a direct importer of the Complainant's products, it gave the overall impression that it was affiliated with, or endorsed by, the Complainant. Yet the Complainant submits that it has not licensed or otherwise authorized the Respondent's registration of the disputed domain name or any domain name comprising "Bitmain" and it is clear from the Complaint that there is no relationship between the Parties. At the present time, the disputed domain name no longer resolves to any active website. In the Panel's view, these circumstances indicate that the Respondent is not making a *bona fide* use of the disputed domain name in connection with an offering of goods or services, nor is it making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance above, the Respondent's names listed in the Registrar's Whois database do not resemble the disputed domain name. However, within days of registering the disputed domain name, the Respondent registered the business names "Bitmain" and "Bitmain Australia" and within months, it incorporated a company by the name of "Bitmain Pty Ltd" and caused that company to apply for a trademark for BITMAIN. Around the same time, the Respondent set up the website giving the false impression that it was affiliated with, or endorsed by, the Complainant. The Respondent's business names and the mark were all later cancelled. The Panel draws the inference that, through these various registrations, the Respondent was seeking to create rights and legitimate interests in connection with the disputed domain name as part of an attempt to circumvent the application of the auDRP. The Respondent currently holds no relevant business names. However, according to information provided by the Complainant, Mr. Bodat continues to be director of, and majority shareholder in, Bitmain Pty Ltd. That company may be under his effective control. While Bitmain Pty Ltd currently holds business names that correspond to the disputed domain name, as does its company name, the mere fact of these name registrations does not demonstrate that any party is "commonly known" by them. Nothing on the record indicates that any of these names has ever been used except on the website associated with the disputed domain name, which ceased to resolve to an active website over three years ago. Based on this record, the Panel is unable to conclude that the Respondent, as an individual, business, or other organization, is commonly known by the disputed domain name.

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 case because it did not respond to the Complainant's contentions.

Therefore, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the auDRP.

C. Registered or Subsequently Used in Bad Faith

Paragraph 4(b) of the Policy 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. The fourth circumstance is as follows:

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of that website or location or of a product or service on that website or location;

The disputed domain name was registered in 2017, after the registration of the Complainant's earlier foreign trademark registrations. BITMAIN is a coined word, and the disputed domain name matches it exactly, adding only a 2LD extension. The Respondent initially used the disputed domain name with a website that prominently displayed the BITMAIN mark, the Complainant's products, and the Complainant's ant logo. These circumstances indicate that the Respondent was aware of the Complainant and its trademark when it registered the disputed domain name. That inference finds confirmation in the fact that the Respondent has registered another domain name in the ".com.au" 2LD that, like the disputed domain name, incorporates a cryptocurrency miner trademark.

As regards use, the disputed domain name wholly incorporates the Complainant's BITMAIN mark with nothing more than the ".com.au" 2LD extension. The associated website offered the Complainant's products for sale. The website gave the false impression that it was affiliated with, or endorsed by, the Complainant. In view of these circumstances and the findings in section 6.2B above, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the affiliation or endorsement of that website or of the services on that website within the terms of paragraph 4(b)(iv) of the auDRP. The fact that the disputed domain name no longer resolves to any active website does not prevent a finding of bad faith.

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 <bitmain.com.au> be transferred to the First Complainant, Bitmain Technologies Pte. Ltd.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 23, 2023